

addition, new laws or regulations may become applicable during the project term which might render the project impractical, or might contain regulatory requirements that supersede the superior environmental benefits that are being achieved under this XL project.

#### *H. Will This Project Result in Cost Savings and Paperwork Reduction?*

EPA did not prepare an economic estimate of the cost of today's proposed rule or an estimate of any paperwork reduction. EPA notes, however, that the County volunteered for this pilot project which will affect only one facility and is expected to result in an overall cost savings by: Accelerating the decomposition of waste placed in Cell 8.4 of the Landfill, which is expected to extend the life of this cell and improving the quality and management of leachate generated at the landfill, both of which are expected to decrease leachate treatment and disposal costs.

#### **V. What Regulatory Changes Are Being Proposed To Implement This Project?**

##### *A. Existing Liquids Restriction for MSWLFs (40 CFR 258.28)*

This proposed site specific rule would grant regulatory relief from certain requirements of RCRA that restrict application of liquids in MSWLFs, because, as previously described, Subcell 8.4 of the Landfill was constructed with an alternative liner pursuant to 40 CFR 258.40(a)(1). When the FPA for this project was signed, RCRA regulations, 40 CFR 258.28(a) allowed bulk or non-containerized liquid waste to be added to a MSWLF only if the following two conditions were met:

- The liquids comprise household waste (other than septic waste), or leachate from the Landfill itself, or gas condensate derived from the Landfill, and
- The MSWLF has been built with a liner as prescribed in the design standard set forth in 40 CFR 258.40(a)(2) (*i.e.*, not the performance standard set forth in 40 CFR 258.40(a)(1)).

Since then, EPA promulgated a site-specific rule for the Yolo County, CA, bioreactor landfill project under Project XL, which amended 40 CFR 258.28(a). The amendment allows bulk liquid wastes to be added to a MSWLF if, "the MSWLF unit is a Project XL MSWLF and meets the applicable requirements of 40 CFR 258.41" (66 FR 42441–42449, August 13, 2001). Therefore, the regulatory relief needed for the Anne Arundel County XL Project is a site-specific amendment to 40 CFR 258.41.

With the exception of those specific provisions modified by this proposed rule, all other applicable existing and future regulatory requirements in part 258 and elsewhere continue to apply to the Anne Arundel County Millersville Landfill.

#### *B. Proposed Site-Specific Rule*

This proposed rule would allow the operator of the Landfill to add liquids, primarily consisting of leachate from the Landfill and possibly supplemental storm water ("liquids") to a portion of Subcell 8.4 of the Landfill, as long as the maintenance, operational, monitoring and other requirements set forth in 40 CFR 258.41(d) are met. This proposed rule would add a new subsection to the rules in 40 CFR 258.41. New 40 CFR 258.41(d) would specifically apply to the Anne Arundel County Millersville Landfill, in Severn, Anne Arundel County, Maryland, and would allow liquids to be applied to a portion of Subcell 8.4 in this Landfill. This proposed rule would impose certain minimum monitoring, reporting, and control requirements on the County, which, among other things, would ensure that the project is protective of human health and the environment and facilitate EPA's evaluation of the project.

The CAA Title V Permit for the Landfill was signed by MDE on August 29, 2001. Monitoring, record keeping and reporting requirements for LFG previously agreed to in the FPA (Sections II. B. and III. G. and Tables 4 and 5) which was signed by the County, EPA and MDE are contained in the Title V permit for the Landfill. The Title V permit specifies that the LFG monitoring and reporting in the test area will be performed according to the requirements of 40 CFR part 60, subpart WWW. The County will perform quarterly monitoring for surface emissions over the entire plateau area that includes the test area of Subcell 8.4. The plateau area measures 180 feet by 300 feet and the test area is essentially centered on the plateau. Based on the results of the quarterly monitoring supplemental LFG monitoring and control may be required by the County's Title V permit, including semi-annual testing for non-methane organic compounds and weekly testing at the well heads for methane, carbon dioxide, carbon monoxide, oxygen and nitrogen. Also, if the County undertakes such supplemental LFG collection measures, the County will continuously collect the LFG flow rate from Cell 8 and on a weekly basis determine the LFG flow rate in the plateau area of Subcell 8.4.

Existing regulation allowing leachate recirculation over a composite liner (40 CFR 258.28(a)(2)) requires a leachate collection system as specified in 40 CFR 258.40(a)(2) to ensure that contaminant migration to the aquifer is controlled. (56 FR 50978–51056, Oct. 9, 1991). This proposed rule would also require that a leachate collection system (as described in 40 CFR 258.40(a)(2)) be in place in order for leachate to be recirculated in the Subcell 8.4, and the County would be required to ensure that the leachate collection systems maintains the leachate head over the liner at a depth of less than 30 cm in Subcell 8.4.

Today's proposed rule would not provide any regulatory flexibility with respect to monitoring requirements; rather it adds monitoring to that which would be required for this Landfill if it continued operating as a conventional MSWLF. In addition to the monitoring required in part 258, for example, the County would be required to monitor and report whether surface seeps are occurring and determine whether they are attributable to operation of the liquid application system; perform a semi-annual analysis of leachate quality in both test and control areas; and at least monthly, monitor the gas temperature at well heads. EPA believes this additional information will provide the necessary indicators of any increased risk to human health or the environment in a timely manner and will enable the County, MDE and/or EPA to take whatever steps are necessary, including suspension or termination of the project to reduce or eliminate any such risk. EPA also believes that this additional information will be valuable in assessing the benefits of bioreactor operation.

#### **VI. Statutory and Executive Order Reviews**

##### *A. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735), the Agency must determine whether this regulatory action is "significant" and therefore subject to formal review by the Office of Management and Budget (OMB) and to the requirements of the Executive Order, which include assessing the costs and benefits anticipated as a result of this regulatory action. The 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