

“significant” and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive 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 affect 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 government 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 entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) raise novel or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

Today’s final amendments to the 1983 standards of performance and 1994 national emission standards will reduce the recordkeeping and testing burden for some terminals, but we do not have an estimate of the number of terminals affected. Therefore, the cost impacts of the subject standards are less than previously estimated, but our estimates have not been revised. The OMB evaluated the action and determined it to be nonsignificant; therefore, the action did not require OMB review.

B. Paperwork Reduction Act

The information collection requirements in the subject standards have been previously submitted to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and were approved by OMB under the promulgated 1983 standards of performance (OMB control number 2060–0006–ICR 0665.06) and 1994 national emission standards (OMB control number 2060–0325–ICR 1659.04). A copy of the Information Collection Request (ICR) documents may be obtained from Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at Auby.Susan@epa.gov, or by calling (202) 566–1672.

Today’s final amendments will reduce the recordkeeping and testing burden for some terminals. We do not have an estimate of the number of terminals affected by today’s final amendments. Therefore, the ICR burden is less than previously estimated but the ICR has not been revised.

C. Regulatory Flexibility Analysis

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final amendments. The EPA has also determined that the final amendments will not have a significant economic impact on a substantial number of small entities.

For purposes of assessing the impacts of today’s final amendments on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 100 or 1,500 employees, or a maximum of \$5 million to \$18.5 million in revenues, depending on the size definition for the affected North American Industry Classification System (NAICS) code; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. It should be noted that the small business definition applied to each industry by NAICS code is that listed in the Small Business Administration (SBA) size standards (13 CFR 121). For more information on size standards for particular industries, please refer to the economic impact analysis in the docket.

When EPA promulgated the 1994 national emission standards, it analyzed the potential impacts on small businesses, discussed the results of the analysis in the **Federal Register**, and concluded that the promulgated rule would not result in financial impacts that significantly or differentially stress affected small companies. The 1983 standards of performance were analyzed for potential impacts on small businesses under the Regulatory Flexibility Act (RFA) of 1980, and it was determined that the RFA did not apply. We analyzed and considered the impacts, and no significant impacts were expected.

After considering the economic impacts of today’s final amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. Today’s final amendments will minimize the impact on small entities by adding two alternatives to provide facilities with the flexibility to comply in the least costly manner while maintaining a workable and enforceable rule. Both alternatives were requested by impacted bulk terminal and railcar owners and operators, and we worked with them to develop the alternatives.

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 by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any 1 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 of 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 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.

The EPA has determined that today’s final amendments do not contain a Federal mandate that may result in expenditures of \$100 million or more to State, local, and tribal governments in the aggregate, or to the private sector in any 1 year. Thus, today’s final action 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