

responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected facilities are owned or operated by State governments. Thus, Executive Order 13132 does not apply to the final rule.

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

Executive Order 13175 (65 FR 67249, November 6, 2000), requires the 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. 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. No tribal governments own facilities subject to the final rule. 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, the 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 based on technology and not on health or safety risks.

H. Executive Order 13211: Actions 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 Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104–113; 15 U.S.C. 272 *note*), directs the EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (such as material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus standard bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The final rule involves technical standards. Therefore, the EPA conducted a search to identify potentially applicable voluntary consensus standards. However, we identified no such standards as alternatives to EPA Methods 1, 2, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, 23, 26, 26A, 201, and 201A and none were brought to our attention in comments. The search and review results are available in Docket OAR–2002–0043.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement 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 the Congress and to the Comptroller General of the United States. The EPA will submit a report containing the final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rule in the **Federal Register**. The final rule is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 64

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 25, 2003.

Marianne Lamont Horinko,
Acting Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of

the Federal Regulations is amended as follows:

PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

■ 2. Part 63 is amended by adding subpart TTTTTT to read as follows:

Subpart TTTTTT—National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining

Sec.

What This Subpart Covers

- 63.9880 What is the purpose of this subpart?
- 63.9881 Am I subject to this subpart?
- 63.9882 What parts of my plant does this subpart cover?
- 63.9883 When do I have to comply with this subpart?

Emission Limitations and Work Practice Standards

- 63.9890 What emission limitations must I meet?
- 63.9891 What work practice standards must I meet for my fugitive dust sources?

Operation and Maintenance Requirements

- 63.9900 What are my operation and maintenance requirements?

General Compliance Requirements

- 63.9910 What are my general requirements for complying with this subpart?

Initial Compliance Requirements

- 63.9911 By what date must I conduct performance tests or other initial compliance demonstrations?
- 63.9912 When must I conduct subsequent performance tests?
- 63.9913 What test methods and other procedures must I use to demonstrate initial compliance with the emission limits for particulate matter and PM₁₀?
- 63.9914 What test methods and other procedures must I use to demonstrate initial compliance with chlorine and hydrochloric acid emission limits?
- 63.9915 What test methods and other procedures must I use to demonstrate initial compliance with dioxin/furan emission limits?
- 63.9916 What test methods and other procedures must I use to establish and demonstrate initial compliance with the operating limits?
- 63.9917 How do I demonstrate initial compliance with the emission limitations and work practice standards that apply to me?
- 63.9918 How do I demonstrate initial compliance with the operation and maintenance requirements that apply to me?

Continuous Compliance Requirements

- 63.9920 What are my monitoring requirements?