

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A) which are mandatory for all operators subject to national emission standards. Those recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

The final rule requires maintaining records of all coating and thinning materials data and calculations used to determine compliance. This information includes the amount (kg) used during each 12-month compliance period, mass fraction organic HAP, and, for coating materials only, mass fraction of solids.

If an add-on control device is used, records must be kept of the capture efficiency of the capture system, destruction or removal efficiency of the add-on control device, and the monitored operating parameters. In addition, records must be kept of each calculation of the affected sourcewide emissions for each monthly and rolling 12-month compliance period and all data, calculations, test results, and other supporting information used to determine this value. The recordkeeping requirements are only for the specific information needed to determine compliance.

The MRR burden for this collection (averaged over the first 3 years after the effective date of the promulgated rule) is estimated to be approximately 7,815 labor hours per year at a total annual cost of \$2.27 million. That estimate includes reviewing the regulation, conducting a one-time performance test (with repeat tests where needed), and submitting the report(s); one-time submission of a SSMP with semiannual reports for any event when the procedures in the plan were not followed; semiannual compliance status reports; and recordkeeping.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time

needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's rules are listed in 40 CFR part 9. When this ICR is approved by OMB, the EPA will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the 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 the purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business according to the Small Business Administration (SBA) size standards by NAICS code ranging from 500 to 1,000 employees; (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; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impact of today's final rule on small entities, EPA has concluded that the final rule will not have a significant economic impact on a substantial number of small entities. Based on SBA NAICS-based size definitions and reported sales and employment data, we identified 13 small business, or 43.3 percent of the metal can companies. Small businesses are expected to incur 2 percent of the total industry annualized compliance costs of \$58.7 million. We estimate that 10 of the 13 small businesses may experience an impact below 1 percent of total company sales, two small firms may

experience impacts between 1 and 3 percent, and one firm may experience an impact above 3 percent of sales. For more information, consult the EIA report entitled "Economic Impact Analysis for the Final Metal Can NESHAP" in Docket No. OAR-2003-0005 (formerly Docket No. A-98-41).

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. Small entities will be afforded extensive flexibility in demonstrating compliance through pollution prevention rather than the use of add-on control technology. We included compliance options that give small entities flexibility in choosing the most cost effective and least burdensome alternative for their operation. For example, a facility could purchase and use low-HAP coatings and other materials (*i.e.*, pollution prevention) that meet the final standards instead of using add-on capture and control systems. This method of compliance can be demonstrated with minimum burden by using purchase and usage records. No testing of materials would be required as facility owners could show that their coatings and other materials meet the emission limits by providing formulation data supplied by the manufacturer.

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 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