

and welcome comments on issues related to such impacts.

#### *D. Unfunded Mandates Reform Act of 1995*

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 section 202 of the UMRA, 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 by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA 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. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. 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 has determined that these proposed amendments do 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 1 year. Sources subject to MACT standards would not be required to take any action under this proposal, including sources owned or operated by State, local, or tribal governments; P2 alternative compliance requirements are strictly voluntary. In addition, P2 compliance alternatives are expected to result in reduced burden on any source

that obtains approval of such alternative requirements. Under the proposed amendments, a State, local, or tribal air pollution control agency to which we have delegated section 112 authority would be required to review any requests for P2 compliance alternatives submitted by sources in its jurisdiction. However, such requests are not expected to be plentiful and will not approach the \$100 million annual threshold. In addition, any costs associated with these reviews are expected to be offset by reduced agency oversight obligations for sources with approved P2 alternative compliance requirements. Thus, the proposed amendments are not subject to the requirements of sections 202 and 205 of UMRA. EPA has determined that the proposed amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Thus, the proposed amendments are not subject to the requirements of section 203 of the UMRA.

#### *E. Executive Order 13132, Federalism*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

These proposed amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Although the proposed amendments would require State air pollution control agencies which have voluntarily taken delegation of the part 63 program to conduct case-by-case reviews where sources elect to apply for P2 alternative compliance requirements, the burden on States will not be substantial. In addition, we expect that the overall effect of the proposed amendments will be to reduce the burden on State agencies as their oversight obligations become less

demanding for sources with approved P2 alternative compliance requirements. Thus, Executive Order 13132 does not apply to these proposed amendments. Although section 6 of Executive Order 13132 does not apply to the proposed amendments, we consulted extensively with State and local air pollution control officials during the development of this proposal.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on these proposed amendments from State and local officials.

#### *F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications."

These proposed amendments do not have tribal implications, as specified in Executive Order 13175. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Any tribal government that owns or operates a source subject to MACT standards would not be required to take any action under this proposal; P2 alternative compliance requirements are strictly voluntary. In addition, P2 compliance alternatives are expected to result in reduced burden on any source that obtains such alternative requirements. Under the proposed amendments, a tribal government with an air pollution control agency to which we have delegated section 112 authority would be required to review any requests for P2 compliance alternatives submitted by sources in its jurisdiction. However, such requests are not expected to be plentiful, so the effects will not be substantial. In addition, any costs associated with these reviews are expected to be offset by reduced agency oversight obligations for sources with approved P2 alternative compliance requirements. Thus, Executive Order 13175 does not apply to these proposed amendments.

However, in the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Indian tribes, EPA