

rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annualized cost of the final rule for any year has been estimated to be less than \$58.7 million. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's final rule is not subject to the requirements of section 203 of UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include rules that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

The final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The final rule does not have a significant Federal intergovernmental mandate within the meaning of section 202 of UMRA, and

it will not result in costs to small governments that are equal to, or greater than, 1 percent of revenue. Thus, Executive Order 13132 does not apply to the final 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 solicited comments on the proposed rule from State and local officials. A summary of the comments received from two State agencies and EPA's responses to those comments is provided in sections 2.1, 2.5, 2.6, 2.7, and 2.10 of the promulgation BID (EPA-453/R-03-009).

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

Executive Order 13175 (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 metal can surface coating operations. 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 (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 not economically significant, and it is based on technology performance and not on health or safety risks.

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 (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

The National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law No. 104-113, § 12(d) (15 U.S.C. 272 note) directs the 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., materials 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 decides not to use available and applicable VCS.

The final rule includes the following standards: 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/performance specifications. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204A through 204F, and 311. The search and review results have been documented and are placed in the docket (Docket No. OAR-2003-0005, formerly Docket No. A-98-41) of the final rule.

Three VCS described below were identified as acceptable alternatives to EPA test methods for the purposes of the final rule.

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

The two VCS, ASTM D2697-86 (Reapproved 1998), "Standard Test Method for Volume Nonvolatile Matter in Clear or Pigmented Coatings," and ASTM D6093-97, "Standard Test Method for Percent Volume Nonvolatile Matter in Clear or Pigmented Coatings Using a Helium Gas Pycnometer," are cited in the final rule as acceptable alternatives to EPA Method 24 to determine the volume fraction of