

applicable Federal, State, and local regulations. Many states have their own guidelines and regulations for fertilizer production and use. For example, a state may prohibit the use of organic fertilizer made with biosolids on agricultural food crops.

In addition, as mentioned above, biosolids can be used in the production of organic fertilizer and must meet the requirements specified in EPA's part 503 Biosolids Rule before they can be beneficially used. The 40 CFR part 503 Biosolids Rule land application requirements ensure that any biosolids that are land applied contain pathogens and metals that are below specified levels to protect the health of humans, animals, and plants.

In proposing to designate fertilizers made from recovered organic materials, EPA is not placing any limitations on the organic materials, but rather is relying on Federal, State, and local regulations and guidance, as well as existing industry standards. EPA is requesting comment on whether it should place any limitations on the recovered organic materials contained in the fertilizers that the Agency today is proposing to designate, and on what those limitations should be.

*c. Impact of government procurement.* Government agencies purchase, or use appropriated funds to purchase, fertilizers. Although most government agencies would likely purchase fertilizers indirectly via a contracted landscaping service, it is nevertheless clear that agencies have a demand for fertilizers, for applications such as landscaping, golf course and turf maintenance, and as an amendment for grass, bushes, and trees in parks and recreational facilities. According to one procurement official, even though fertilizers are generally part of contracted services, agencies are at liberty to specify a particular type of nutrient analysis for any type of fertilizer (organic or synthetic) they would like to use.

EPA does not have specific data on the amount of fertilizers procured by government agencies, although EPA believes that the quantities are substantial. Thus, the agency believes these items are procured in sufficient quantities to support the designation of these items.

*d. Other Uses for Recovered Materials.* In selecting items for consideration,

EPA also considers the following: (1) The possibility of one recovered material displacing another recovered material as feedstock, thereby resulting in no net reduction in materials requiring disposal; (2) the diversion of recovered materials from one product to another, possibly creating shortages in feedstocks for one or both products; and (3) the ability of manufacturers to obtain recovered materials in sufficient quantities to produce the item under consideration.

While other uses for recovered materials are a consideration, they are not a determining factor when selecting items for designation, because EPA believes an item designation would have the positive effect of expanding markets for all recovered materials used to manufacture the designated item.

#### **V. Where Can Agencies Get More Information on the Availability of EPA-Designated Items?**

EPA has identified a number of manufacturers and vendors of the items proposed for designation in today's rule. Once the item designations in today's proposal become final, a list of these companies will be placed in the OSWER Docket for this action and will be added to EPA's CPG Supplier Database, which is accessible from the CPG Web site <http://www.epa.gov/cpg>. This database will be updated periodically as new sources of designated items are identified and product information changes. Procuring agencies should contact the manufacturers and vendors directly to discuss their specific needs and to obtain detailed information on the availability and price of recycled products meeting those needs.

Other information may be available from GSA, DLA, state and local recycling offices, private corporations, and trade associations. Refer to Appendix II of the document, "Background Document for Proposed CPG V and Draft RMAN V," located in the OSWER Docket, for more detailed information on these sources of information.

#### **VI. Administrative Assessments**

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

Executive Order 12866 requires agencies to determine whether a regulatory action is "significant." The

Order defines a "significant" regulatory action as one that is likely to result in a proposed 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 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; 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.

It has been 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. EPA estimates that the costs associated with today's proposed rule are well below the \$100 million threshold. EPA has prepared an Economic Impact Analysis (EIA) to evaluate the potential impact of today's action. The results of the EIA are discussed below. More information on the estimated economic impact of today's proposed rule is included in the Economic Impact Analysis for this proposed rule, a copy of which is in the OSWER docket.

##### *1. Summary of Costs*

As shown in Table 2 below, EPA estimates that the annualized costs of today's proposed rule will range from \$1.2 to \$2.3 million, with costs being spread across all procuring agencies (*i.e.*, Federal agencies, State and local agencies that use appropriated Federal funds to procure designated items, and government contractors). These costs are annualized over a 10-year period at a three percent discount rate. Details of the costs associated with today's proposed rule are provided in the Economic Impact Analysis for this proposed rule.