

government and Indian tribes. No tribal governments own or operate coke oven batteries. Thus, Executive Order 13175 does not apply to the final rule.

G. Executive Order 13045: Protection of Children From Environmental Health & 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 EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA 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.

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 final rule is not subject to Executive Order 13045 because it is based on control technology and not health or safety risks.

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

This final rule is not a "significant energy action" as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that the final rule is not likely to have any adverse energy effects.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104-113; 15 U.S.C 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (such as material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an

agency does not use available and applicable voluntary consensus standards.

The final rule involves technical standards. The final rule requires plants to use EPA Methods 1, 2, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, and 9 in 40 CFR part 60, appendix A, and PS 1 in 40 CFR part 60, appendix B. Consistent with the NTTAA, we conducted searches to identify voluntary consensus standards in addition to these EPA methods.

One voluntary consensus standard was identified as applicable to PS 1. The standard, ASTM D6216 (1998), Standard Practice for Opacity Monitor Manufacturers to Certify Conformance with Design and Performance Specifications, has been incorporated by reference into PS 1 (65 FR 48920, August 10, 2000).

Our search for emissions monitoring procedures identified 16 other voluntary consensus standards. We determined that 13 of these standards identified for measuring emissions of HAP or surrogates would not be practical due to lack of equivalency, detail, or quality assurance/quality control requirements. The three remaining consensus standards identified in the search are under development or under EPA review. Therefore, the final rule does not require these voluntary consensus standards. See Docket OAR-2002-0085 for more detailed information on the search and review results.

Section 63.7322 of the final rule lists the EPA test methods that coke plants are required to use when conducting a performance test. Most of these methods have been used by States and the industry for more than 10 years. Nevertheless, 40 CFR 63.7(e) and (f) allow any State or source to apply to EPA for permission to use an alternative method in place of any of the EPA test methods or performance specifications required by a rule.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. The final rule is not a

"major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: February 28, 2003.

Christine Todd Whitman,
Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

■ 2. Part 63 is amended by adding subpart CCCCC to read as follows:
Sec.

Subpart CCCCC—National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks

What This Subpart Covers

- 63.7280 What is the purpose of this subpart?
- 63.7281 Am I subject to this subpart?
- 63.7282 What parts of my plant does this subpart cover?
- 63.7283 When do I have to comply with this subpart?

Emission Limitations and Work Practice Standards

- 63.7290 What emission limitations must I meet for capture systems and control devices applied to pushing emissions?
- 63.7291 What work practice standards must I meet for fugitive pushing emissions if I have a by-product coke oven battery with vertical flues?
- 63.7292 What work practice standards must I meet for fugitive pushing emissions if I have a by-product coke oven battery with horizontal flues?
- 63.7293 What work practice standards must I meet for fugitive pushing emissions if I have a non-recovery coke oven battery?
- 63.7294 What work practice standard must I meet for soaking?
- 63.7295 What requirements must I meet for quenching?
- 63.7296 What emission limitations must I meet for battery stacks?

Operation and Maintenance Requirements

- 63.7300 What are my operation and maintenance requirements?

General Compliance Requirements

- 63.7310 What are my general requirements for complying with this subpart?

Initial Compliance Requirements

- 63.7320 By what date must I conduct performance tests or other initial compliance demonstrations?