

requirements into a title V permit, and implement and enforce these requirements in that context without delegation.

Lastly, the EPA would like to correct and clarify the following sentences from the "Transfer of Authority" section of the preamble to the final HMIWI Federal plan (65 FR 49868, 49873): "Prior to delegation, only the EPA will have enforcement authority. In neither instance does the title V permit status of a source affect the enforcement responsibility of EPA and the State or tribal permitting authorities." In situations where a State or tribe is subject to a section 111/129 Federal plan and does not take delegation of the Federal plan, the following applies: Prior to delegation, only EPA can implement and enforce section 111/129 requirements outside of a title V permit. Whenever there is a title V permit in effect which includes section 111/129 requirements, however, EPA and the State or tribe have dual authority to implement and enforce the section 111/129 requirements in the title V permit. When a State or tribe has not taken delegation of a section 111/129 Federal plan, the previous sentence is relevant only in situations where a State or tribe has the authority to incorporate section 111/129 requirements into title V permits, and to implement and enforce these requirements in title V permits without delegation.

VII. Administrative Requirements

This section addresses the following administrative requirements: Regulatory Planning and Review; Federalism; Consultation and Coordination with Indian Tribal Governments; Protection of Children from Environmental Health Risks and Safety Rules; Unfunded Mandates Reform Act of 1995; Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996; Paperwork Reduction Act; National Technology Transfer and Advancement Act; Congressional Review Act; and Energy Effects. Many of these administrative requirements were addressed in the preamble to the small MWC emission guidelines (65 FR 76378). Since this Federal plan merely implements the emission guidelines promulgated on December 6, 2000, and does not impose any new requirements, many of the administrative requirements refer to the administrative requirements in the preamble to the small MWC emission guidelines.

A. Executive Order 12866—Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA 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 Executive 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, or 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 entitlements, grants, user fees, or loan programs, or 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.

The emission guidelines promulgated on December 6, 2000, are projected to have an impact of approximately \$68 million annually (Docket No. A-98-18). This Federal plan merely implements those emission guidelines, and does not impose any new requirements. Therefore, EPA has determined that this Federal plan is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. 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."

Under section 6 of Executive Order 13132, EPA 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 EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law, unless EPA consults with State and local officials early in the process of developing the regulation.

This Federal plan 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 States have the primary responsibility for negotiating compliance schedules and incorporating the emission limits into a State plan. Since sources are only covered by a Federal plan if an EPA approved and effective State plan is not in place, the Federal plan does not add substantial additional costs. Thus, the requirements of section 6 of the Executive Order do not apply to this Federal plan.

C. 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."

The EPA believes that no small MWC units are located in Indian country. As a result, this final 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 and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.