

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the final rule is not a "significant regulatory action" because it is not expected to have an annual effect on the economy of \$100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

B. Paperwork Reduction Act

The information collection requirements of the final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. 2029.01) and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division, (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001, by e-mail at auby.susan@epa.gov or by calling (202) 566-1672. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>.

The information will be used by the EPA to ensure that the requirements of the asphalt processing and asphalt roofing manufacturing NESHAP are implemented properly and are complied with on a continuous basis. Records and reports are necessary to identify asphalt processing and asphalt roofing manufacturing facilities that might not be in compliance with the final rule. Based on reported information, the implementing agency will decide which asphalt processing and asphalt roofing manufacturing facilities should be inspected and what records or processes should be inspected. Records that owners and operators of asphalt processing and asphalt roofing manufacturing facilities maintain indicate whether personnel are operating and maintaining control equipment properly.

These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the EPA policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

We estimate the final rule will affect a total of 19 existing facilities (ten asphalt processing and asphalt roofing

facilities and nine petroleum refineries). We estimated the number of major sources by estimating emissions using emission factors and available production data and extrapolating potential emission from actual emissions. We identified major facilities for the purposes of estimating emissions, emission reductions, control costs, and monitoring, recordkeeping, and reporting costs only. Facilities would not necessarily be major sources for the purposes of determining applicability of the asphalt NESHAP because they were identified as major by our estimates. Likewise, facilities are not relieved from complying with the asphalt NESHAP because they were not identified as major sources in our estimates. We expect that existing facilities will be in compliance 3 years after promulgation of the final rule, but will perform related activities (e.g., reading and understanding the rule, conducting performance tests) before they are in compliance. We project that one new asphalt processing and asphalt roofing facility will become subject to the final rule during each of the first 3 years.

The estimated average annual burden for industry for the first 3 years after implementation of the rule is approximately 1,962 person-hours annually. There will be no capital costs for monitoring or recordkeeping during the first 3 years. The total average annual reporting and recordkeeping burden (including industry and the EPA) for this collection is estimated at approximately 2,780 labor hours per year at an average annual cost of approximately \$356,000.

Burden means total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations are

listed in 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act (RFA)

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 business, small organizations, and small government jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business according to Small Business Administration (SBA) size standards by NAICS code (in this case, less than 750 employees for affected businesses classified in NAICS code 324122, Asphalt Shingles and Coating Materials Manufacturing and less than 1,500 employees for businesses in NAICS code 324110, Petroleum Refineries); (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 that is independently owned and operated and is not dominant in its field.

In accordance with the RFA, the EPA conducted an assessment of the standards on small businesses within the asphalt roofing and processing industry. Based on SBA NAICS-based size definitions and reported employment data, the EPA identified 26 of the 40 companies that own potentially affected asphalt roofing and processing facilities and petroleum refineries as small businesses. Although small businesses represent 65 percent of the companies within the source category, they are expected to incur approximately 5 percent of the total industry compliance costs of about \$1.73 million annually. There are no companies with compliance costs greater than 0.04 percent of their sales. No firms are expected to close rather than incur the costs of compliance with the rule.

After considering the economic impacts of today's rule on small entities, the EPA certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for