standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This direct final rule does not relax the control measures on sources regulated by the rule and therefore will not cause emissions increases from these sources.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedures, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 26, 2007.

Stephen L. Johnson,

Administrator.

[FR Doc. E7–17413 Filed 9–6–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60, 72 and 75

[EPA–HQ–OAR–2007–0164, FRL–8459–7]

RIN 2060–AO01

Two Optional Methods for Relative Accuracy Test Audits of Mercury Monitoring Systems Installed on Combustion Flue Gas Streams and Several Amendments to Related Mercury Monitoring Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing two optional methods for relative accuracy audits of mercury monitoring systems installed on combustion flue gas streams and several amendments to related mercury monitoring provisions. In specific, this action proposes two optional mercury (Hg) emissions test methods for potential use in conjunction with an existing regulatory requirement for Hg emissions monitoring specified in the **Federal Register** on May 18, 2005, as well as several revisions to the mercury monitoring provisions themselves. Since that **Federal Register** publication, EPA has received numerous comments concerning the desirability of EPA evaluating and allowing use of the measurement techniques addressed in the two optional methods in lieu of the methods identified in the cited **Federal Register** publication, as they can produce equally acceptable measures of the relative accuracy achieved by Hg monitoring systems. This action would allow use of these two optional methods entirely at the discretion of the owner or operator of an affected emission source in place of the two currently specified methods. This also proposes to amend Performance Specification 12A by adding Methods 30A and 30B to the list of reference methods acceptable for measuring Hg concentration and to amend the Hg monitoring provisions of May 18, 2005, to reflect technical insights since gained by EPA which will help to facilitate their implementation including clarification and increased regulatory flexibility for affected sources.

DATES: Written comments must be received by October 9, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2007–0164, by mail to ''Two Optional Methods for Relative Accuracy Test Audits of Mercury Monitoring Systems Installed on Combustion Flue Gas Streams and Several Amendments to the Related Mercury Monitoring Provisions, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.'' Please include a total of two copies. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Either Mr. William Grimley, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurement Technology Group (E143–02), EPA, Research Triangle Park, NC 27711, telephone (919) 541–1065, facsimile number (919) 541–0516, e-mail address: *grimley.william@epa.gov* or Ms. Robin Segall, Office of Air Quality Planning and Standards, Air Quality Assessment Division, Measurement Technology Group (E143–02), EPA, Research Triangle Park, NC 27711, telephone (919) 541–0893, facsimile number (919) 541–0516, e-mail address: *segall.robin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why Is EPA Issuing This Proposal?

This document proposes to take action on ''Two Optional Methods for Relative Accuracy Test Audits of Mercury Monitoring Systems Installed on Combustion Flue Gas Streams and Several Amendments to Related Mercury Monitoring Provisions.'' We have published a direct final rule to approve two optional Hg emissions test methods and to amend the Hg monitoring provisions of May 18, 2005 for clarity and increased regulatory flexibility because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** indicating which provisions we are withdrawing and informing the public that those provisions will not take effect. The provisions that are not withdrawn will become effective on the date set out above, notwithstanding adverse comment on any other provision. We would address all public comments in a subsequent final rule based on the proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must

do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does This Action Apply to Me?

Regulated Entities. The regulated categories and entities affected by this proposed rule include:

Category	NAICS [a]	Examples of regulated entities
Industry	221112	Fossil fuel-fired electric utility steam generating units.
Federal government	[b] 221122	Fossil fuel-fired electric utility steam generating units owned by the Federal government.
State/local governments	[b] 221122	Fossil fuel-fired electric utility steam generating units owned by municipalities.
Tribal governments	921150	Fossil fuel-fired electric utility steam generating units in Indian country.

[a] North American Industry Classification System.
[b] Federal, State, or local government-owned and operated establishments are classified according to the activity in which they are engaged.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this direct final rule. If you have any questions regarding the applicability of this direct final rule to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* 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 in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (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 rule on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 100 or 1,000 employees, or fewer than 4 billion kilowatt-hr per year of electricity usage, depending on the size definition for the affected North American Industry Classification System code; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities because it does not impose any additional regulatory requirements, but rather provides clarification and additional regulatory flexibilty.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final 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.

EPA has determined that this proposed 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 to the private sector in any 1 year, nor does this rule significantly or uniquely impact small governments, because it contains no requirements that impose new obligations upon them. Thus, this direct final rule is not subject to the

requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (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 regulations 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.''

This proposed 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 use of these methods is optional on the part of the regulated entities listed. Thus, Executive Order 13132 does not apply to this direct 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.'' This direct final rule does not have tribal implications, as specified in Executive Order 13175. 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. Thus, Executive Order 13175 does not apply to this proposed rule.

G. Executive Order 13045: Protection of Children From Environmental Health and 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, 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.

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 Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

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

This 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 Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its 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, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rulemaking involves technical standards. Consistent with the NTTAA, EPA in a previous related rulemaking (70 FR 28606, May 18, 2005) identified an acceptable VCS for measuring Hg emissions. The standard ASTM D6784–02, Standard Test Method for Elemental, Oxidized, Particle-Bound and Total Mercury Gas Generated from Coal-Fired Stationary sources (Ontario Hydro Method) was cited in that final rule for measuring Hg emissions. After today's action becomes effective, the Ontario Hydro Method will remain an acceptable method for measuring Hg emissions.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this direct final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This direct final rule does not affect or relax the control measures on sources impacted by this rule and therefore will not cause emissions increases from these sources.

List of Subjects

40 CFR Part 60

Environmental protection, Administrative practice and procedures, Air pollution control, Continuous emission monitors, Electric utilities, Mercury, Test methods and procedures.

40 CFR Part 72

Environmental protection, Administrative practice and procedures, Air pollution control, Continuous emission monitors, Electric utilities, Mercury, Test methods and procedures.

40 CFR Part 75

Environmental protection, Administrative practice and procedures, Air pollution control, Continuous emission monitors, Electric utilities, Mercury, Test methods and procedures.

Dated: August 17, 2007.

Stephen L. Johnson,

Administrator.

[FR Doc. E7–16852 Filed 9–6–07; 8:45 am]

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