

requirements of section 6 of the Executive Order do not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

F. Executive Order 13175—Consultation and Coordination with Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (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.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.”

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. In this proposed rule, we are simply updating five emission test methods that applicable facilities are already subject to. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045—Protection of Children From Environmental Health Risks 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, the Agency 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 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. This final rule is not subject to Executive Order 13045, because it is not based on health or safety risks.

H. Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action 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. NTTAA—National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113 (15 U.S.C. 272), directs us to use voluntary consensus standards (VCSs) in our regulatory 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, etc.) that are developed or adopted by VCS bodies. The NTTAA requires us to provide Congress, through OMB, explanations when we decide not to use available and applicable VCSs. We are not proposing new test methods in this rulemaking but are revising and updating methods that have already been mandated for evaluating compliance with current emission standards. Therefore, NTTAA does not apply.

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, New sources, Test methods and procedures, Performance specifications, Continuous emission monitors.

Dated: September 24, 2003.

Marianne Lamont Horinko,
Acting Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend title 40, chapter I of the Code of Federal Regulations as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7413, 7414, 7416, 7601, and 7602.

Appendix A—Test Methods [Amended]

2. By revising Methods 3A, 6C, 7E, 10, and 20 to read as follows:

Appendix A to Part 60—Test Methods

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Method 3A—Determination of Oxygen and Carbon Dioxide Emissions From Stationary Sources (Instrumental Analyzer Procedure)

1.0 Scope and Application

What Is Method 3A?

Method 3A is a procedure for measuring oxygen (O₂) and carbon dioxide (CO₂) in stationary source emissions using a continuous instrumental analyzer. Quality assurance and quality control requirements are included to assure that you, the tester, collect data of known quality. You must document your adherence to these specific requirements for equipment, supplies, sample collection and analysis, calculations, and data analysis.

This method does not completely describe all equipment, supplies, and sampling and analytical procedures you will need but refers to other methods for some of the details. Therefore, to obtain reliable results, you should also have a thorough knowledge of these additional test methods:

- (1) Method 1—Sample and Velocity Traverses for Stationary Sources.
- (2) Method 3—Gas Analysis for the Determination of Molecular Weight.
- (3) Method 4—Determination of Moisture Content in Stack Gases.
- (4) Method 7E—Determination of Nitrogen Oxides Emissions From Stationary Sources (Instrumental Analyzer Procedure).

All methods in this list appear in 40 CFR part 60, appendix A.

1.1 Analytes. *What does this method determine?*

Analyte	CAS No.	Sensitivity
Oxygen (O ₂)	7782–44–7	See Discussion in section 1.3.
Carbon dioxide (CO ₂)	124–38–9	See Discussion in section 1.3.

1.2 Applicability. *When is this method required?* Method 3A is a requirement in

specific New Source Performance Standards, Clean Air Marketing Rules, and State

Implementation Plans and Permits where measuring O₂ and CO₂ concentrations in