

permitting the use of these test methods is desirable from the standpoint of permitting regulated parties more flexibility. A refiner or importer would be able to determine gasoline sulfur content using ASTM D 5453-00<sup>e1</sup> or any of the specified alternative analytical test methods named in the rule, provided that the refiner or importer result is correlated to ASTM D 2622-98.

In order to "correlate" a test result from an alternative test method to the designated test method, a laboratory would have to develop and apply a "correlation equation" to the alternative test method result. Because the "correlation equation" is designed to provide a prediction of the designated test method result from the use of an alternative test method, the "correlation equation" eliminates bias between the designated test method and the alternative test method, so results may be compared between these methods. After applying the correlation equation, the results obtained from an alternative test method should be equivalent to the result you would obtain if you had used the designated test method. Users of a correlation equation should periodically verify its correlation to the designated test method.

This notice of proposed rulemaking also proposes to permit the use of ASTM D 4468-85 (Reapproved 2000), "Standard Test Method for Total Sulfur in Gaseous Fuels by Hydrogenolysis and Rateometric Colorimetry" as an alternative test method for butane, because it is an ASTM approved method that some refiners may elect to use. If a refiner, importer, or blender chooses to measure butane levels with this alternative analytical test method, the results would have to be correlated to D 3246-96, "Standard Test Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry," which is the test method currently designated in the existing rule.

Some refiners and butane suppliers expressed concern that the designated test method is not currently in wide use. When we issued the final gasoline sulfur control regulations, we did not intend to require the use of this method until January 1, 2004. However, the final regulation inadvertently did not specify that date and we are clarifying the effective date by this action. Until January 1, 2004, any test method may be used to determine the sulfur content of butane.

We believe that this proposed rule, and our intent to establish a comprehensive performance based test method approach in the future, will advance the purposes of the "National

Technology Transfer and Advancement Act of 1995," (NTTAA) section 12(d) of Public Law 104-113, and Office of Management and Budget (OMB) Circular A-119. Both of these documents are designed to encourage the adoption of standards developed by "voluntary consensus bodies" and to reduce reliance on government-unique standards where such consensus standards would suffice. This proposed rule would provide for the use of alternative test methods for the measurement of sulfur in gasoline and butane under the RFG, anti-dumping, and gasoline sulfur control programs. Allowing these test methods, which are widely available and approved by ASTM, a "voluntary consensus body," is directly consistent with the goals of the NTTAA and OMB Circular A-119.

Any environmental effects of today's proposed action would be minimal, as it would merely grant limited flexibility to regulated parties in their choice of test method for determining the sulfur content of gasoline and butane. The economic effects of today's proposed action are expected to be positive, since it permits regulated parties the flexibility to choose the test method they will use to comply with existing regulations.

### III. Administrative Requirements

#### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866, (58 FR 51735; October 4, 1993) the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the 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 obligations 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."

This proposed rule is not a significant regulatory action within the meaning of the Executive Order. It would not have

an annual effect on the economy of \$100 million or more and is not expected to have any adverse economic effects as described in the Order. This proposed rule does not raise issues of consistency with the actions taken or planned by other agencies, would not materially alter the cited budgetary impacts, and does not raise any novel legal or policy issues as defined in the Order.

#### B. Paperwork Reduction Act

This proposed rule would not add any new requirements involving the collection of information as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Today's proposed rule would only permit more flexibility to parties in their choice of analytical test methods. OMB has approved the information collection requirements contained in the final reformulated gasoline (RFG) and anti-dumping rulemaking and gasoline sulfur control rulemaking as assigned OMB control number 2060-0277.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

#### 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 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 proposed rule on small