

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

Executive Order 13175 (65 FR 67249, November 6, 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 final rule does not have tribal implications, as specified in Executive Order 13175, because tribal governments do not own or operate any sources subject to the amendments. We know of one company that reported operating engine test cells/stands that are owned by an Indian tribal government. However, these test cells/stands are used for testing rocket engines. Although test cells/stands used for testing rocket engines are covered by the final rule, test cells/stands used for testing rocket engines are not required to meet any emission limitation, reporting, or recordkeeping requirements. Thus, Executive Order 13175 does not apply to the final rule.

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

Executive Order 13045 applies to any rule that EPA determines (1) is "economically significant" as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, 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 EPA.

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

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is 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; 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 the OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rule involves technical standards. The EPA cites the following standards in the final rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 10, 10B, 25, 25A, 204, 204B,C,D,E and Performance Specifications (PS) 3 and PS 4A. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods/performance specifications. No applicable voluntary consensus standards were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204B through 204F, and PS 3 and PS 4A. The search and review results have been documented and are placed in the docket (No. OAR-2002-0040) for the final rule.

Two voluntary consensus standards were identified as acceptable alternatives to the EPA methods specified in the final rule. The voluntary consensus standard ASTM D6522-00, Standard Test Method for the Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers and Process Heaters Using Portable Analyzers is cited in the final rule as an acceptable alternative to EPA Methods 3A and 10 for identifying carbon monoxide and oxygen concentrations for the final rule when the fuel is natural gas.

The voluntary consensus standard ANSI/ASME PTC 19.10-1981, Part 10 Flue and Exhaust Gas Analyses, is cited in the final rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ANSI/ASME PTC 19.10-1981 is an acceptable alternative to Method 3B.

In addition to the voluntary consensus standards EPA cites in the final rule, the search for emissions measurement procedures identified 13

other voluntary consensus standards. The EPA determined that 11 of these 13 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the final rule were impractical alternatives to EPA test methods/performance specifications for the purposes of the final rule. Therefore, the EPA does not intend to adopt these standards. The reasons for the determinations of these 11 methods are discussed below.

The voluntary consensus standard ASTM D3154-00, Standard Method for Average Velocity in a Duct (Pitot Tube Method), is impractical as an alternative to EPA Methods 1, 2, 2C, 3, 3B, and 4 for the purposes of the final rule since the standard appears to lack in quality control and quality assurance requirements. Specifically, ASTM D3154-00 does not include the following: (1) Proof that openings of standard pitot tube have not plugged during the test; (2) if differential pressure gauges other than inclined manometers (e.g., magnehelic gauges) are used, their calibration must be checked after each test series; and (3) the frequency and validity range for calibration of the temperature sensors.

The voluntary consensus standard ASTM D3464-96 (2001), Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer, is impractical as an alternative to EPA Method 2 for the purposes of the final rule primarily because applicability specifications are not clearly defined, e.g., range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit EPA's ability to make a definitive comparison of the method in these areas.

The voluntary consensus standard ISO 10780:1994, Stationary Source Emissions—Measurement of Velocity and Volume Flowrate of Gas Streams in Ducts, is impractical as an alternative to EPA Method 2 in the final rule. The standard recommends the use of an L-shaped pitot, which historically has not been recommended by EPA. The EPA specifies the S-type design, which has large openings that are less likely to plug up with dust.

The voluntary consensus standard, CAN/CSA Z223.2-M86(1986), Method for the Continuous Measurement of Oxygen, Carbon Dioxide, Carbon Monoxide, Sulphur Dioxide, and Oxides of Nitrogen in Enclosed Combustion Flue Gas Streams, is unacceptable as a substitute for EPA Method 3A since it does not include quantitative