(*2*) Previously approved on October 1, 1999 in paragraph (c)(183)(i)(H)(*1*) of this section and now deleted Rules 900, 901, 902, 903, and 904 (now replaced by Rule 238).

(*3*) Previously approved on October 1, 1999 in paragraph (c)(183)(i)(H)(*1*) of this section and now deleted Rules 905, 906, 907, 908, 910, 911, and 912 (now replaced by Rule 244).

(*4*) Previously approved on October 1, 1999 in paragraph (c)(183)(i)(H)(*1*) of this section and now deleted Rule 909 (now replaced by a Negative Declaration adopted on April 3, 2001).

(*5*) Previously approved on October 1, 1999 in paragraph (c)(183)(i)(H)(*1*) of this section and now deleted without replacement Rule 913.

(*6*) Previously approved on October 1, 1999 in paragraph (c)(183)(i)(H)(*1*) of this section and now deleted Rule 914 (now replaced by Rule 501).

* * * * *

(281) New and amended regulations for the following APCDs were submitted on May 23, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) El Dorado County Air Pollution Control District.

(*1*) Rules 238, 244, and 245, adopted on March 27, 2001.

* * * * *

3. Section 52.222 is amended by adding paragraph (a)(7)(i) to read as follows:

§ 52.222 Negative Declarations.

* * * * *

(a) * * *

(*7*) El Dorado County Air Pollution Control District.

(i) Bulk Terminal Facilities or External or Internal Floating Roof Tank Sources was submitted on May 23, 2001 and adopted on April 3, 2001.

* * * * *

[FR Doc. 01–21438 Filed 8–24–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL–7039–2]

Amendments for Testing and Monitoring Provisions; Removal of a Provision for Opacity Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: We, the EPA, are taking direct final action to remove an amendment published as part of a final rule entitled ''Amendments for Testing and Monitoring Provisions'' on October 17, 2000 (65 FR 61744). We are removing this provision because it inadvertently established substantive new requirements for facilities that are subject to the New Source Performance Standards requiring the installation of continuous opacity monitors on effluent streams, although the amendments were explicitly intended to be minor in nature and not substantive.

DATES: Effective Date. This final rule amendment is effective on October 11, 2001 without further notice, unless we receive adverse comments on this direct final rule by September 26, 2001. If we receive timely adverse comments or a timely hearing request, we will publish a withdrawal in the **Federal Register** informing you, the public, that this direct final rule will not take effect.

ADDRESSES: *Comments.* You may submit comments on this rulemaking in writing (original and two copies, if possible) to Docket No. A–97–12 at the following address: Air and Radiation Docket and Information Center (6102), US Environmental Protection Agency, 401 M Street, SW., Room 1500, Washington, DC 20460.

Docket. A docket containing supporting information used in developing this direct final rule amendment is available for public inspection and copying at our docket office located at the above address in Room M–1500, Waterside Mall (ground floor). You are encouraged to phone in advance to review docket materials. To schedule an appointment, call the Air Docket Office at (202) 260–7548. Refer to Docket No. A–97–12. The Docket Office may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Foston Curtis, Environmental Protection Agency, Office Air Quality Planning and Standards, at 919/541–1063, e-mail: *curtis.foston@epa.gov*, facsimile 919/541–1039.

SUPPLEMENTARY INFORMATION:

Outline. The information in this preamble is organized as follows:

I. Background

On October 17, 2000 (65 FR 61744), we published a notice of final rulemaking to adopt a number of changes to the test methods listed in 40 CFR parts 60, 61, and 63. As the preamble to the final rule explained, these changes were largely intended to be minor, nonsubstantive revisions and represented, in effect, a ''housekeeping'' effort to correct typographical and technical errors, and eliminate obsolete or no longer applicable material. In addition, we promulgated Performance Specification 15, which contains criteria for certifying continuous emission monitoring systems (CEMS) that use fourier transform infrared spectroscopy, and we changed the outline of the test methods and CEMS performance specifications already listed in parts 60, 61, and 63 to fit a new format recommended by the Environmental Monitoring Management Council. The editorial changes and technical corrections were intended to update the rules and help maintain their original intent.

The amendment made to § 60.13(g) which is affected by today's action applies to facilities that are subject to New Source Performance Standards (NSPS) and are required to install continuous opacity monitors on effluent streams. Specifically, the amendment provides that when the effluents from two or more affected facilities subject to the same opacity standard are combined into a single stack, and if opacity is monitored on each stream, a combiner system comprised of opacity and flow monitoring systems must be installed. In this case, gas flow rates from the individual streams must be known to correct the measured opacity to the exit stack dimensions and therefore must be measured. By contrast, preamended § 60.13(g) only implied, but did not explicitly require, that flow measurements from the individual streams were necessary. The intent of the amendment was to explicitly require such flow measurements and to identify what we perceived to be the most commonly used method of doing that (namely, the use of flow monitors). However, during the public comment period, some members of the utility industry objected to our specifying flow monitors as the only option and suggested that other indicators of flow

rate they had traditionally employed (e.g., unit load, fan motor ampere readings, damper settings, etc.) should continue to be allowed. Because we did not anticipate the industry having to make substantive changes from its current practices to implement the amendments, we promulgated the amended § 60.13(g) without fully responding to the industry's comments in the preamble to the final rule. After further consideration, we have concluded that the amendment constitutes a substantive change in the original rule since it requires subject facilities to install flow monitors instead of allowing them to continue to use flow indicator methods. Moreover, we did not raise the question of adequacy of such methods in the previous rulemaking and no commenter has presented information indicating that they do not provide adequate measurements of flow rates for the purposes of the NSPS monitoring requirements. This removal of the amendment will reinstate the old § 60.13(g) provision which allowed subject facilities to use flow measuring techniques besides flow monitors.

II. Authority

The statutory authority for this action is 42 U.S.C. 7401, 7411, 7413, 7414, 7416, 7601, and 7602.

III. Administrative Requirements

A. Executive Order 12866: ''Significant Regulatory Action Determination''

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (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 in 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 entitlement, grants, user fees, or loan programs of 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.

Because this rule merely removes an amendment to, and reinstates the prior provisions of 40 CFR 60.13(g), EPA has determined that this action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. Executive Order 12866 also encourages agencies to provide a meaningful public comment period, and suggests that in most cases the comment period should be 60 days. However, in consideration of the very limited and remedial scope of this amendment, we consider 30 days to be sufficient in providing a meaningful public comment period, if requested, for this rulemaking.

B. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) requires us to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions. The EPA has determined that removing the 40 CFR 60.13(g) amendment will not have a significant impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not necessary in connection with this action.

C. Paperwork Reduction Act

Because this action does not include or create any information collection activities subject to the Paperwork Reduction Act, the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, does not apply.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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, we 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 we promulgate a rule for which a written statement is needed, section 205 of the UMRA requires us 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 us 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 of why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must have developed under section 203 of the UMRA a small government agency plan. That 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 regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This action contains no regulatory requirements that might significantly or uniquely affect small governments. This action 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 one year. Thus, today's action is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Docket

The docket includes an organized and complete file of all the information upon which we relied in taking this direct final action. The docketing system is intended to allow you to identify and locate documents readily so that you can participate effectively in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, except for certain interagency documents, will serve as the record for judicial review. (See CAA section 307(d)(7)(A).)

F. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires us 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.''

Under Section 6 of Executive Order 13132, we may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or we consult with State and local officials early in the process of developing the proposed regulation. We also may not issue a regulation that has federalism implications and that preempts State law, unless we consult with State and local officials early in the process of developing the proposed regulation.

This action does not have federalism implications. The rule 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. Today's action does not create a mandate on State, local or tribal governments. This action does not impose any new or additional enforceable duties on these entities. Thus, the requirements of section 6 of the Executive Order do 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 the EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) that 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. This removal action is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it is not an economically significant regulatory action as defined by Executive Order 12866, and the action does not address an environmental health or safety risk that would have a disproportionate effect on children.

H. 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 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 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. Thus, Executive Order 13175 does not apply to this rule.

I. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, added by the Small Business Regulatory Enforcement Fairness 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 Congress and to the Comptroller General of the United States. We will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective October 11, 2001.

J. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), Public Law 104–113 (March 7, 1996), we are required to use voluntary consensus standards in our 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, etc.) which are adopted by voluntary consensus standard bodies. Where we do not use available and potentially applicable voluntary consensus standards, the NTTAA requires us to provide Congress, through OMB, an explanation of the reasons for not using such standards. This action does not involve technical standards. The purpose of today's action is to remove portions of a rule, reinstating previous provisions, and not to impose new substantive requirements or to adopt new technical standards. Consequently, the requirements of NTTAA do not apply.

K. Executive Order 13211 (Energy Effects)

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.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Continuous emission monitors.

Dated: August 14, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, The Environmental Protection Agency amends 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.

§ 60.13 [Amended]

2. Section 60.13 is amended by revising paragraph (g) to read as follows:

§ 60.13 Monitoring requirements.

* * * * *

(g) When the effluents from a single affected facility or two or more affected facilities subject to the same emission standards are combined before being released to the atmosphere, the owner or operator may install applicable continuous monitoring systems on each effluent or on the combined effluent. When the affected facilities are not subject to the same emission standards, separate continuous monitoring systems shall be installed on each effluent. When the effluent from one affected facility is released to the atmosphere through more than one point, the owner or operator shall install an applicable continuous monitoring system on each separate effluent unless the installation

of fewer systems is approved by the Administrator. When more than one continuous monitoring system is used to measure the emissions from one affected facility (e.g., multiple breechings, multiple outlets), the owner or operator shall report the results as required from each continuous monitoring system.

* * * * *

[FR Doc. 01–21440 Filed 8–24–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

42 CFR Parts 57 and 58

RIN: 0906–AA53

Grants for Construction of Teaching Facilities, Educational Improvements, Scholarships and Student Loans and Grants for Training of Public Health and Allied Health Personnel

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final rule.

SUMMARY: This final rule rescinds and removes various Public Health Service (PHS) health professions, nursing, public health, and allied health training grant regulations from the Code of Federal Regulations (CFR) at 42 CFR parts 57 and 58. (The student loan program regulations in part 57 at subparts C and D are not to be affected.)

EFFECTIVE DATE: This rule is effective August 27, 2001.

FOR FURTHER INFORMATION CONTACT: Marilyn Biviano, Director, Office of Planning and Program Development, Bureau of Health Professions, Health Resources and Services Administration, Room 8–67, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone: (301) 443–9792.

SUPPLEMENTARY INFORMATION: On October 6, 1999, the Health Resources and Services Administration published in the **Federal Register** (64 FR 54263) a Notice of Intent to remove by technical amendment (final rule) various Agency health professions, nursing, public health, and allied health training grant program regulations under 42 CFR parts 57 and 58 of the Code of Federal Regulations. The Department received no comments response from the public on the Notice of Intent. The statutory authorities of these regulations have been extensively amended since their issuance. Consequently, the regulations no longer reflect the current law. Therefore, the Department is removing the following 19 training grant program regulations from the Code of Federal Regulations:

Part 57—Grants for Construction of Teaching Facilities, Educational Improvements, Scholarships and Student Loans

Subpart F—Grants for Nurse Anesthetist
Subpart H—Grants for Physician Assistant Training Programs
Subpart I—Programs for the Training of Physician Assistants
Subpart L—Grants for Residency Training and Advanced Education in the General Practice of Dentistry
Subpart Q—Grants for Predoctoral, Graduate, and Faculty Development Education Programs in Family Medicine
Subpart R—Grants for the Establishment of Departments of Family Medicine
Subpart S—Educational Assistance to Individuals from Disadvantaged Backgrounds
Subpart V—Grants for Centers of Excellence
Subpart Y—Grants for Nurse Practitioner and Nurse Midwifery Programs
Subpart Z—Grants for Advanced Nurse Education Programs
Subpart CC—Scholarships for Students of Exceptional Financial Need
Subpart DD—Financial Assistance for Disadvantaged Health Professions Students
Subpart EE—Grants for Residency Training in Preventive Medicine
Subpart FF—Grants for Residency Training and Faculty Development in General Internal Medicine and/or General Pediatrics
Subpart MM—Area Health Education Center Program
Subpart OO—Grants for Geriatric Education Centers
Subpart PP—Grants for Faculty Training Projects in Geriatric Medicine and Dentistry

Part 58—Grants for Training of Public Health and Allied Health Personnel

Subpart C—Grants for Public Health Traineeships for Students in Schools of Public Health and in Other Graduate Public Health Programs
Subpart D—Grants for Health Administration Traineeships and Special Projects Program

Program specific guidance and information for preparing applications for the current program authorities under Pub. L. 105–392 are now provided in the grant application materials. Further, current program information is announced in the HRSA Preview and published in the **Federal Register** semi-annually. The HRSA Preview provides the general public with a single source of program and application information related to the Agency's competitive grant reviews and is designed to replace multiple **Federal Register** notices which traditionally advertised the availability of HRSA's discretionary funds for its various programs. The most recent edition of the HRSA Preview was published in the **Federal Register** on July 7, 2000 (Part III, 65 FR 42190–42331).

Justification for Omitting Notice of Proposed Rulemaking

This final rule rescinds and removes various Public Health Service health professions, nursing, public health, and allied health training grant regulations from title 42 of the CFR, parts 57 and 58. The existing training grant regulations are fundamentally and extensively inconsistent with present statutes as set out in titles VII and VIII of the Public Health Service Act, particularly as most recently amended by the Health Professions Education Partnerships Act of 1998 (Pub. L. 105–392), enacted November 13, 1998. The general focus of that legislation was to consolidate a myriad of small, highly categorical Federal training grant programs into seven general categories of authorities. These categories are designed to support the training of health personnel most likely to enter practice in rural and other medically underserved areas, and to provide flexibility to program managers in adapting the training supported to changing needs. We have concluded, based on our experience in carrying out the revised programs over the past two years, that this flexibility is best exercised through program-specific guidance and information provided in annual grant application materials. Because statutes always take precedence over regulations, and the existing regulations are inconsistent with the interdisciplinary approach of the current law, the regulations are largely irrelevant and certainly confusing. For these reasons, and in accordance with the October 6, 1999, Notice of Intent referred to above, the Secretary has determined, under 5 U.S.C. 553, that it is unnecessary, impractical, and contrary to the public interest to follow proposed rulemaking procedures or to delay the effective date of these amendments to parts 57 and 58.

Economic and Regulatory Impact

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and,