

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. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Furthermore, the final rule has been determined not to be "economically significant" as defined under Executive Order 12866.

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

The final rule 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 Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104-113; 15 U.S.C. 272 note) directs the 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 Office of Management and Budget (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, 3, 4, 9, 18 (total organic HAP or total organic compounds), 21, 22, 25, 25A, 25D, 25E, 27, 305, 316 of 40 CFR part 60 appendix A, and Method 9095A in SW 846, "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods." Consistent with the NTTAA, the 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, 9, 21, 22, 25D, 25E, 27, 305, 316, and SW 846 Method 9095A. The search and review results have been documented and are placed in the docket (Docket ID No. OAR-2002-0021) for the final rule.

The search for emissions measurement procedures identified 10 other voluntary consensus standards. The EPA determined that eight of these 10 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 for the purposes of the final rule. Therefore, EPA does not intend to adopt these standards for this purpose. (See Docket ID No. OAR 2002-0021.)

Sections 63.7940 through 63.7944 to the final Site Remediation NESHAP specify the EPA testing methods to be used for demonstrating compliance with the final rule requirements. Under §§ 63.7(f) and 63.8(f) of subpart A of the General Provisions, 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 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 U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. The final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 20, 2003.

Marianne Lamont Horinko,
Acting Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63, of the Code of the 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. Part 63 is amended by adding subpart GGGGG to read as follows:

Subpart GGGGG—National Emission Standards for Hazardous Air Pollutants: Site Remediation

Sec.

What This Subpart Covers

- 63.7880 What is the purpose of this subpart?
- 63.7881 Am I subject to this subpart?
- 63.7882 What site remediation sources at my facility does this subpart affect?
- 63.7883 When do I have to comply with this subpart?

General Standards

- 63.7884 What are the general standards I must meet for each site remediation with affected sources?
- 63.7885 What are the general standards I must meet for my affected process vents?
- 63.7886 What are the general standards I must meet for my affected remediation material management units?
- 63.7887 What are the general standards I must meet for my affected equipment leak sources?
- 63.7888 How do I implement this rule at my facility using the cross-referenced requirements in other subparts?

Process Vents

- 63.7890 What emissions limitations and work practice standards must I meet for process vents?
- 63.7891 How do I demonstrate initial compliance with the emissions limitations and work practice standards for process vents?
- 63.7892 What are my inspection and monitoring requirements for process vents?
- 63.7893 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for process vents?

Tanks

- 63.7895 What emissions limitations and work practice standards must I meet for tanks?
- 63.7896 How do I demonstrate initial compliance with the emissions limitations and work practice standards for tanks?
- 63.7897 What are my inspection and monitoring requirements for tanks?
- 63.7898 How do I demonstrate continuous compliance with the emissions limitations and work practice standards for tanks?

Containers

- 63.7900 What emissions limitations and work practice standards must I meet for containers?
- 63.7901 How do I demonstrate initial compliance with the emissions