

standards and, therefore, will not incur impacts.

We expect a positive environmental impact and negligible economic impacts from the requirements for bioreactors. One reason for the small economic impact is that the final rule bioreactor provisions will require gas collection and control for only the same landfills that are already required to install collection and control systems under the EG/NSPS and the final rule. It will not change the number of landfills that must apply controls.

In the analysis described in the supplemental proposal (67 FR 36460, May 23, 2002), we found that greater emissions reductions are achieved by timely control of bioreactor landfills. The analysis also concludes that the bioreactor provisions will not increase the costs of control for most landfills compared to the previous EG/NSPS and final rule cost analyses, and some landfills with bioreactors will experience reduced control costs. We expect the number of bioreactors to increase over the next few years given their potential environmental and economic benefits, and pending regulatory clarifications. A regulation proposed under 40 CFR 258 (67 FR 39662) will provide approved States the ability to issue research, development, and demonstration permits to allow liquids other than leachate to be recirculated into bioreactor landfills. Promulgation of the regulation will lift a barrier for some landfills to become bioreactors and, therefore, is likely to result in an increase of bioreactor landfills. Overall, the bioreactor provisions of the final rule will have minimal economic impacts and may in fact have an overall beneficial economic impact. Additional information on this analysis, including example cases examined, HAP emissions reductions, and NMOC emissions reductions, are contained in Docket No. A-98-28 and in the supplemental proposal (67 FR 36460).

V. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is “significant” and, therefore, subject to review by the Office of Management and Budget (OMB) 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 governments or 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 legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the final rule is not a “significant regulatory action” because the final rule will not have an annual effect on the economy of \$100 million or more and does not impose any additional control requirements above the 1996 EG/NSPS. We considered the 1996 EG/NSPS to be “significant” because the 1996 EG/NSPS were expected to have an annual effect on the economy in excess of \$100 million. We submitted the 1996 EG/NSPS to OMB for review (61 FR 9905, March 12, 1996). The rule promulgated today is projected to have no significant impact above the 1996 EG/NSPS. Consequently, the final rule was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132 (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.”

The final 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. We have concluded the final rule may create a mandate on a number of city and county governments, and the Federal government would not provide the funds necessary to pay the direct costs

incurred by the city and county governments in complying with the mandate. However, it will not impose substantial direct compliance costs on State or local governments, it will not preempt State law. Thus, Executive Order 13132 does not apply to the final rule.

Although section 6 of Executive Order 13132 does not apply to the final rule, EPA did consult with State and local governments in developing the 1996 EG/NSPS. The EPA consulted extensively with State and local governments early in the process of developing the proposed regulations to permit them to have meaningful and timely input into its development. Because the control requirements of the final rule are substantially the same as those developed in 1996, the previous consultations still apply. In addition, State and local government agencies participated in a conference call on the bioreactor provisions of the final rule, and provided comments on the proposal, which we considered. For a discussion of our consultations with State and local governments, the nature of the governments' concerns, and our position supporting the need for the specific control requirements included in both the EG/NSPS and the final rule, see the preamble to the 1996 EG/NSPS (60 FR 9918, March 12, 1996).

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, (65 FR 67249, November 9, 2000), requires us to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” The final rule does not have tribal implications, as specified in Executive Order 13175. Information received from the Regions during development of the Federal Plan showed no landfills on tribal land large enough to require control under the NSPS or the final rule. Thus, Executive Order 13175 does not apply to the final rule.

D. Executive Order 13045, Protection of Children From Environmental Health Risks 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 we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental