

not require the Department to set forth in the Notice of Proposed Rulemaking or in this preamble other evidence of the Department's efforts to comply with the Order in developing and submitting this proposal to OIRA for review.

B. Small Business Regulatory Enforcement Fairness Act

The Department has concluded that this rule is not a "major" rule under the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*). In reaching this conclusion, the Department has determined that the rule will not likely result in (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

C. Unfunded Mandates Reform

For purposes of the Unfunded Mandates Reform Act of 1995, this rule does not include a Federal mandate that might result in increased expenditures by State, local, and tribal governments, or increased expenditures by the private sector of more than \$100 million in any one year. The basis for the Department's estimate of the likely cost of compliance with this rule is set forth above.

D. Executive Order 13132 (Federalism)

The Department has reviewed this rule in accordance with Executive Order 13132 regarding federalism and has determined that the rule does not have federalism implications. Because the economic effects under the rule will not be substantial for the reasons noted above and because the rule has no direct effect on States or their relationship to the Federal government, the rule does 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."

E. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601, *et seq.*, requires agencies to prepare regulatory flexibility analyses, and to develop alternatives wherever possible, in drafting regulations that will have a significant impact on a substantial number of small entities. The Small Business Administration (SBA) determined, in a

regulation that became effective on October 1, 2000, that the maximum annual receipts allowed for a labor union or similar labor organization and its affiliates to be considered a small organization or entity under section 601(4), (6) of the Regulatory Flexibility Act was \$5.0 million. 13 CFR 121.201 [Code Listing 813930]. This amount was adjusted for inflation to \$6.0 million by a regulation that became effective on February 22, 2002. Accordingly, the following analysis assesses the impact of these regulations on small entities as defined by the applicable SBA size standards.

1. Statement of the Need for, and Objectives of, the Rule

The following is a summary of the need for, and the objectives of, the final rule. A more complete discussion is contained in the preamble above.

The Department is revising the forms labor organizations use to file the annual financial reports required by the Labor-Management Reporting and Disclosure Act of 1959, as amended (LMRDA or Act). This final rule modifies Form LM-2, which is the report required to be filed by the largest labor organizations and creates a new Form T-1 for these unions to report the assets, liabilities, receipts, and disbursements of trusts in which a labor organization has an interest. To reduce the burden on smaller labor organizations, the final rule also raises the threshold for filing Form LM-3 to annual receipts of between \$10,000 and \$249,999 to correspond with the higher Form LM-2 threshold (\$250,000). These forms are prescribed by the Secretary of Labor to implement the Act and incorporated by reference in the applicable regulations.

Over the past forty years, the functions and operations of unions have evolved while the forms used by unions to file annual financial reports required by the LMRDA have remained substantially unchanged. The forms no longer serve their underlying purpose because they fail to provide union members with sufficient information to reasonably disclose to them "the financial condition and operation[s]" of labor organizations as required by the LMRDA. As noted previously, it is impossible for union members to evaluate in any meaningful way the operations or management of their unions when the financial disclosure reports filed with OLMS simply report large expenditures (*e.g.*, \$62 million) for broad, general categories like "Grants to Joint Projects with State and Local Affiliates." The large dollar amount and vague description of such entries make

it essentially impossible for anyone to determine with any degree of specificity what union operations their dues are spent on, without which the purposes of the LMRDA are not met.

Today's union members need relevant information provided in a usable format in order to make the decisions necessary to exercise their rights as members of democratic institutions. The information provided members on the current forms lags well behind the financial information available to them in other contexts of their lives as consumers, citizens, and investors. The Department is committed to maintaining accountability and promoting transparency with full and fair disclosure by labor organizations. Providing additional detail on Form LM-2 and requiring similar disclosure on the new Form T-1 of information about trusts in which the labor organization has an interest is necessary to give union members an accurate picture of their labor organization's financial condition and operations and to prevent the circumvention or evasion of the statutory reporting requirements.

The revision of Form LM-2 is also necessary to improve its usefulness as a deterrent to financial fraud and mismanagement. OLMS case files repeatedly demonstrate that this goal of the Act is not being met. Over the past five years, OLMS investigations resulted in over 640 criminal convictions. As a remedy, the courts ordered the responsible officials to pay \$15,446,896 in restitution, in addition to debarring them from union service for a combined total of almost ten thousand years. In many cases the broad aggregated categories on the existing forms enabled union officers to hide embezzlements and financial mismanagement. More detailed reporting of all financial transactions is likely to discourage and reduce corruption because it would be more difficult to hide financial mismanagement from members and strengthen the effective and efficient enforcement of the Act by the Department.

The objective of this rule is to increase the transparency of union financial reporting by revising the LMRDA disclosure forms and to take advantage of modern technology to reduce the reporting burden. This will enable workers to be responsible, informed, and effective participants in the governance of their unions; discourage embezzlement and financial mismanagement; prevent the circumvention or evasion of the statutory reporting requirements; and strengthen the effective and efficient enforcement of the Act by OLMS.