

because it is not a significant regulatory action under Executive Order 12866. Although today's final BSCP rule is considered to be a significant regulatory action under Executive Order 12866, it is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The basis for the determination is as follows.

Today's final BSCP rule affects manufacturers in the BSCP (NAICS 327121), extruded tile (NAICS 327122), and other structural clay products (NAICS 327123) industries. There is no crude oil, fuel, or coal production from these industries. Hence, there is no direct effect on such energy production related to implementation of the BSCP rule. In fact, as previously mentioned in this preamble, there will be an increase in energy consumption, and hence an increase in energy production, resulting from installation of APCD likely needed for sources to meet the requirements of the final BSCP rule. This increase in energy consumption is equal to approximately 27 million kilowatt-hours/year (kWh/yr) for electricity. The electricity increase is considered negligible, equivalent to 0.0007 percent of 1999 U.S. electricity production.⁴ There is no expected increase in natural gas consumption. It should be noted, however, that the estimated decrease in BSCP production resulting from producer's and consumer's reactions to the final BSCP rule will offset this effect on such energy production. It is likely that the output reduction in the industries will lead to less energy use by these industries and thus some reduction in overall energy production.

Given the negligible change in energy consumption resulting from the final BSCP rule, we do not expect any price increase for any energy type. The cost of energy distribution should not be affected by the final BSCP rule at all since the final rule does not affect energy distribution facilities. Finally, with changes in net exports being a minimal percentage of domestic output from the affected industries, there will be only a negligible change in international trade, and hence in dependence on foreign energy supplies. No other adverse outcomes are expected to occur with regards to energy supplies.

Therefore, we conclude that today's final BSCP rule is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 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 impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus 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 rules involve technical standards. The EPA cites the following standards in the final rules: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 4, 5, 22, 26, 26A, and 320 of 40 CFR part 60, appendix A. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, and 22. The search and review results have been documented and are in the dockets for the final rules.

The search for emissions measurement procedures identified 11 voluntary consensus standards. The EPA determined that eight of these 11 standards identified for measuring emissions of the HAPs or surrogates subject to emission standards in the final rules were impractical alternatives to EPA test methods for the purposes of the final rules. Therefore, EPA does not intend to adopt these standards at this time. The reasons for this determination for the 11 methods are discussed in the dockets for the final rules.

Two of the 11 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of the final rules because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); and ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2.

In response to public comments received, we considered and decided to include EPA Method 320 as an option for measuring HF and HCl. The

voluntary consensus standard ASTM D6348-98, "Determination of Gaseous Compounds by Extractive Direct Interface Fourier Transform (FTIR) Spectroscopy," has been reviewed by the EPA as a potential alternative to EPA Method 320. Suggested revisions to ASTM D6348-98 that would allow the EPA to accept ASTM D6348-98 as an acceptable alternative were sent to ASTM by the EPA. The ASTM Subcommittee D22-03 is currently undertaking a revision of ASTM D6348-98. Because of this, we are not citing this standard as an acceptable alternative for EPA Method 320 in the final rules today. However, upon successful ASTM balloting and demonstration of technical equivalency with the EPA FTIR methods, the revised ASTM standard could be incorporated by reference for EPA regulatory applicability. In the interim, facilities have the option to request ASTM D6348-98 as an alternative test method under 40 CFR 63.7(f) and 40 CFR 63.8(f) on a case-by-case basis.

Table 3 of the final BSCP rule and Table 4 of the final clay ceramics rule list the EPA testing methods included in the rules. Under 40 CFR 63.7(f) and 40 CFR 63.8(f), a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness 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 today's final rules 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 rules in the **Federal Register**. Neither of today's rules are "major rules" as defined by 5 U.S.C. 804(2). The final rules will be effective on May 16, 2003.

List of Subjects in 40 CFR Part 63

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

⁴ U.S. Department of Energy, Energy Information Administration, Annual Energy Review, End-Use Energy Consumption for 1998. Located on the Internet at <http://www.eia.doe.gov>.