

Today's final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. This final rule does not impose any enforceable duty on any State, local or tribal governments or the private sector. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of 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 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."

This 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. As explained in Section V. of this preamble, none of today's proposed revisions are more stringent or broaden the scope of the existing Federal requirements. Therefore, States are not required to adopt the revision to the definition of MSWLF unit nor the additional definitions of construction and demolition (C&D) landfill and residential lead-based paint waste in today's rule. Thus, Executive Order 13132 does not apply to this final rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the

Federal government and Indian tribes, as specified in Executive Order 13175. Today's final rule would expressly provide an additional option for disposal of certain waste applicable in Indian Country, but would not create any mandate on Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Risks and Safety Risks

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" 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 EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental 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 considered by the Agency.

This final rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866. However, this rule will affect decisions involving the environmental health or safety risks to children. In fact, it will benefit children by allowing environmentally protective disposal of residential lead-based paint waste in C&D landfills, which is less costly than disposal in MSWLFs in certain areas of the U.S., therefore reducing the cost of lead abatements. Reducing the cost of LBP abatements will also reduce the amount of time needed to complete abatements in public housing. Lower abatement costs may increase the amount of private homes undergoing abatements. By reducing costs associated with the disposal of LBP waste, the Agency believes that the number of abatements may marginally increase, thus resulting in a reduction of the number of children exposed to LBP.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it will not have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub L. 104-113, Sec. 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. Today's final rule does not involve technical standards, voluntary or otherwise. Therefore, the NTTAA does not apply to today's final rule.

J. Executive Order 12898: Federal Action To Address Justice in Minority Populations and Low-Income Populations

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," as well as through EPA's April 1995, "Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report," and the National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

Today's final rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities versus non-minority or affluent communities. On the contrary, since the rule will reduce the cost of performing LBP abatements in certain regions of the U.S., EPA believes that the savings will afford public housing authorities, in particular, the opportunity to conduct additional abatements of LBP hazards in affected