

already have been authorized through September 30, 2003, and the EPA expects to extend this authorization through September 30, 2006 in a separate rulemaking. In Massachusetts' case, the State regulations (310 CMR 30.354) have been submitted to the EPA to be authorized as part of this current update of the Massachusetts RCRA program. The EPA proposes to grant this authorization through September 30, 2006, following public comment, as part of this rulemaking, once the currently proposed updated Massachusetts RCRA regulations have been adopted in final form.

The different effects of authorization regarding HSWA and non-HSWA rules was discussed above in part II.D. The proposed extension to the Federal XL project regulation would be promulgated pursuant to non-HSWA authority. Thus the extension will take effect in Massachusetts only when adopted by Massachusetts and will become Federally enforceable only when the State regulations containing the extension are authorized by the EPA.

IV. Statutory and Executive Order Reviews

The EPA has examined the cumulative effects of the proposed State authorization decisions discussed above, and the two proposals to make changes to the Federal regulations, and reached the conclusions set out below.

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 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 effect 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 entitlement, grants, user fees, or loan programs 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.

Because the annualized cost of these proposed actions will be significantly less than \$100 million and because these proposed actions will not meet any of the other criteria specified in the Executive Order, it has been determined that this proposed rule is not a "significant regulatory action" under the terms of the Executive Order and is therefore not subject to OMB review.

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or final rule. These proposed actions will authorize or enable the authorization of state requirements for the purpose of RCRA 3006 and will impose no additional requirements beyond those imposed by State law. Therefore, they will require no information collection activities subject to the Paperwork Reduction Act. In addition, no Federal reporting obligations have been established under the ECOS project. Rather, the EPA will monitor this project through its regular oversight of the Massachusetts RCRA program. Finally, the New England Universities' Laboratories XL project applies to only three universities, and any reporting obligations for nine or fewer sources are not subject to the Paperwork Reduction Act. Therefore no information collection request (ICR) will be submitted to OMB for review under the Paperwork Reduction Act.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking under the Administrative Procedure Act or other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

These actions authorize or enable the authorization of state requirements for the purpose of RCRA 3006 and impose no additional requirements beyond those imposed by state law. In addition, the two proposed Federal regulatory changes will increase regulatory flexibility, which should have a positive economic effect on small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act, the impact of concern is any significant adverse economic impact, since the primary purpose of any regulatory flexibility analysis would be to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule on small entities." 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule. Accordingly, the EPA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Thus a regulatory flexibility analysis is not required to be prepared under that Act.

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, the 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 the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the 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 the 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. In addition, before the 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 about the regulatory requirements, enabling officials of affected small governments to have meaningful and timely input in