

Rebuilt or refurbished analyzers. A table is included detailing the diagnostic tests required to maintain PS-1 certification following the appropriate corrective action.

C. Replacement Opacity Monitors

Procedure 3 also allows the use of a temporary replacement monitor in the event a certified opacity monitor is removed for extended service and the repair of the monitor requires more downtime than the user wishes to incur. The use of a replacement monitor will be allowed provided the monitor meets requirements specified in Procedure 3.

III. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we are required to judge whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order. 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 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, we have determined that this rule is not "significant" because none of the listed criteria apply to this action. That is, this proposed rule, if promulgated, would not establish independent requirements for regulated entities. It would only apply where PS-1 is specified as the applicable method to demonstrate compliance with national emission standards or other control requirements. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements

subject to the Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

C. Regulatory Flexibility Act

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 750 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities because no significant additional cost will be incurred by such entities because of the proposed rule. The requirements of the proposal details quality assurance (QA)/quality control (QC) procedures for COMS to demonstrate continued conformance with PS-1. Facilities required by other rules to use COMS for compliance purposes have some form of QA/QC in place already; this proposal adds only minor additional requirements.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. We formed a stakeholders' group to address technical concerns, similar to the concerns revealed in PS-1, with the proposed rule. The stakeholders' group was open to the public and consisted of opacity monitor manufacturers, representatives from the ASTM D22.03 subcommittee, representatives from electric utilities, State/local, and regional office personnel. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, we must prepare a budgetary impact statement to accompany any proposed rule, or any final rule for which a notice of proposed rulemaking was published, that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more in any one year. Under Section 205, if a budgetary impact statement is required under Section 202, we must select the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule, unless we explain why this alternative is not selected or the selection of this alternative is inconsistent with law. Section 203 requires us to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. Section 204 requires us to develop a process to allow elected State, local, and tribal government officials to provide input in the development of any proposal containing a significant Federal intergovernmental mandate.

We have determined that this proposed rule does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector in any one year. Rules establishing test methods and/or quality assurance requirements impose no costs independent from national emission standards which require their use, and such costs are fully reflected in the regulatory impact assessment for those emission standards. We have also determined that this proposed rule does not significantly or uniquely impact small governments. Therefore, today's rule is not subject to the requirements of Section 203 of the UMRA.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires that we 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