

than 1.0% of annual sales, and none would experience an impact of greater than 3.0% of annual sales. All of the small businesses that would experience significant impacts are users of nPB-based adhesives. Thus, slightly less than 17% of the 280 or so small businesses choosing to use nPB-based adhesives would experience significant impacts, and less than 1% of all 7330 or so small businesses choosing to use nPB would experience significant impacts. Based on the relatively small number and percentage of small businesses that would experience significant impacts, EPA concludes that even if costs of implementing the recommended exposure limit were considered together with costs of complying with the regulatory use condition, today's rule would not have a significant impact on a substantial number of small entities.

Although this proposed 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. Before selecting the regulatory options proposed today, we considered a number of regulatory options that would have had greater impacts on small businesses, such as:

- Finding nPB unacceptable for use in adhesives. This approach would require hundreds of small businesses to use other types of adhesives, with no option to improve ventilation to reduce worker exposure. Although small businesses could potentially save money by using a less expensive adhesive, such as a flammable adhesive, the capital costs of fire-proofing currently discourage small businesses from using inexpensive flammable adhesives. In addition, requirements of the Federal Aviation Administration for aircraft seating cushions effectively require either using nPB-based or methylene chloride-based adhesive or receiving a special waiver from the Administration. Recent regulations for hazardous air pollutants disallow use of methylene chloride in foam fabrication facilities. Thus, it is useful for adhesive users to have the option of nPB-based adhesives.

- Placing a narrowed use limit on the use of nPB in adhesives that would allow its use only in those cases where alternatives are technically infeasible due to performance or safety issues.

- Requiring that users clean metal, electronics, or other parts with nPB in vapor degreasing equipment that meets the requirements of the national emission standards for halogenated solvent cleaning.

In developing our regulatory options, we considered information we learned

from contacting small businesses using or selling nPB. EPA staff visited the site of a small business using nPB for cleaning electronics. We contacted several fabricators of foam cushions that have used adhesives containing nPB. We participated in meetings with a number of adhesive manufacturers and users of adhesives in furniture construction. We have developed a fact sheet and have updated our program web site to inform small businesses about this proposed rule and to request their comments. We continue to be interested in the potential impacts of the proposed rule on small entities and request comments on issues related to such impacts.

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 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, and informing, educating, and advising small governments on compliance with the regulatory requirements. EPA has 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. Today's proposed rule does not affect State, local, or tribal governments. The enforceable requirements of the rule for the private sector affect only a small number of manufacturers and importers of nPB in the United States, and most of them already claim to meet the proposed standard prior to regulation. Therefore, the impact of this rule on the private sector is less than \$100 million per year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This regulation applies directly to facilities that use these substances and not to governmental entities.

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."

This proposed 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. This regulation applies directly to facilities that use these substances and not to governmental entities. Thus, Executive Order 13132 does not apply to this rule.

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." "Policies that have tribal