

plants have positive cost-to-sales ratios. The ratio of costs to estimated chlorine sales revenue for these facilities range from a low of 0.16 percent to a high of 1.00 percent. The average cost-to-sales ratio for the nine mercury process chlorine production facilities is 0.46 percent. More detailed economic analysis predicted minimal changes in chlorine production at each facility. Thus, overall, the economic impact of the final standards is minimal for the facilities producing chlorine.

The share of compliance costs to company sales are calculated to determine company level impacts. Since seven companies own the nine affected facilities, all seven firms face positive compliance costs from the final NESHAP. The ratio of costs to estimated revenues range from a low of less than 0.01 percent to a high of 0.22 percent, and the average ratio of costs to company revenues is 0.06 percent. Again, more detailed economic analysis at the company level predicts little change in company output or revenues. So, at the company level, the final standards are not anticipated to have a significant economic impact on companies that own and operate the chlorine production facilities.

No facility or company is expected to close as a result of the final standards, and the economic impacts to consumers are anticipated to be minimal. The generally small scale of the impacts suggests that there will also be no significant impacts on markets for the products made using chlorine or sodium hydroxide. For more information, consult the economic impact analysis report entitled "Economic Impact Analysis for the Final Mercury Cell Chlor-Alkali Production NESHAP," which is available in the docket for this rulemaking.

## VI. Statutory and Executive Order Reviews

### A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or

State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that the final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is, therefore, not subject to OMB review.

### B. Paperwork Reduction Act

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

The information requirements are based on notifications, records, and reports required by the General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized under section 114 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made will be safeguarded according to Agency policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

According to the ICR, the total 3-year monitoring, reporting, and recordkeeping burden for this collection is 6,692 labor hours, and the annual average burden is 2,231 labor hours. The total annualized cost of monitoring, reporting, and recordkeeping is approximately \$628,212. The labor cost over the 3-year period is \$295,928 or \$98,643 per year. The annualized capital cost for monitoring equipment is \$262,458. Annual operation and maintenance costs are \$365,754 over 3 years, averaging \$121,918 per year. This estimate includes a one-time plan for demonstrating compliance, annual compliance certificate reports, notifications, 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 purpose of

collecting, validating, and verifying information; process and maintain information and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The OMB control number(s) for the information collection requirements in the final rule will be listed in an amendment to 40 CFR part 9 or 48 CFR chapter 15 in a subsequent **Federal Register** document after OMB approves the ICR.

### 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 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, a maximum of 1,000 employees for the alkalis and chlorine manufacturing industry; (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 impacts of today's 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. We have determined that two of the seven companies that own mercury chlor-alkali plants are small entities. Although small businesses represent 30 percent of the companies within the source category, they are expected to incur 18 percent of the total industry annual compliance costs. There are no companies with compliance costs equal to or greater than 1 percent of their sales. No firms are expected to close rather than incur the costs of compliance with the final rule.