

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 EPA's regulations are listed at 40 CFR part 9 and 48 CFR chapter 15.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (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 assessing the impacts of today's rule on small entities, a small entity is defined as: (1) A small business according to the regulations of the Small Business Administration (SBA) at 13 CFR part 121.201, which define small businesses for Standard Industrial Classification (SIC) codes; (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.

To assess the potential economic impact of today's rule on small entities, EPA drew on: (1) A comparison of compliance costs to revenue; and (2) the firm and facility impact analyses discussed in section VIII of this preamble. First, EPA performed an analysis comparing annualized compliance costs to revenue for small entities at the firm level. EPA found that none of the small firms are estimated to incur compliance costs equaling or exceeding one percent of annual revenue. Second, EPA drew on the facility impact analysis, which estimated facility closures and other adverse changes to financial condition (referred to as "moderate impacts"). See section VIII.D of today's rule for details of EPA's analysis of closures and moderate impacts for privately-owned businesses. This analysis indicated that the final rule would cause no regulated facilities owned by small entities to close or to incur moderate impacts. From these analyses, EPA determined that the final rule will not have a significant economic impact on a substantial number of small entities. See

Chapter 10 of the final rule EEBA for a more detailed discussion of the economic impacts on small entities.

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

In accordance with section 603 of the RFA, EPA prepared an initial regulatory flexibility analysis (IRFA) for the proposed rule and convened a Small Business Advocacy Review Panel to obtain advice and recommendations of representatives of the regulated small entities in accordance with section 609(b) of the RFA (*see* 66 FR 519). The January 2001 proposed rule (*see* 66 FR 523) presents a summary of the Panel's recommendations and the full Panel Report (*see* DCN 16127, section 11.2) presents a detailed discussion of the Panel's advice and recommendations.

D. Unfunded Mandates Reform Act

1. UMRA Requirements

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under UMRA section 202, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, UMRA section 205 generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

EPA is required by UMRA section 203 to develop a small government agency plan before it establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments

to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The estimated total annualized before-tax costs of compliance are \$13.8 million (\$2001). On an after-tax basis the costs total \$11.9 million (\$2001), of which the private sector incurs \$3.0 million (\$2001) and state and local governments that perform MP&M activities incur \$9.0 million (\$2001). Thus, today's rule is not subject to the requirements of UMRA sections 202 and 205.

EPA also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The final regulation imposes no new administrative costs on small governments owning POTWs because the regulations does not establish pretreatment standards for POTWs with indirectly discharging government-owned facilities. With respect to the 280 small government-owned facilities, EPA determined that the costs of the final rule are not significant for small governments. Of these facilities, 140 incur no compliance costs under the final rule and the remaining 140 incur annualized costs that average approximately \$25,000 per facility. The total compliance cost for all the small government-owned facilities incurring costs under the regulation is \$3.5 million. EPA concluded that these compliance costs will have no significant budgetary impacts for any of the governments owning these facilities. In addition, EPA concluded that the final rule does not uniquely affect small governments because small and large governments are affected by the rule in the same way. Thus, today's rule is not subject to the requirements of UMRA section 203.

Although today's final rule does not contain a Federal mandate under UMRA, EPA did undertake an assessment of the impacts of the final rule on State and local governments as part of its decision-making process. The following section discusses some of the results of EPA's review. More detail may be found in the EEBA.

2. Analysis of Impacts on Government Entities

EPA estimates that the costs to government-owned facilities to comply