

government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. It has been determined that the final rule does not have “federalism implications” because it does not meet the necessary criteria. Thus, Executive Order 13132 does not apply to the final rule. Although section 6 of Executive Order 13132 does not apply to the rule, EPA did consult with State and local officials to enable them to provide timely input in the development of the final rule.

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

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 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. No tribal governments own or operate printing, coating, and dyeing affected sources. 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, “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, 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 technology performance and not on health or safety risks. Furthermore, the rule has 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 final rule is not subject to Executive Order 13211, “Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use” (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*

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Public Law No. 104–113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., material specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency does not use available and applicable VCS.

This rulemaking involves technical standards. The EPA cites the following standards in this final rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 24, 25, 25A, 204, 204A through F, and 311. Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204A through F and 311. The search and review results have been documented and are placed in the docket (Docket ID No. OAR–2003–0014, formerly Docket No. A–97–51) for the final rule.

The VCS ANSI/ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses” [Part 10, Instruments and Apparatus],” is cited in this 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, Part 10, is an acceptable alternative to Method 3B.

Six VCS: ASTM D1475–90, ASTM D2369–95, ASTM D3792–91, ASTM D4017–96a, ASTM D4457–85 (Reapproved 1991), and ASTM D5403–93 are already incorporated by reference (IBR) in EPA Method 24. Five VCS: ASTM D1979–91, ASTM D3432–89,

ASTM D4747–87, ASTM D4827–93, and ASTM PS 9–94 are IBR in EPA Method 311.

The search for emissions measurement procedures identified 16 other VCS. The EPA has not adopted these standards as alternatives in the final rule. The use of these VCS would be impractical or inconsistent with applicable law due to lack of equivalency, detail, quality assurance/quality control requirements or because they are still under development. Our search and review results are available in the docket (Docket ID No. OAR–2003–0014, formerly Docket No. A–97–51).

*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 the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). The rule will be effective May 29, 2003.

**List of Subjects in 40 CFR Part 63**

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, 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. Section § 63.14 is amended by revising paragraph (i)(3). The revision reads as follows:

**§ 63.14 Incorporations by reference.**

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