

approved information collection requirements contained in the final rule.

### C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that the final rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of the rule on small entities, small entity is defined as: (1) A small business ranging from up to 500 employees to up to 1,000 employees, depending on the NAICS code; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field. The maximum number of employees to be considered a small business for each NAICS code is shown in the preamble to the proposed rule (67 FR 16178).

After considering the economic impacts of the final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. Our economic analysis identified as small businesses 27 of the 113 companies owning affected miscellaneous organic chemical manufacturing facilities. This constitutes 24 percent of the affected businesses. Although small businesses represent 24 percent of the companies within the source category, they are expected to incur 6 percent of the total industry compliance costs of \$75 million. According to EPA's economic assessment, there is one small firm with compliance costs equal to or greater than 3 percent of its sales. In addition, there are three small firms with cost-to-sales ratios between 1 percent and 3 percent.

An economic impact analysis was performed to estimate the changes in product price and production quantities for the firms affected by 40 CFR part 63, subpart FFFF. The analysis shows that of the 49 facilities owned by affected small firms, one is expected to shut down after the implementation of the miscellaneous organic chemical manufacturing NESHAP.

It should be noted that the baseline economic condition of the facility predicted to close affects the closure estimate provided by the economic model, *i.e.*, facilities that are already experiencing adverse economic conditions will be more severely impacted than those that are not, and

that the facility predicted to close appears to have low profitability levels currently.

Although the miscellaneous organic chemical manufacturing NESHAP will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to limit the impact of the rule on small entities. We have worked closely with the American Chemical Council and the Synthetic Organic Chemical Manufacturers Association. These trade organizations, which represent the majority of facilities covered by subpart FFFF, have represented their members at stakeholder meetings throughout the standards development process. We also worked with the small chemical manufacturers to develop a format for the process vent standard that is reasonable for the production of chemicals using batch processing in nondedicated equipment and provide several alternative ways to comply with the standards to allow as much flexibility as possible. Emissions averaging and the pollution prevention alternative standards help those small entities that have been proactive in reducing their HAP emissions and usage, respectively. Another alternative standard requires the outlet concentration of the control device to be less than 20 ppmv. Under this alternative, recordkeeping and reporting requirements are greatly reduced. In addition, we have included in the preamble guidance for 40 CFR part 70 requirements to minimize title V permit modifications for owners and operators that make frequent changes to their processes.

### 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 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.

The EPA has determined that the final 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 1 year. The maximum total annual costs of the final rule for any year is estimated to be about \$75 million. Thus, the final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

In addition, the NESHAP 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. Therefore, the final rule is not subject to the requirements of section 203 of the UMRA.

### E. Executive Order 13132: Federalism

Executive Order 13132 (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."

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