

(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.

The Agency has determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review and the requirements of the Executive Order.

B. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (the Act), Pub. L. 104-4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the Act EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the Act a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of \$100 million or more to State, local, and tribal governments in the aggregate, or to the private sector, in any one year. This is due to the fact that this rule simply revises available test methods for complying with existing regulatory requirements, and in most cases, the SW-846 test methods are provided as guidance, not requirements. Even where the use of a specific test method is required, the Agency does not believe that the revised methods will result in significant cost increases and indeed, most of the revised methods are expected to result in reduced costs. For example, new immunoassay methods can be run in the field, replacing expensive gas chromatographic laboratory work; this will allow for more

and faster sampling, helping to reduce the cost of cleanups. Thus, today's notice is not subject to the written statement requirements in sections 202 and 205 of the Act.

As for section 203 of the Act, today's rule is not expected to have any "unique" effects on small governments; the only expected effects on a small government would be where that government is itself managing hazardous wastes, and is using one or more test methods for complying with RCRA regulations. Further, for the reasons set out in the prior paragraph, the revised test methods would not be expected to have a "significant" effect on small governments (or other users of test methods). Thus, today's notice is not subject to the requirements of section 203 of the Act.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. section 601-612, Pub. L. 96-354, September 19, 1980), whenever an agency publishes a General Notice of Rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis (RFA) that describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the head of the Agency certifies that the rule will not have a significant impact on a substantial number of small entities.

This rule will not require the purchase of new instruments or equipment. The regulation requires no new reports beyond those now required. This rule will not have an adverse economic impact on small entities since its effect will be to provide greater flexibility and utility to all of the regulated community, including small entities, by providing an increased choice of appropriate analytical methods for RCRA applications. Therefore, in accordance with 5 U.S.C. section 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Thus, the regulation does not require an RFA.

D. Paperwork Reduction Act

There are no additional reporting, notification, or recordkeeping provisions associated with today's proposed rule. Such provisions, were they included, would be submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.*

List of Subjects

40 CFR Part 260

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Incorporation by reference.

40 CFR Part 264

Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

Dated: May 25, 1995.

Elliott P. Laws,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, Chapter I, of the Code of Federal Regulations is amended as set forth below:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for part 260 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921-6927, 6930, 6934, 6935, 6937, 6938, 6939, and 6974.

Subpart B—Definitions

2. Section 260.11 (a) is amended by revising the "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" reference to read as follows:

§ 260.11 References.

(a) * * *

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 [Third Edition (November 1986), as amended by Updates I (July, 1992), II (September, 1994), IIA (August, 1993), IIB (January, 1995), and III]. The Third Edition of SW-846 and Updates I, II, IIA, IIB, and III (document number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Copies of the Third Edition and its updates are also available from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4650. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

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