

Wood Building Products NESHAP," (Docket ID No. OAR-2003-0002, formerly Docket No. A-97-52).

Although the 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 the final rule on small entities, consistent with our obligations under the CAA. Along with soliciting input from small entities during the data-gathering phase of the rulemaking, three separate small business outreach activities were conducted. First, the Western States Air Resources Council was contacted about small business participation in a meeting held on October 12, 1999. (For more information, see the docket.) The second activity was a random screening of approximately 250 affected companies within the wood building products surface coating industry. Internet searches led to a list of ten possible affected small entities. These small entities were then invited to join a small business panel to assist in the development of the wood building products (surface coating) NESHAP. The third outreach program was conducted through SCOPE, which is a cooperative agreement between the EPA and the National Association of Schools of Public Affairs and Administration. Meetings are facilitated by local public affairs and administration faculty and are used to inform small entities of pending regulations. The informal meetings allow potentially affected facilities to voice concerns which are then communicated to the EPA prior to the rulemaking. According to outreach in Georgia, Oregon, North Carolina, and Pennsylvania, small entities are aware of low- or no-HAP coatings that have the potential to reduce HAP emissions. Many of the small entities currently use low- or no-HAP coatings and agree that they are often less expensive than higher-HAP options, do not affect the quality of the final product, and the choices are becoming more widespread. Therefore, small entities will not be adversely affected by the use of low- or no-HAP coatings.

Another aspect of the small business outreach was the participation in meetings that focus on impacts on small entities. The EPA representatives for the wood building products (surface coating) NESHAP have attended conferences and trade association meetings that have included small entities. By attending conferences sponsored by the Center for Advanced Wood Processing, the Laminating Materials Association, and RadTech International North America, and being involved in coatings-related industry

and trade association meetings, information about the wood building products NESHAP has been shared with other communities concerned with impacts on small entities.

We believe these actions will significantly reduce the compliance burden for small entities, thereby mitigating potential impacts and preventing any duplication of effort. In addition, the final rule contains compliance options which give small entities flexibility in choosing the most cost effective and least burdensome alternative for their operations. For example, a facility could purchase and use low- or no-HAP coatings, thinners, and cleaning materials (*i.e.*, pollution prevention) that meet the standards rather than being required to purchase add-on control systems. The low- or no-HAP option can be demonstrated with minimum burden by using already-maintained purchase and usage records. No testing of materials is required, as the facility owners could show that their coatings meet the emission limits by providing formulation data supplied by the manufacturer. Furthermore, the final rule includes the minimum monitoring, recordkeeping, and reporting requirements needed for enforcement and compliance assurance.

#### *D. 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 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.

The EPA has determined that the final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more to State, local, and tribal governments, in the aggregate, or the private sector in any 1 year nor does the final rule significantly or uniquely impact small governments, because it contains no requirements that apply to such governments or impose obligations upon them. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

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

Executive Order 13132, 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" are 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."

The final rule does not have federalism implications. It 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. None of the affected sources are owned or operated by State governments. Thus, the requirements of section 6 of the Executive Order do not apply to the final rule.

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

Executive Order 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure