

input on its data and recommendations throughout the 2-year charter. To enhance the public's ability to participate, EPA maintained a bulletin board on the Technology Transfer Network to disseminate information on the ICCR Coordinating Committee and Work Group meeting schedules and minutes, works in progress, and final recommendations. The public could submit comments on any information posted on the bulletin board to members of the ICCR Coordinating Committee or Work Group. Individuals could also attend the ICCR Coordinating Committee and Work Group meetings and comment on the information being presented and discussed. After the FACA charter expired, individual stakeholders and members of the public were encouraged to submit individual comments and information to EPA staff. On several occasions after the FACA charter expired, EPA met with individual stakeholder groups to discuss the status of the proposed rulemaking and to hear their concerns and comments regarding the proposed rulemaking.

To continue participation of stakeholders in the rulemaking process, EPA is requesting comments and data to support the proposed rule. The EPA requests comments on all aspects of the proposed rule from all interested parties.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a 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 obligation 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, the Agency has determined that the proposed rule is a "significant regulatory action" because it has an annual effect on the economy of over \$100 million. As such, this proposed action was submitted to OMB for review.

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 proposed 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.

The agency is required by section 112 of the CAA, to establish the standards in the proposed rule. The proposed rule primarily affects private industry, and does not impose significant economic costs on State or local governments. The proposed rule does not include an express provision preempting State or local regulations. Thus, the requirements of section 6 of the Executive Order do not apply to the proposed rule.

Although section 6 of Executive Order 13132 does not apply to the proposed rule, we consulted with representatives of State and local governments to enable them to provide meaningful and timely input into the development of the proposed rule. This consultation took place during the ICCR FACA committee meetings where members representing State and local governments participated in developing recommendations for EPA's combustion-related rulemakings, including the proposed rule. The concerns raised by representatives of State and local governments were considered during the development of the proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to

promote communications between EPA and State and local governments, EPA specifically solicits comment on the proposed rule from State and local officials.

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

Executive Order 13175 (65 FR 67249, November 9, 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." The proposed rule does not have tribal implications, as specified in Executive Order 13175.

The proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. We do not know of any industrial-commercial-institutional boilers or process heaters owned or operated by Indian tribal governments. However, if there are any, the effect of the proposed rule on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Thus, Executive Order 13175 does not apply to the proposed rule. The EPA specifically solicits additional comment on the proposed rule from tribal officials.

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, the Agency must evaluate the environmental health or safety effects of the proposed rule on children, and explain why the proposed rule is preferable to other potentially effective and reasonably feasible alternatives.

The EPA interprets 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 proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L.