

reclaimed by an EPA-certified reclaimer. In essence today's final rule allows transfer of used refrigerant anywhere in the country, where the two pieces of equipment, have the same parent company (*i.e.*, they are subsidiaries of the parent company) without the additional cost of refrigerant reclamation.

This rule also eases the economic impact on refrigerant recovery equipment manufacturers by reducing the number of performance standards from two to one. Prior to this rulemaking refrigerant recovery/recycling equipment manufacturers were mandated to certify their equipment to the 1993 version of the ARI Standard 740, but many also certified to the 1995 version of the standard to maintain the marketability of their products. This rulemaking will reduce the extra burden on this segment of the regulated community by eliminating the requirement to comply with the outmoded 1993 ARI Standard 740, and mandating the use of the 1995 version of the standard for newly manufactured refrigerant recovery/recycling equipment.

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

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 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. This rule amends the section 608 refrigerant recycling standards to ensure that certain service practices are conducted, that reduce emissions, establish equipment and reclamation certification requirements. These standards are amendments to the recycling standards under section 608 of the Clean Air Act. Many of these standards involve reporting requirements and are not expected to be a high cost issue. In some situations, this rule provides greater flexibility and cost savings, such as the transfer of refrigerants between a parent company and its subsidiaries, the new definition of small appliances, and the establishment of a non-major maintenance, service, or repair of appliances. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

For the reasons outlined above, EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's rule is 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."

This 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. The regulations promulgated under today's action are done so under title VI of the Act which does not grant delegation rights to the States. 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" (59 FR 22951, 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."

This final rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

The requirements in this final rule are directed to economic entities that either recover, recycle, reclaim, sell, or distribute in interstate commerce refrigerants that contain CFCs and/or HCFCs, and those that service, maintain, repair, or dispose of appliances containing CFC or HCFC-refrigerants.

#### *G. Executive Order 13045: "Protection of Children From Environmental Health Risks and Safety Risks"*

Executive Order 13045: "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885; April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under EO 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those "economically significant" regulatory actions that are based on health or safety risks, such that the analysis required under Section 5-501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045, because it is not based on health or safety risks. The purpose of this rule is to protect human health and the environment from increased amounts of UV radiation by amending the recycling standards for CFC and HCFC