

nonattainment areas will be required to demonstrate conformity of their transportation plans every three years. In addition, DOT's planning regulations require TIP updates every two years, and consequently, a TIP conformity determination will be required every two years. Based on preliminary air quality data and State recommendations for new nonattainment areas, we estimate that approximately 40 areas will be designated nonattainment for the first time under the 8-hour ozone and PM_{2.5} standards. We estimate that the total annual burden per respondent for transportation conformity activities is 275 hours at a total annual cost per respondent of \$6750.00.

The information collection requirements of EPA's current transportation conformity rule are covered under the DOT information collection request (ICR) entitled, "Metropolitan and Statewide Transportation Planning," with the OMB Control Number 2132-0529. Today's total burden for new areas is based on DOT's ICR for developing transportation plans and TIPs in nonattainment and maintenance areas, and should be viewed as a cursory estimate. Today's estimate only includes the incremental burden associated with making conformity determinations for the new standards; it does not address the development of transportation plans and TIPs or motor vehicle emissions budgets, since these documents are developed to meet other requirements. The total annual burden also assumes that all new areas will be metropolitan areas that develop transportation plans and TIPs. Accounting for newly designated isolated rural nonattainment areas may reduce the total burden for new areas, as isolated rural areas are not required to demonstrate conformity as often as metropolitan areas. In addition, this estimate of new burden assumes that plan and TIP conformity determinations are developed separately. However, the regional emissions analysis requirements in the conformity regulation are the same for plans and TIPs, and many areas rely on the same regional emissions analysis and conformity determination when plan and TIP updates are done concurrently. EPA plans to further examine this burden estimate for new areas designated under the 8-hour ozone and PM_{2.5} standards, along with any incremental burdens for existing nonattainment and maintenance areas that have previous conformity experience, in our subsequent ICR for this rulemaking.

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 purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search 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 in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this rulemaking, which will include the ICR, under Docket ID number OAR-2003-0049. EPA is seeking comment on the general description of this proposal's information collection. EPA intends, in the near future, to develop and submit to OMB an ICR that includes a more detailed estimate of the incremental burden of this rulemaking. The public will be provided a separate comment period to comment on the ICR once it is submitted to OMB. Submit any comments related to the collection of information and subsequent ICR for this proposed rule to EPA and OMB. See the **ADDRESSES** section of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal and subsequent ICR.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, requires the Agency to conduct a regulatory flexibility analysis of any significant impact a rule will have on a substantial number of small entities. Small entities include small businesses,

small not-for-profit organizations and small government jurisdictions.

EPA has determined that today's proposal will not have a significant impact on a substantial number of small entities. This regulation directly affects Federal agencies and metropolitan planning organizations that, by definition, are designated under Federal transportation laws only for metropolitan areas with a population of at least 50,000. These organizations do not constitute small entities within the meaning of the Regulatory Flexibility Act. The Regulatory Flexibility Act defines a "small governmental jurisdiction" as the government of a city, county, town, school district or special district with a population of less than 50,000.

Therefore, as required under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

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, 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 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 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. Before 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, enabling officials of affected small governments