

result in expenditures by state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year.

Before a Federal regulatory agency such as EPA promulgates a rule for which a written statement is needed, section 205 of the UMRA generally requires the agency 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 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 to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's proposed rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for state, local, or tribal governments. In addition, EPA has determined that this proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. Furthermore, today's proposed regulation will not impose incremental costs in excess of \$100 million to the private sector, or to state, local, or tribal governments in the aggregate, in any one year, as based on the findings of the "Economics Background Document," described elsewhere in this preamble.

Thus, today's proposed rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires 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."

This proposed rule does not have federalism implications. It will 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, as specified in Executive Order 13132. This proposed rule would provide a net reduction in RCRA regulatory burden to generators and handlers of solvent industrial wipes. For the proposed exclusions, both the annual direct implementation costs to affected private sector entities and the potential impact on annual state government revenues do not exceed the "substantial" compliance cost threshold defined in this Executive Order. This proposal would preempt state and local law that is less stringent for solvent-contaminated wipes. Under the RCRA, 42 U.S.C. 6901 to 6992k, the relationship between the states and the national government with respect to hazardous waste management is established for authorized state hazardous waste programs, 42 U.S.C. 6926 (section 3006), and retention of state authority, 42 U.S.C. 6929 (section 3009). Under section 3009 of RCRA, states and their political subdivisions may not impose requirements less stringent for hazardous waste management than the national government. Thus, Executive Order 13132 does not apply to this rule.

However, to incorporate the state perspective in the proposal, Agency personnel met with state representatives from the Association of State and Territorial Solid Waste Management Officials (ASTSWMO) in July of 1998 to review, discuss and obtain feedback from them on EPA thinking at the time. The state representatives recommended that solvent-contaminated reusable wipes contain no free liquids when transported off site to an industrial laundry or dry cleaner and that the wipes be transported in closed containers that meet DOT requirements. Similarly, most states recommended that disposable wipes continue to be regulated under RCRA subtitle C (hazardous waste) regulations. The states continued to participate on the workgroup developing today's proposal and their input was received and considered throughout the regulation development process.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comments on this proposed rule from state and local officials.

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 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."

EPA has concluded that this proposed rule may have tribal implications to the extent that generating facilities on tribal lands using solvent-contaminated industrial wipes or handlers of these materials located on tribal lands could be affected. However, this proposed rule will neither impose substantial direct compliance costs on tribal governments nor preempt tribal law.

EPA did not consult directly with representatives of Tribal governments early in the process of developing this regulation.²⁰ However, as described above, EPA did conduct an extensive outreach process with industry, including small business. Thus, we believe we have captured concerns that also would have been expressed by representatives of Tribal governments.

EPA specifically solicits additional comment on this proposed rule from Tribal officials.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) 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 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 reasonable alternatives considered by the Agency.

The proposed rule is not subject to the Executive Order because it is not

²⁰ "Representatives of Tribal governments" include non-elected officials of Tribal governments and representative authorized national organizations.