

EPA is required. The administrative recordkeeping and reporting these small businesses will experience will amount to an impact of between 0.01 and 0.02 percent of their HCFC revenues alone. When considering that the vast majority deal in numerous chemicals and/or also obtain revenues from services provided, this percentage for the majority would be significantly lower.

Additionally, in this final rule EPA is adopting a petition process for HCFC-141b that is open to all entities. We expect that approximately 15 formulators of HCFC-141b, some which are small businesses, will petition the Agency for HCFC-141b exemption allowances. Those qualifying entities will be granted a benefit in the form of HCFC-141b exemption allowances which allow limited continued production of HCFC-141b beyond the long-established phaseout date. We estimate that each petitioner will experience an impact of .002 percent of revenues.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities.

With respect to the petition process for HCFC-141b exemption allowances, the economic impact on all affected entities, and especially the economic impact on small entities, has been reduced to every extent possible. For example, EPA has minimized the economic impact by only requesting information that is readily available to all expected to petition. In addition, in all the HCFC-141b uses EPA is aware of, the formulator is responsible for meeting the testing and code requirements as opposed to the end user. Therefore, in order to reduce the burden of petitioning, EPA designed the process so the end user does not need to apply for the exemption allowance.

With respect to the allowance allocation system as a whole, EPA has taken a number of steps to reduce burden and provide flexibility. Although small entities receiving allowance allocations will be subject to the same recordkeeping and reporting requirements as the larger entities, for purposes of tracking allowance trades and expenditures, the small entities will be on the same footing as the larger entities; they will be receiving their best year of activity in the range of years discussed above as a baseline year for determining allowance allocations, and will be able to conduct their business with a degree of certainty in a competitive market. Like the large entities, the small entities will receive allowances for the entire phaseout

period, with the necessary adjustments each calendar year to accommodate the required reductions in consumption agreed to by the Parties to the Protocol and the phaseouts of HCFC-22 and HCFC-142b.

EPA believes that the ability to transfer allowances among HCFCs provides the greatest flexibility for small entities to manage their allocation. Unlike the class I system for transfers, there is no restriction to limit inter-pollutant transfers to groups of substances. Inter-pollutant transfers, also known as intra-company transfers or trades, allow a company to shift allowances internally from one HCFC to another to respond to market forces, *e.g.* HCFC-142b allowances for HCFC-22 allowances. Inter-company transfers of allowances are also possible, either on a current-year basis or on a permanent basis. Current-year trades are temporary trades and are reflected in a company's balance of allowances in the control period in which the trade occurs.

By using the phaseout schedules and the option for current-year or permanent trades, a small entity can opt for short-term decisions or long-term decisions concerning the allowances it holds after evaluating its place in the market. In addition, although the CAA requires an offset, EPA is requiring an offset of only 0.1 percent, 0.9 percent less than that required under the class I allowance trading system; such an offset will still provide the environmental benefit required by Congress without penalizing small entities should they wish to avail themselves of transfers. EPA estimates that the burden will be negligible on small businesses, while those same small businesses will gain a marketable asset in their allocated allowances. The actual burden will consist of quarterly reports on production, imports, exports, and allowance trades, as well as paperwork describing any trades in which the business decides to engage. The estimated recordkeeping and quarterly reporting burden on the affected small businesses will be about 40 hours per year per business, at an estimated cost of \$3,070. Each trade made at the discretion of the small business will add a burden of 4 hours at a cost of \$307, basing the calculation on a cost of \$76.88 per hour.

In the proposal EPA notified the industry that late entrants to the HCFC market could still be allocated allowances if they provided proper documentation. One small entity provided sufficient information and is allocated allowances in today's action. EPA also carefully reviewed the quarterly reports submitted by other small entities for the baseline years

under consideration to ensure that the correct quantities have been ascribed to each entity for each year. EPA consulted with the small entities in order to reconcile any disparities encountered during the record review.

#### *J. Unfunded Mandates Reform Act*

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 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, 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, development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector that may result in expenditures of \$100 million or more in any one year. Entities in the private sector that either produce, import, export, transform, destroy or use HCFCs in very narrow applications will be