

for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Accordingly, we have not prepared a written statement under section 202 of the UMRA.

1. Statutory Authority

As discussed in previously in this preamble, the statutory authority for the proposed rulemaking is section 112 of the CAA. Title III of the CAA was enacted to reduce nationwide air toxic emissions. Section 112(b) of the CAA lists the 188 chemicals, compounds, or groups of chemicals deemed by Congress to be HAP. These toxic air pollutants are to be regulated by NESHAP.

Section 112(d) of the CAA directs us to develop NESHAP which require existing and new major sources to control emissions of HAP using MACT. The NESHAP apply to all stationary combustion turbines located at major sources of HAP emissions, however, only new or reconstructed stationary combustion turbines have substantive regulatory requirements.

In compliance with section 205(a) we identified and considered a reasonable number of regulatory alternatives. Additional information on the costs and environmental impacts of the regulatory alternatives is presented in the "Stationary Combustion Turbines Control Options Cost Information Summary" in the docket.

The regulatory alternative upon which the proposed rule is based represents the MACT floor for stationary combustion turbines and, as a result, it is the least costly and least burdensome alternative. In addition, we have conducted an economic impact analysis of today's proposed rule that includes the impacts on State and local government entities in order to provide information on the effects of the proposed rule on such entities. The analysis is available in the docket for the proposed rule.

2. Consultation With Government Officials

The Unfunded Mandates Act requires that we describe the extent of the Agency's prior consultation with affected State, local, and tribal officials, summarize the officials' comments or concerns, and summarize our response to those comments or concerns.

In addition, section 203 of the UMRA requires that we develop a plan for informing and advising small governments that may be significantly or uniquely impacted by a proposal. Although the proposed rule does not significantly affect any State, local, or tribal governments, we have consulted

with State and local air pollution control officials. We also have held meetings on the proposed rule with many of the stakeholders from numerous individual companies, environmental groups, consultants and vendors, labor unions, and other interested parties. We have added materials to the Air docket to document those meetings.

In addition, we have determined that the proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 100 or 1,000 employees, depending on size definition for the affected North American Industry Classification System (NAICS) code, or fewer than 4 billion kW-hr per year of electricity usage; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. It should be noted that small entities in 6 NAICS codes are affected by the proposed rule, and the small business definition applied to each industry by NAICS code is that listed in the Small Business Administration (SBA) size standards (13 CFR 121).

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This certification is based upon (1) examining the impacts to small entities based on the existing combustion turbines inventory, and presuming that the existing mix of

combustion turbines among industries is a good approximation of the mix of turbines that will be installed and affected by the proposed rule up to 2005, and (2) considering influences on the decision by small entities to install new turbines. We have determined, based on the existing combustion turbines inventory, that 29 small entities out of 300 in the industries impacted by the proposed rule may be affected. None of these small entities will incur control costs associated with the proposed rule, but will incur monitoring, recordkeeping, and reporting costs and the costs of performance testing. These 29 small entities own 51 affected turbines in the existing combustion turbines inventory, which represents only 2.5 percent of the existing turbines overall. Of these entities, 22 of these entities are small communities and 7 are affected small firms. None of the 29 affected small entities are estimated to have compliance costs that exceed one-half of 1 percent of their revenues. The median compliance costs to affected small entities is only 0.07 percent of sales. In addition, the proposed rule is likely to also increase profits at the many small firms and increase revenues for the many small communities using combustion turbines that are not affected by the rule as a result of the very slight increase in market prices. Thus, we conclude that the proposed rule will not have a significant impact on a substantial number of small entities. It should be noted that it is likely that the ongoing deregulation of the electric power industry across the nation should minimize the proposed rule's impacts on small entities. Increased competition in the electric power industry is forecasted to decrease the market price for wholesale electric power. Open access to the grid and lower market prices for electricity will make it less attractive for local communities to purchase and operate new combustion turbines. For more information on the results of the analysis of small entity impacts, please refer to the economic impact analysis in the docket.

Although the proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of the rule on small entities. In the proposed rule, the Agency is applying the minimum level of control and the minimum level of monitoring, recordkeeping, and reporting to affected sources allowed by the Clean Air Act. In addition, as mentioned earlier in the preamble, new turbines with capacities under 1.0 MW are not covered by the