

health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives we considered.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation.

The final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because it is based on technology performance and not on health and safety risks. Furthermore, as no alternative technologies exist that would provide greater stringency at a reasonable cost, the results of any children's health analysis would have no impact on the stringency decision.

E. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

The final rule is not subject to Executive Order 13211, (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Unfunded Mandates Reform Act (UMRA) of 1995

Title II of the UMRA of 1995, 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, we 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 the 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 us 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 us to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if we publish with the final rule an explanation why that alternative was not adopted.

Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must have developed a small government agency plan under section 203 of the UMRA. 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 our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The average total annual cost of the final rule for any year has been estimated to be less than \$2.2 million. Thus, the final rule is not subject to the requirements of section 202 and 205 of the UMRA. In addition, we have determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments because the burden is small and the regulation does not unfairly apply to small government. Therefore, the final rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 United States Code (U.S.C.). 601 et seq.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule. The EPA has also determined that the final rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of the final rule on small entities, small entities are defined as: (1) A small business that is primarily engaged in the collection and disposal of refuse in a landfill operation as defined by North American Industrial Classification System (NAICS) codes 562212 and 924110 with annual receipts less than 10 million dollars; (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.

After considering the economic impacts of the final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. We have determined that small entities will experience little impact since the final rule relies on the requirements specified in 40 CFR part 60, subparts Cc and WWW. Additional requirements for the final rule are limited to a slight increase in the reporting frequency of some reports and the development of a SSM plan. This increase in requirements leads to an increase in annual costs to each affected landfill of \$1700 (1998 dollars), an increase of less than 0.001 percent of the tipping fees taken in by a landfill of average size nationally. Hence, the estimated impacts to small communities, organizations, and firms from the final rule should be insignificant. For more information on the economic impacts, refer to the economic analysis in the docket.

Although the final rule for MSW landfills will not have a significant economic impact on a substantial number of small entities, we nonetheless have tried to reduce the impact of the final rule on small entities. To that end, we have evaluated the operational practices, collection systems and control systems required by 40 CFR part 60, subparts Cc and WWW, for co-control environmental benefits. Since the requirements in 40 CFR part 60, subparts Cc and WWW, adequately address the emissions of HAP while controlling landfill gas, we are using these same requirements with a slight increase in reporting activity/frequency for the final rule. In addition to the reduction effort, we performed a number of outreach activities to interact with small entities during the development of the rule. We held formal stakeholder meetings. In addition, we presented rule related information at national conferences sponsored by the trade organizations for these entities, and we requested the establishment of an electronic link between the International City/County Management Association website and our rule development website. Through the efforts discussed above, small entities have been engaged in the rulemaking effort.

H. Paperwork Reduction Act

The information collection requirements in the final rule are being submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA,