

the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the section 202 and 205 requirements do not apply to this proposed action because the proposed rule does not contain a Federal mandate that may result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local or tribal governments and the private sector already exist under the State program, and the proposed actions will not impose any additional obligations on regulated entities. In fact, the EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector, by reducing the need for companies to comply with Federal requirements in addition to State requirements. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not cover duties arising from voluntary participation in a Federal program, such as Massachusetts's voluntary decision to operate the RCRA program.

Because this action will authorize pre-existing requirements under state law and will not impose any additional enforceable duties beyond those required by state law, it also will not uniquely affect small governments, as described in section 203 of UMRA. Thus the requirements of section 203 that the EPA develop a small government agency plan will not apply to this rule.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications." "Policies that have Federalism implications" is defined in the Executive Order to include regulations that 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."

The proposed actions will not have Federalism implications, as defined in the Executive Order, because they merely authorize (or enable the authorization of) state requirements as part of the State RCRA hazardous waste program, without altering the relationship or the distribution of power

and responsibilities established by RCRA.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires the EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and the Indian tribes."

The proposed actions will not have tribal implications, as defined by the Executive Order, because they will have no direct effect on Indian lands. As noted in part I.E. above, Massachusetts is not authorized to administer the RCRA program in Indian country. Rather, the EPA directly administers the Federal RCRA program in Indian country within Massachusetts.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that the EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866. In addition, it does not concern environmental health or safety risks that the EPA has reason to believe may have a disproportionate effect on children.

As discussed in parts II and III above, the EPA has determined that the regulatory flexibility to be allowed by the two proposed Federal regulatory changes will not create health and safety

risks. In any event, the particular RCRA program elements affected do not pose any disproportionate risks to children. As discussed in part I above, the standard authorization portion of this rule simply authorizes Massachusetts regulations which are equivalent to previously established Federal RCRA requirements. Authorizing State regulations which equivalently protect the environment, in place of Federal regulations, does not create any disproportionate risks to children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211 because that Executive Order applies only to rules that are "significant" under Executive Order 12866, and this rule is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rule does not involve technical standards covered by voluntary consensus standards. In addition, under RCRA section 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required under RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that satisfies the requirements of RCRA. Therefore, the EPA did not consider the use of any voluntary consensus standards in developing this rule.