

regulations thereunder. The above list is not an exhaustive description of the Federal enforcement authority available under the Act for violations of title V and the regulations thereunder.

Accordingly, nothing in this discussion shall be construed to limit the Federal enforcement authorities available under the Act for violations of title V and the regulations thereunder.

The Federal enforcement authority available under the Act for violations of title V and the regulations thereunder provides broader enforcement authority than the States are required to have under the part 70 regulations. For example, 40 CFR 70.11 requires that States have authority to recover civil penalties for a maximum amount of not less than \$10,000 per day per violation. The Federal enforcement authority imposes a maximum penalty of up to \$25,000 per day per violation.

## VI. Administrative Requirements

### A. Reference Documents

All the documents referenced in this preamble fall into one of two categories. They are either reference materials that are considered to be generally available to the public, or they are memoranda and reports prepared specifically for this rulemaking. Both types of documents can be found in Docket No. A-93-51.

### B. Office of Management and Budget (OMB) 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 OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of \$100 million or more, adversely and materially affecting 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 program or the rights and obligations of recipients thereof;

(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.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is a "significant"

regulatory action. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

The estimated annualized cost of implementing the part 71 program is \$137.5 million to the Federal government and \$79.8 million to respondents, for a total of \$217.3 million which reflects industry's total expected costs of complying with the program. Since any costs incurred by the Agency in administering a program would be recaptured through fees imposed on sources, the true cost to the Federal government is zero. The requirements for the costs result from section 502(d) of title V which mandates that EPA develop a Federal operating permits program. The proposed program is designed to improve air quality by: indirectly improving the quality of State-administered operating permits programs; encouraging the adoption of lower cost control strategies based on economic incentive approaches; improving the effectiveness of enforcement and oversight of source compliance; facilitating the implementation of other titles of the Act, such as title I; and improving the quality of emissions data and other source-related data.

### C. Regulatory Flexibility Act Compliance

Under the Regulatory Flexibility Act, whenever an Agency publishes any proposed or final rule in the **Federal Register**, it must prepare a Regulatory Flexibility Analysis (RFA) that describes the impact of the rule on small entities (i.e., small businesses, organizations, and governmental jurisdictions). The EPA has established guidelines which require an RFA if the proposed rule will have any economic impact, however small, on any small entities that are subject to the rule, even though the Agency may not be legally required to develop such an analysis.

The original part 70 rule and the recently proposed revisions to part 70 were determined to not have a significant and disproportionate adverse impact on small entities. Similarly, a regulatory flexibility screening analysis of the impacts of the proposed part 71 rule revealed that the proposed rule would not have a significant and disproportionate adverse impact on small entities; few small entities would be subject to part 71 permitting requirements because the proposed rule defers permitting requirements for nonmajor sources. Consequently, the Administrator certifies that the proposed part 71 regulations will not

have a significant and disproportionate impact on small entities. The EPA, however, solicits any information or data which might affect this proposed certification. The EPA will reexamine this issue and perform any subsequent analysis deemed necessary. Any subsequent analysis will be available in the docket and taken into account before promulgation.

### D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA and a copy may be obtained from Sandy Farmer, Information Policy Branch (2136), U.S. Environmental Protection Agency, 401 M St., Washington, D.C. 20460, (202) 382-2706.

As compared to the burden imposed by 40 CFR part 70, the average additional annual burden on sources for the collection of information is approximately 3.3 million hours, or on average approximately 96 hours per respondent and none for State and local agencies. The total annualized cost for collection is estimated to be approximately \$79.8 million for sources. There is no burden for State and local agencies. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Chief, Information Policy Branch (PM-223) U.S. Environmental Agency, 401 M St. SW, Washington, D.C. 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, marked, "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

### E. Unfunded Mandates Reform Act

As shown in the Information Collection Request Document (ICR), today's action imposes no costs on State, local and tribal governments. The EPA estimates that the direct cost to the private sector would be no more than \$96.6 million in any one year, and above costs industry would have incurred by complying with State permits programs mandated by the Act, for which part 71 programs are substitutes. For EPA's estimates of the cost to industry and permitting agencies for State permits programs, see 57 FR 32293 (July 21, 1992) and 59 FR 44525 (August 29, 1994). As shown in the ICR for proposed part 71, the part 71