

specifically solicits comment on the proposed amendments from tribal officials.

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

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (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 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.

EPA interprets Executive Order 13045 as applying only to 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. These proposed amendments are not subject to Executive Order 13045 because all MACT standards governed by the General Provisions are based on technology performance and not on health or safety risks. Furthermore, the proposed amendments have been determined not to be "economically significant" as defined under Executive Order 12866.

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

The proposed amendments are not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods,

sampling procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

These proposed amendments do not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed amendments, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in the proposed amendments.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 8, 2003.

Christine Todd Whitman,
Administrator.

For the reasons cited in the preamble, part 63, title 40, chapter I of the Code of Federal Regulations is proposed to be 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.*

Subpart A—[Amended]

2. Section 63.2 is amended by adding, in alphabetical order, definitions for the terms *Pollution prevention* and *Source at a Performance Track member facility* to read as follows:

§ 63.2 Definitions.

* * * * *

Pollution prevention means *source reduction* as defined under the Pollution Prevention Act (42 U.S.C. 13101–13109). The definition is as follows:

(1) *Source reduction* is any practice that:

(i) Reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal; and

(ii) Reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants.

(2) The term *source reduction* includes equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control.

(3) The term *source reduction* does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

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Source at a Performance Track member facility means a major or area source located at a facility which has been accepted by EPA for membership in the National Environmental Performance Track program (as described at <http://www.epa.gov/performance-track>, formerly known as the Achievement Track Program) and is still a member of the program. The Performance Track program is a voluntary public-private partnership that encourages continuous environmental improvement through the use of environmental management systems, local community outreach, and measurable results.

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3. Section 63.17 is added to read as follows:

§ 63.17 Pollution prevention exemption.

Consistent with EPA's commitment to promote and encourage pollution prevention, this section provides a mechanism for a major or area source to cease being subject to a particular subpart of this part if the owner or operator has implemented pollution prevention measures that eliminate all hazardous air pollutant emissions from all sources of emissions subject to regulation under that subpart after the initial compliance date specified in that subpart.

(a) *Applicability of pollution prevention exemption.* The owner or operator of a major or area source subject to a subpart in this part that meets the requirements in paragraphs (a)(1) through (3) of this section may submit a written request to the Administrator that the major or area source no longer be subject to the subpart.

(1) The major or area source was subject to the subpart on the first applicable compliance date specified in the subpart.

(2) The owner or operator has implemented pollution prevention