

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[FRL-7225-5]

RIN 2060-AE77

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; amendments.

SUMMARY: On March 23, 2000, the EPA issued national emission standards for hazardous air pollutants for secondary aluminum production facilities under section 112 of the Clean Air Act (CAA). This proposed rule would amend the applicability provisions for aluminum die casters, foundries, and extruders. This proposal would also add new provisions governing control of commonly-ducted units; revise the procedures for adoption of operation, maintenance, and monitoring plans; revise the criteria concerning testing of representative emission units; amend the standard for unvented in-line flux boxes; and clarify the control requirements for sidewall furnaces. These changes are being proposed pursuant to settlement agreements in two cases seeking judicial review of the secondary aluminum standards. Elsewhere in today's **Federal Register**, we are publishing a separate direct final rule and accompanying parallel proposal to clarify compliance dates and defer certain early compliance obligations which might otherwise come due while we are completing this rulemaking.

DATES: *Comments.* Submit comments on or before August 13, 2002.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by June 28, 2002, a public hearing will be held on July 12, 2002.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket No. A-2002-06, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket No. A-2002-06, Room

M-1500, U.S. EPA, 401 M Street, SW., Washington, DC 20460. We request a separate copy of each public comment be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If a public hearing is held, it will be held at the EPA Office of Administration Auditorium, Research Triangle Park, North Carolina or an alternative site nearby beginning at 10 a.m. Persons interested in attending the hearing or wishing to present oral testimony should notify Tanya Medley, U.S. EPA, Research Triangle Park, NC 27711, telephone (919) 541-5422.

Docket. Docket No. A-2002-06 contains supporting information used in developing the proposed amendments. The docket is located at the U.S. EPA, 401 M Street, SW, Washington, DC 20460 in room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, U.S. EPA, Minerals and Inorganic Chemicals Group, Emission Standards Division (Mail Code C504-05), Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, telephone number (919) 541-0296, electronic mail address, schaefer.john@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to air-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® file format. All comments and data submitted in electronic form must note the docket number: A-2002-06. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Roberto Morales, U.S. EPA, OAQPS

Document Control Officer (C404-02), Research Triangle Park, NC 27711, Attn: John Schaefer. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available without further notice to the public.

Docket. The docket is an organized and complete file of the administrative record compiled by EPA in the development of the proposed rule amendments. The docket is a dynamic file because information is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposal will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of these actions will be posted on the TTN's policy and guidance page for newly proposed rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Regulated Entities. The proposed amendments would change the applicability provisions of the NESHAP for three types of facilities: aluminum extruded product manufacturing facilities (NAICS 331316/SIC 3354), aluminum die casting facilities (NAICS 331521/SIC 3363), and aluminum foundry facilities (NAICS 331524/SIC 3365). Consequently, categories and entities potentially regulated by this proposed action include:

Category	NAICS code	SIC code	Examples of regulated entities
Industry	331314	3341	Secondary smelting and alloying of aluminum facilities.
	331312	3334	Secondary aluminum production facility affected sources that are collocated at: Primary aluminum production facilities.

Category	NAICS code	SIC code	Examples of regulated entities
	331315	3353	Aluminum sheet, plate, and foil manufacturing facilities.
	331319	3355	Other aluminum rolling and drawing facilities.
	331521	3363	Aluminum die casting facilities.
	331524	3365	Aluminum foundry facilities.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.1500 of the national emission standards for secondary aluminum production. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

- I. Background
- II. Summary of the Proposed Amendments
 - A. How are we proposing to amend the applicability provisions?
 - B. What amendments are we proposing concerning control of commonly-ducted units?
 - C. How are we proposing to amend the procedures for adoption of an operation, maintenance, and monitoring plan?
 - D. How are we proposing to amend the provisions concerning testing of representative emission units?
 - E. How are we proposing to amend the standard for unvented in-line flux boxes?
 - F. How are we proposing to clarify the control requirements for sidewall furnaces?
 - G. What other amendments are we proposing?
- III. Administrative Requirements
 - A. Executive Order 12866, Regulatory Planning and Review
 - B. Executive Order 13132, Federalism
 - C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
 - D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
 - E. Unfunded Mandates Reform Act of 1995
 - F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. *et seq.*
 - G. Paperwork Reduction Act
 - H. National Technology Transfer and Advancement Act
 - I. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use

I. Background

On March 23, 2000 (63 FR 15690), we promulgated the national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production (40 CFR part 63, subpart

RRR). These standards were established under the authority of section 112(d) of the CAA to reduce emissions of hazardous air pollutants (HAP) from major and area sources.

After promulgation of the NESHAP for secondary aluminum production, two petitions for judicial review of the standards were filed in the D.C. Circuit Court of Appeals. The first of these petitions was filed by the American Foundrymen's Society, the North American Die Casting Association, and the Non-Ferrous Founders' Society (*American Foundrymen's Society et al. v. U.S. EPA*, Civ. No 00–1208 (D.C. Cir.)). A second petition for judicial review was filed by the Aluminum Association (*The Aluminum Association v. U.S. EPA*, No. 00–1211 (D.C. Cir.)). There was no significant overlap in the issues presented by the two petitions, and the cases have never been consolidated. However, we did thereafter enter into separate settlement discussions with the petitioners in each case.

The *Foundrymen's* case presented issues concerning the applicability of subpart RRR to aluminum die casters and aluminum foundries which were considered during the initial rulemaking development. Because aluminum die casters and foundries sometimes conduct the same type of operations as other secondary aluminum producers, we originally intended to apply the standards to these facilities, but only in those instances where they conduct such operations. However, representatives of the affected facilities argued that they should not be considered to be secondary aluminum producers and should be wholly exempt from the NESHAP. During the rulemaking development, we decided to permit die casters and foundries to melt contaminated internal scrap without being considered to be secondary aluminum producers, but their representatives insisted that too many facilities would still be subject to the NESHAP. At the time of promulgation of the standards, in response to a request by the die casters and foundries, we announced we would withdraw the standards as applied to die casters and foundries and develop separate maximum achievable control technology (MACT) standards for these facilities.

After the *Foundrymen's* case was filed, we negotiated an initial settlement agreement in that case which established a process to effectuate our commitment to develop new MACT standards. In that first settlement, EPA agreed that it would stay the current standards for these facilities, collect comprehensive data to support alternate standards, and promulgate alternate standards. We then published a proposal to stay the standards for these facilities (65 FR 55491, September 14, 2000) and an advanced notice of proposed rulemaking (ANPR) announcing new standards for these facilities (65 FR 55489, September 14, 2000).

During the subsequent process of preparing for information collection, the petitioners concluded that the present rule was not as sweeping in applicability as they had feared, and the parties then agreed to explore an alternate approach to settlement based on clarifications of the current standards. We subsequently reached agreement with the *Foundrymen's* petitioners on a new settlement which entirely supplants the prior settlement. Accordingly, we are publishing elsewhere in today's **Federal Register** a notice withdrawing the proposed stay of the present standards for aluminum die casters and foundries, and announcing that we are taking no further action on new standards for these facilities.

In the new settlement, we agreed to propose some changes in the applicability provisions of the present standards concerning aluminum die casters and foundries. These changes include permitting customer returns without solid paints or coatings to be treated like internal scrap, and permitting facilities operated by the same company at different locations to be aggregated for purposes of determining what is internal scrap. These revisions of the applicability criteria are included in this proposed rule.

In the *Foundrymen's* settlement, we also agreed to defer the compliance date for new sources constructed or reconstructed at existing aluminum die casters, foundries, and extruders until the compliance date for existing sources, so that the rulemaking on general applicability issues could be completed first. That element of the

Foundrymen's settlement is incorporated in a direct final rule and parallel proposal published elsewhere in today's **Federal Register**.

As required by section 113(g) of the CAA, we provided notice and an opportunity for comment concerning the *Foundrymen's* settlement (67 FR 9972, March 5, 2002). We received three adverse comments on the settlement. After reviewing these comments, we decided to proceed with settlement. A copy of these comments and of our responses to them is available in the docket for this proposed rule.

In entirely separate discussions, we also agreed on a settlement of the *Aluminum Association* case. That settlement requires that we propose a number of substantive clarifications and revisions of the standards which are also addressed by this proposed rule. The *Aluminum Association* settlement also requires that we clarify and simplify the compliance dates for the standards, and defer certain early compliance obligations which might otherwise come due during the rulemaking process. These compliance issues are also addressed in the direct final rule and parallel proposal published elsewhere in today's **Federal Register**.

Pursuant to CAA section 113(g), we also provided notice and an opportunity for public comment concerning the *Aluminum Association* settlement (67 FR 16374, April 5, 2002). One adverse comment was received on that settlement, although the comment did not address the only element in the settlement which is implemented by this direct final rule. After reviewing the comment, we decided to proceed with settlement. A copy of the comment and of our response to the comment is available in Docket No. A-2002-06 for the separate proposed rule.

II. Summary of the Proposed Amendments

A. How Are We Proposing To Amend the Applicability Provisions?

We originally intended to regulate aluminum die casting facilities, aluminum foundries, and aluminum extruders under subpart RRR only when they engage in the same types of operations as other secondary aluminum producers. We decided during rulemaking development that such facilities should be permitted to melt their own internally-generated scrap without being automatically treated the same as secondary aluminum producers, who typically process contaminated aluminum scrap obtained from other sources. Thus,

§ 63.1500(d) in the current standards exempts such facilities if:

- The facility does not melt any materials other than clean charge and materials generated within the facility; and
- The facility does not operate a thermal chip dryer, sweat furnace, or scrap dryer/delacquering kiln/decoating kiln.

However, it became apparent during discussions with representatives of these facilities that some aluminum die casting facilities that do not otherwise engage in secondary aluminum operations might fall within the rule solely because they melt certain materials which do not fit clearly within the phrase "materials generated within the facility." In particular, some facilities routinely have defective or incorrect aluminum castings returned by customers and then remelt them. In addition, some companies conduct operations at multiple locations and may melt scrap initially generated at one location at a different location.

To address these issues, we agreed to propose new applicability language which permits aluminum die casters, foundries, and extruders to melt customer returns which contain no paint or other solid coatings without thereby becoming subject to the standards. We also agreed to propose a new definition of internal scrap which includes all scrap originating from aluminum castings or extrusions that remains at all times within the control of the company that produced the castings or extrusions. We do not regard either of these changes in the applicability language as materially altering our original intent to only cover those aluminum die casters, foundries, and extruders who conduct secondary aluminum operations. Under the language we are proposing, customer returns would not qualify if they have been painted or are contaminated with other solid coatings because these castings would normally require prior cleaning to avoid excess emissions. Moreover, scrap obtained from an external source does not qualify unless it fits within the definition of clean charge.

We are proposing changes in the existing definitions of "secondary aluminum production facility," "clean charge," "internal runaround" (now called "runaround scrap"), and "thermal chip dryer," as well as adding new definitions of "customer returns" and "internal scrap." In the aggregate, these revisions clarify the circumstances when aluminum die casters, foundries, and extruders would be considered to be secondary aluminum production

facilities and, thus, within the applicability of the rule.

We are also proposing to add a new section to the general applicability provisions which permits aluminum die casters, foundries, and extruders which are area sources to operate thermal chip dryers subject to the requirements of the rule without automatically subjecting their furnace operations to the rule. We agreed to propose this change to eliminate an incentive which might otherwise exist for small facilities, which are otherwise outside the applicability of the rule, to discontinue their use of chip dryers. As long as such chip dryers are operated in conformity with the rule, we think their use will promote safety and lower emissions at some small operations.

We are mindful that some may question why contaminated internal scrap generated by aluminum die casters, foundries, and extruders should be treated differently than external scrap with similar contamination levels which is processed by the secondary aluminum industry. We stress that the decision we made during the original secondary aluminum rulemaking process to make this distinction was based on the qualitative differences in the operations being undertaken by the facilities in question, rather than on any conclusions regarding the likely magnitude of emissions from such operations. Moreover, we think that the additional revisions and clarifications of applicability for aluminum die casters, foundries, and extruders which we have agreed to make are reasonable clarifications and fully consistent with that original decision.

B. What Amendments Are We Proposing Concerning Control of Commonly-Ducted Units?

The current rule permits secondary aluminum producers to combine existing group 1 furnaces and in-line fluxers within a particular facility in a "secondary aluminum processing unit" or SAPU. The facility can then demonstrate compliance by determining the permissible emissions for the entire SAPU and then controlling emissions for the SAPU to that level. This broader definition of the affected source which must be controlled gives a secondary aluminum production facility added flexibility in fashioning the most cost-effective control strategies which will meet the standards.

The existing rule also permits new group 1 furnaces and new in-line fluxers to be included in a new SAPU. However, it does not afford a facility the latitude to combine new and existing sources in the same SAPU. This is

because the respective standards for existing sources and new sources are separate legal requirements, and we construe the CAA to require that standards be separately applied to all affected units.

Because the standards for an existing SAPU and the standards for a new SAPU happen to be identical in this instance, the legal constraints on combining existing emission units with new emission units have been understandably frustrating to some facilities. Moreover, in some facilities it may make the most sense from an engineering perspective to manifold emissions from units which are subject to differing standards to the same emission control device. In order to help facilities meet the standards in the most efficient and cost-effective manner, we agreed to develop and propose some additional language pertaining to commonly-ducted units. The new language reflects two different approaches to this problem. A facility subject to the standards may use either approach or both approaches if it wishes.

First, the proposed amendments would add a new paragraph to § 63.1505(k) for SAPU. The new paragraph (k)(6) would allow the owner or operator to redesignate any existing group 1 furnace or in-line fluxer at a secondary aluminum processing facility as a new emission unit. Any redesignated emission unit may then be included in a new SAPU at that facility. Any such redesignation (which would require prior approval of the responsible permitting authority) would only apply under subpart RRR and would be irreversible.

Second, we are also adding new language which clarifies the procedures by which units which are subject to differing standards but are manifolded to the same control device can demonstrate compliance. We believe that this new language is not required to permit this type of combined compliance demonstration, but we think it will give useful additional guidance to permitting authorities in establishing sound and defensible procedures for documenting compliance when units are commonly-ducted but subject to separate standards.

We are proposing to add two new paragraphs to § 63.1511 pertaining to compliance demonstrations for commonly-ducted units. The first of these paragraphs simply confirms other provisions of the rule which provide that aggregate emissions can be measured to demonstrate compliance for all emission units within a SAPU.

The second new paragraph covers those situations where commonly-ducted units are not within a single existing or new SAPU. In this instance, the following criteria would apply:

- Testing must be designed to verify that each affected source or emission unit individually satisfies all applicable emission requirements.
- Emissions must be tested at the outlet of each individual affected source or emission unit while it is operating under the highest load or capacity reasonably expected to occur, prior to the point that the emissions are combined with those from other affected sources or emission units.
- Combined emissions for the affected sources and emission units must be tested at the outlet of the control device while they are operating simultaneously under the highest load or capacity reasonably expected to occur.
- When determining compliance for a commonly-ducted unit, emissions of a particular pollutant from the individual unit would be presumed to be controlled by the same percentage as total emissions of that pollutant from all commonly-ducted units.

C. How Are We Proposing to Amend the Procedures for Adoption of an Operation, Maintenance, and Monitoring Plan?

In a direct final rule and parallel proposal published elsewhere in today's **Federal Register**, we are clarifying the timing of submission of an operation, maintenance, and monitoring (OM&M) plan to the permitting authority, which is ambiguous in the existing rule. In this action, we are proposing to clarify the procedures by which a facility submits an OM&M plan to the permitting authority and by which the permitting authority can require any necessary revisions of the plan.

Section 63.1505(k) of the existing rule refers to approval of an OM&M plan by the permitting authority, and the necessary elements of an OM&M plan are described in § 63.1510(b), but the procedures for submission and approval of the plan are not specified. We are proposing an amendment to correct that omission.

Under the proposed amendments, the facility would be required to certify that the OM&M plan it is submitting complies with all requirements of the standards and complies with the OM&M plan as submitted to the permitting authority, unless and until the plan is revised. If the permitting authority determined that any revisions of the plan are necessary to satisfy the requirements of the standards, the

facility would be required to promptly make all necessary revisions and resubmit the revised plan. If the facility itself determined that revisions of the OM&M plan are necessary, such revisions would not become effective until the owner or operator submitted a description of the changes and a revised plan incorporating them to the permitting authority. These same general procedures would also apply to the site-specific monitoring plan, which is one element of the OM&M plan.

D. How Are We Proposing to Amend the Provisions Concerning Testing of Representative Emission Units?

Section 63.1511(f) of the existing rule establishes a procedure which permits a secondary aluminum production facility to test a representative group 1 furnace or in-line flux box in order to determine the emission rate for other units of the same type at that facility. We are proposing to clarify the criteria for demonstrating compliance by testing of representative emission units.

In particular, the existing rule provides that the emission unit being tested must use "identical feed/charge and flux materials in the same proportions" as those emission units it represents. Industry representatives have expressed concern that this language could be given an unduly restrictive construction. To clarify our original intent, we are proposing to amend the criteria to require "feed materials and charge rates which are comparable" and "the same type of flux materials in the same proportions" as the emission units the tested unit represents.

E. How Are We Proposing To Amend the Standards for Unvented In-Line Flux Boxes?

The existing rule requires that all in-line flux boxes meet the same emission standards and be tested in the same manner. Industry representatives have argued that the testing procedures in the rule are not practicable for in-line flux boxes which are unvented (units which have no ventilation ductwork manifolded to an outlet or emission control device). Documenting compliance with the particulate matter (PM) standard for such units might require construction of a temporary enclosure around the unit to capture and measure emissions.

Industry representatives have also argued that the emissions of hydrogen chloride (HCl) and PM from such units are intrinsically low, but we believe it is quite possible for the HCl emissions from such units to exceed the applicable standards. The existing rule provides a

procedure by which a facility can demonstrate compliance for HCl by limiting its use of reactive chlorine flux and then assuming that all chlorine used is emitted as HCl. However, because of the greater complexity of the reactions which generate PM emissions, there is no analogous procedure for PM.

While we do not agree with the industry that all emissions from unvented in-line flux boxes are intrinsically low, we do agree that the physical characteristics of these units and the nature of the reactions that generate PM mean that we can reliably conclude that an unvented unit which demonstrates compliance with the emission standards for HCl by limiting reactive chlorine flux will also be in compliance with the emission standards for PM. Therefore, we are proposing to add new language to § 63.1512(h) which will permit a facility with an unvented in-line flux box, which demonstrates compliance with the emission standards for HCl by limiting use of reactive chlorine flux, to infer compliance with the emission standards for PM as well. This would give facilities an alternative to testing of actual emissions, which could require costly construction of an enclosure around the unit or other engineering modifications. In such circumstances, the facility would be required to use the maximum permissible PM emission rate for the flux box when determining the total emissions for any secondary aluminum processing unit which includes the flux box.

F. How Are We Proposing To Clarify the Control Requirements for Sidewell Furnaces?

Industry representatives have pointed out that the existing § 63.1506(m)(6) includes language that could require installation of an additional control device on sidewall furnaces whenever the level of molten metal is permitted to fall below the passage between the sidewall and the hearth, or reactive flux is added in the hearth. While we believe that a control device will sometimes be necessary in these circumstances, this result was not our intent.

As indicated in the preamble to our original proposal, we believe that there is a potential for additional emissions if the level of molten metal is permitted to fall below the top of the passage between the sidewall and the hearth, or if reactive flux is added in the hearth. Therefore, if these events occur, the emissions from both the sidewall and the hearth must be captured and tested in order to demonstrate compliance with the applicable emission standards. If the emission tests show that a control

device is necessary to attain compliance, it must be installed. We are proposing to revise the language in question to clarify our intent.

In addition, we are proposing to amend § 63.1505(i)(7) to correct an erroneous cross-reference. As amended, certain sidewall group 1 furnaces would be required to meet the limits in paragraphs (i)(1) through (4) rather than (j)(1) through (4).

G. What Other Amendments Are We Proposing?

We are proposing to amend § 63.1510(w) to clarify the procedures for obtaining approval of alternative monitoring methods. The new language makes it clear that this section refers to alternative monitoring methods other than those which may be separately authorized pursuant to § 63.1510(j)(5) or § 63.1510(v).

We are also proposing to clarify the recordkeeping requirements for in-line fluxers which do not use reactive flux. Section 63.1517(b)(11) would be amended to permit the facility to document that a particular in-line fluxer does not use reactive flux using operating logs that show that no source of reactive flux was present, labels that prohibit use of reactive flux, or operating logs which document the fluxes used during each operating cycle.

We are proposing to amend § 63.1505(f)(1), which establishes emission standards for sweat furnaces, to correct an erroneous residence time.

We are proposing to clarify the definition of a melting/holding furnace in § 63.1503.

We are also proposing minor amendments to correct printing or technical errors in the final rule. These include:

- Revising Tables 2 and 3 of subpart RRR to correct entries which were inadvertently printed in the wrong columns.
- Republishing Equation 2 of § 63.1505(k)(2) to clearly display the HC1 emission limit (L_{CHC1}).
- Revising the entry for § 63.14 in appendix A to subpart RRR to include incorporation by reference for a second document.
- Clarifying the rule requirement that both major and minor sources must keep a copy of the OM&M on-site by deleting language in § 63.1517(b)(16)(ii) that requires only major sources to keep a copy of the OM&M plan on-site.

III. Administrative Requirements

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 review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines a “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 entitlement, 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.

Pursuant to the terms of Executive Order 12866, it has been determined that the proposed action is not a “significant regulatory action” and was not submitted to OMB for 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 the EPA consults with State and local officials early in the process of developing the proposed regulation.

These proposed rule amendments do not have federalism implications. They

would 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. None of the affected plants are owned or operated by State governments. Thus, the requirements of section 6 of the Executive Order do not apply to these proposed rule amendments.

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 Indian tribes."

These proposed rule amendments do not have tribal implications. They would 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. No tribal governments own plants subject to the existing rule or proposed amendments. Thus, Executive Order 13175 does not apply to these proposed rule amendments.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and 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, we 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.

We interpret 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. This proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

E. Unfunded Mandates Reform Act of 1995

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, the 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 by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the 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 the 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 the 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 these proposed rule amendments do not contain a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector in any 1 year. No costs are attributable to these proposed amendments. In addition, these proposed amendments would not

significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the requirements of the UMRA do not apply to these amendments.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. et seq.

The 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 not-for-profit enterprises, and small governmental jurisdictions.

For purposes of assessing the impacts of today's proposed rule amendments on small entities, a small entity is defined as: (1) A small business whose parent company has fewer than 750 employees; (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; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

As discussed in the preamble to the final rule (65 FR 15690), subpart RRR was projected to potentially impact firms producing products in SIC codes 3341 (secondary smelting and refining of nonferrous metals), 3353 (aluminum sheet, plate, and foil), 3334 (primary aluminum production), 3354 (aluminum extruded products), 3363 (aluminum die casting), 3365 (aluminum foundries), 4953 (refuse systems—materials recovery facilities), 5093 (scrap and waste materials), and 5015 (motor vehicle parts—used). The EPA concluded that the existing rule would not result in a significant economic impact for a substantial number of small entities. This assessment was based on information on representative facility practices provided to EPA by these industries. For more detailed information, please see "Economic Impact Analysis for the Secondary Aluminum NESHAP Final Report," October 1999 (Docket A-92-61).

Following promulgation of subpart RRR, affected facilities in the aluminum die casting and foundry industries expressed concern that the information and assumptions upon which EPA has relied may be incomplete or may not

adequately represent the facilities and emissions.

There are 320 aluminum die casting companies and approximately 1,530 aluminum foundries currently operating domestically. The vast majority of these firms are small businesses employing less than 500 employees. No small businesses within aluminum die casting companies or aluminum foundries were specifically identified that are impacted by the final rule. Many of these firms would be exempt from the final rule for the reasons discussed in the Economic Impact Analysis document.

The proposed amendments do not create any new costs on affected firms, large or small. In fact, the proposed amendments would substantially reduce the economic impact on small businesses because of the exemption for die casters, extruders, and foundries. Because these plants will not incur any significant costs or economic impact, EPA determined that it is not necessary to prepare a regulatory flexibility analysis, and the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

The information collection requirements in subpart RRR have been submitted for approval to OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The proposed amendments would not change the information collection requirements in subpart RRR, but would reduce the number of facilities subject to the rule. An amended Information Collection Request (ICR) document has been prepared by EPA (ICR No. ____), and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at auby.susan@epa.gov, or by calling (202) 566-1672. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>. By U.S. Postal Service, send comments on the ICR to the Director, Collection Strategies Division, U.S. EPA (2822T), 1200 Pennsylvania Avenue, NW., Washington DC 20460; or by courier, send comments on the ICR to the Director, Collection Strategies Division, U.S. EPA (2822T), 1301 Constitution Avenue, NW., Room 6143, Washington DC 20460 (202) 566-1700.

The information requirements in the existing rule include mandatory notifications, records, and reports required by the NESHAP General Provisions (40 CFR part 63, subpart A). These information requirements are

needed to confirm the compliance status of major sources, to identify any nonmajor sources not subject to the standards and any new or reconstructed sources subject to the standards, and to confirm that emission control devices are being properly operated and maintained. Based on the recorded and reported information, EPA can decide which facilities, records, or processes should be inspected. These recordkeeping and reporting requirements are specifically authorized under section 114 of the CAA. All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to Agency policies in 40 CFR part 2, subpart B.

Under the proposed amendments, fewer facilities would be subject to the testing, monitoring, recordkeeping, and reporting requirements. For this reason, the overall burden estimate for the existing rule would be reduced by approximately 20 percent.

As a result of these proposed amendments, the annual public reporting and recordkeeping burden for this collection of information (averaged over the first 3 years after the effective date of the rule) is estimated to decrease by 28,000 labor hours per year and \$8.5 million per year. Total capital costs associated with monitoring requirements over the 3-year period of the ICR remain unchanged at an estimated \$1.3 million; this estimate includes the capital and startup costs associated with installation of monitoring equipment.

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 purpose of collecting, validating, and verifying information; process and maintain information and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing 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 are listed in 40 CFR part 9 and 48 CFR chapter 15.

H. National Technology Transfer and 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 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 bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The EPA's response to the NTTAA requirements are discussed in the preamble to the final rule (65 FR 15690). The proposed amendments do not change the required methods or procedures, but would expand provisions for the use of alternative methods. If a plant wishes to use an alternative method other than those identified in the existing rule, the owner or operator may submit an application to EPA according to the procedures described in the existing rule.

I. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These proposed rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 63

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

Dated: May 31, 2002.

Christine Todd Whitman,
Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be 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.*

Subpart RRR—[Amended]

2. Section 63.1500 is amended by:
- a. Revising paragraph (a);
 - b. Removing existing paragraph (d);
 - c. Redesignating existing paragraphs (e) and (f) as (d) and (e); and
 - d. Adding new paragraph (f).

The addition and revision reads as follows:

§ 63.1500 Applicability.

(a) The requirements of this subpart apply to the owner or operator of each secondary aluminum production facility as defined in § 63.1503.

(f) An aluminum die casting facility, aluminum foundry, or aluminum extrusion facility shall be considered to be an area source if it does not emit, or have the potential to emit considering controls, 10 tons per year or more of any single listed HAP or 25 tons per year of any combination of listed HAP from all emission sources which are located in a contiguous area and under common control, without regard to whether or not such sources are regulated under this subpart or any other subpart. In the case of an aluminum die casting facility, aluminum foundry, or aluminum extrusion facility which is an area source and is subject to regulation under this subpart only because it operates a thermal chip dryer, no furnace operated by such a facility shall be deemed to be subject to the requirements of this subpart if it melts only clean charge, internal scrap, or customer returns.

3. Section 63.1503 is amended by:
- a. Adding in alphabetical order new definitions for the terms “aluminum scrap,” “customer returns,” “internal scrap,” and “runaround scrap”; and
 - b. Revising definitions for the terms “clean charge,” “cover flux,” “group 1 furnace,” “group 2 furnace,” “melting/holding furnace,” “reactive fluxing,” “scrap dryer/delacquering kiln/decoating kiln,” “secondary aluminum processing unit (SAPU),” “secondary aluminum production facility,” and “thermal chip dryer.”

The additions and revisions read as follows:

§ 63.1503 Definitions.

Aluminum scrap means fragments of aluminum stock removed during manufacturing (i.e., machining), manufactured aluminum articles or parts rejected or discarded and useful only as material for reprocessing, and waste and discarded material made of aluminum.

Clean charge means furnace charge materials including molten aluminum;

T-bar; sow; ingot; billet; pig; alloying elements; *aluminum scrap* known by the owner or operator to be entirely free of paints, coatings, and lubricants; uncoated/unpainted aluminum chips that have been thermally dried or treated by a centrifugal cleaner; *aluminum scrap* dried at 343 °C (650 °F) or higher; *aluminum scrap* delacquered/decoated at 482 °C (900 °F) or higher, and *runaround scrap*.

Cover flux means salt added to the surface of molten aluminum in a *group 1* or *group 2 furnace*, without agitation of the molten aluminum, for the purpose of preventing oxidation.

Customer returns means any aluminum product which is returned by a customer to the aluminum company that originally manufactured the product prior to resale of the product or further distribution in commerce, and which contains no paint or other solid coatings (i.e., lacquers).

Group 1 furnace means a furnace of any design that melts, holds, or processes aluminum that contains paint, lubricants, coatings, or other foreign materials with or without *reactive fluxing*, or processes *clean charge* with *reactive fluxing*.

Group 2 furnace means a furnace of any design that melts, holds, or processes only *clean charge* and that performs no *fluxing* or performs *fluxing* using only nonreactive, non-HAP-containing/non-HAP-generating gases or agents.

Internal scrap means all aluminum scrap regardless of the level of contamination which originates from castings or extrusions produced by an aluminum die casting facility, aluminum foundry, or aluminum extrusion facility, and which remains at all times within the control of the company that produced the castings or extrusions.

Melting/holding furnace means a *group 1 furnace* that processes only *clean charge*, performs melting, holding, and fluxing functions, and does not transfer molten aluminum to or from another furnace except for purposes of alloy changes, off-specification product drains, or maintenance activities.

Reactive fluxing means the use of any gas, liquid, or solid flux (other than cover flux) that results in a HAP emission. Argon and nitrogen are not reactive and do not produce HAP.

Runaround scrap means scrap materials generated on-site by

aluminum casting, extruding, rolling, scalping, forging, forming/stamping, cutting, and trimming operations and that do not contain paint or solid coatings. Uncoated/unpainted aluminum chips generated by turning, boring, milling, and similar machining operations may be clean charge if they have been thermally dried or treated by a centrifugal cleaner, but are not considered to be *runaround scrap*.

Scrap dryer/delacquering kiln/decoating kiln means a unit used primarily to remove various organic contaminants such as oil, paint, lacquer, ink, plastic, and/or rubber from *aluminum scrap* (including used beverage containers) prior to melting.

Secondary aluminum processing unit (SAPU). An existing SAPU means all existing *group 1 furnaces* and all existing *in-line fluxers* within a *secondary aluminum production facility*. Each existing *group 1 furnace* or existing *in-line fluxer* is considered an *emission unit* within a *secondary aluminum processing unit*. A new SAPU means any combination of individual *group 1 furnaces* and *in-line fluxers* within a *secondary aluminum processing facility* which either were constructed or reconstructed after February 11, 1999, or have been permanently redesignated as new emission units pursuant to § 63.1505(k)(6). Each of the *group 1 furnaces* or *in-line fluxers* within a new SAPU is considered an *emission unit* within that *secondary aluminum processing unit*.

Secondary aluminum production facility means any establishment using *clean charge*, *aluminum scrap*, or dross from aluminum production, as the raw material and performing one or more of the following processes: scrap shredding, scrap drying/delacquering/decoating, thermal chip drying, furnace operations (i.e., melting, holding, sweating, refining, fluxing, or alloying), recovery of aluminum from dross, in-line fluxing, or dross cooling. A *secondary aluminum production facility* may be independent or part of a primary aluminum production facility. For purposes of this subpart, aluminum die casting facilities, aluminum foundries, and aluminum extrusion facilities are not considered to be secondary aluminum production facilities if the only materials they melt are *clean charge*, customer returns, or internal scrap, and if they do not operate sweat furnaces, thermal chip dryers, or scrap dryers/delacquering kilns/decoating kilns. The determination of whether a facility is a *secondary aluminum production facility* is only for purposes of this subpart and any regulatory

requirements which are derived from the applicability of this subpart, and is separate from any determination which may be made under other environmental laws and regulations, including whether the same facility is a "secondary metal production facility" as that term is used in 42 U.S.C. 7479(1) and 40 CFR 52.21(b)(1)(i)(A) ("prevention of significant deterioration of air quality").

Thermal chip dryer means a device that uses heat to evaporate oil or oil/water mixtures from unpainted/uncoated aluminum chips. Pre-heating boxes or other dryers which are used solely to remove water from aluminum scrap are not considered to be thermal chip dryers for purposes of this subpart.

4. Section 63.1505 is amended by:
 - a. Revising the section heading;
 - b. Revising paragraph (f)(1);
 - c. Revising paragraph (i)(7);
 - d. Republishing the introductory text of paragraph (k)(2) and revising Equation 2; and
 - e. Adding new paragraph (k)(6).

The revisions and addition read as follows:

§ 63.1505 Emission standards for affected sources and emission units.

(f) *Sweat furnace.* * * *

(1) The owner or operator is not required to conduct a performance test to demonstrate compliance with the emission standard of paragraph (f)(2) of this section, provided that, on and after the compliance date of this rule, the owner or operator operates and maintains an afterburner with a design residence time of 0.8 seconds or greater and an operating temperature of 1600 °F or greater.

(i) *Group 1 furnace.* * * *

(7) The owner or operator of a sidewell group 1 furnace that conducts reactive fluxing (except for cover flux) in the hearth, or that conducts reactive fluxing in the sidewell at times when the level of molten metal falls below the top of the passage between the sidewell and the hearth, must comply with the emission limits of paragraphs (i)(1) through (4) of this section on the basis of the combined emissions from the sidewell and the hearth.

(k) *Secondary aluminum processing unit.* * * *

(2) The owner or operator must not discharge or allow to be discharged to the atmosphere any 3-day, 24-hour rolling average emissions of HCl in excess of:

$$L_{\text{CHCl}} = \frac{\sum_{i=1}^n (L_{\text{tiHCl}} \times T_{\text{ti}})}{\sum_{i=1}^n (T_{\text{ti}})} \quad (\text{Eq. 2})$$

(6) With the prior approval of the responsible permitting authority, an owner or operator may redesignate any existing group 1 furnace or in-line fluxer at a secondary aluminum production facility as a new emission unit. Any emission unit so redesignated may thereafter be included in a new SAPU at that facility. Any such redesignation will be solely for the purpose of this MACT standard and will be irreversible.

5. Section 63.1506 is amended by:
 - a. Removing existing paragraph (a)(2);
 - b. Redesignating existing paragraphs (a)(3) through (a)(5) as paragraphs (a)(2) through (a)(4); and
 - c. Revising paragraphs (m)(6)(i) and (ii).

The revisions read as follows.

§ 63.1506 Operating requirements.

(m) *Group 1 furnace with add-on air pollution control devices.* * * *

(i) The level of molten metal remains above the top of the passage between the sidewell and hearth during reactive flux injection, unless emissions from both the sidewell and the hearth are included in demonstrating compliance with all applicable emission limits.

(ii) Reactive flux is added only in the sidewell, unless emissions from both the sidewell and the hearth are included in demonstrating compliance with all applicable emission limits.

6. Section 63.1510 is amended by:

- a. Removing the last sentence in the introductory text of paragraph (b), "Each plan must contain the following information", and adding, in its place, five new sentences;

b. Revising the introductory text of paragraph (o)(1); and

c. Revising the introductory text of paragraph (w).

The revisions read as follows:

§ 63.1510 Monitoring requirements.

(b) * * * The plan must be accompanied by a written certification by the owner or operator that the OM&M plan satisfies all requirements of this section and is otherwise consistent with the requirements of this subpart. The owner or operator must comply with all of the provisions of the OM&M

plan as submitted to the permitting authority, unless and until the plan is revised in accordance with the following procedures. If the permitting authority determines at any time after receipt of the OM&M plan that any revisions of the plan are necessary to satisfy the requirements of this section or this subpart, the owner or operator must promptly make all necessary revisions and resubmit the revised plan. If the owner or operator determines that any other revisions of the OM&M plan are necessary, such revisions will not become effective until the owner or operator submits a description of the changes and a revised plan incorporating them to the permitting authority. Each plan must contain the following information:

(o) * * *
 (1) The owner or operator must develop, in consultation with the responsible permitting authority, a written site-specific monitoring plan. The site-specific monitoring plan must be submitted to the permitting authority as part of the OM&M plan. The site-specific monitoring plan must contain sufficient procedures to ensure continuing compliance with all applicable emission limits and must demonstrate, based on documented test results, the relationship between emissions of PM, HCl, and D/F and the proposed monitoring parameters for each pollutant. Test data must establish the highest level of PM, HCl, and D/F that will be emitted from the furnace. This may be determined by conducting performance tests and monitoring operating parameters while charging the furnace with feed/charge materials containing the highest anticipated levels of oils and coatings and fluxing at the highest anticipated rate. If the permitting authority determines that any revisions of the site-specific monitoring plan are necessary to meet the requirements of this section or this subpart, the owner or operator must promptly make all necessary revisions and resubmit the revised plan to the permitting authority.

(w) *Alternative monitoring methods.*
 If an owner or operator wishes to use an alternative monitoring method to demonstrate compliance with any emission standard in this subpart, other than those alternative monitoring methods which may be authorized pursuant to paragraph (j)(5) and (v) of this section, the owner or operator may submit an application to the Administrator. Any such application will be processed according to the

criteria and procedures set forth in paragraphs (w)(1) through (6) of this section.

* * * * *

7. Section 63.1511 is amended by revising paragraph (f) and adding paragraphs (h) and (i) to read as follows:

§ 63.1511 Performance test/compliance demonstration general requirements.

* * * * *

(f) *Testing of representative emission units.* With the prior approval of the permitting authority, an owner or operator may utilize emission rates obtained by testing a particular type of group 1 furnace which is not controlled by any add-on control device, or by testing an in-line flux box which is not controlled by any add-on control device, to determine the emission rate for other units of the same type at the same facility. Such emission test results may only be considered to be representative of other units if all of the following criteria are satisfied:

(1) The tested emission unit must use feed materials and charge rates which are comparable to the emission units that it represents;

(2) The tested emission unit must use the same type of flux materials in the same proportions as the emission units it represents;

(3) The tested emission unit must be operated utilizing the same work practices as the emission units that it represents;

(4) The tested emission unit must be of the same design as the emission units that it represents; and

(5) The tested emission unit must be tested under the highest load or capacity reasonably expected to occur for any of the emission units that it represents.

* * * * *

(h) *Testing of commonly-ducted units within a secondary aluminum processing unit.* When group 1 furnaces and/or in-line fluxers are included in a single existing SAPU or new SAPU, and the emissions from more than one emission unit within that existing SAPU or new SAPU are manifolded to a single control device, compliance for all units within the SAPU is demonstrated if the total measured emissions from all controlled and uncontrolled units in the SAPU do not exceed the emission limits calculated for that SAPU based on the applicable equation in § 63.1505(k).

(i) *Testing of commonly-ducted units not within a secondary aluminum processing unit.* With the prior approval of the permitting authority, an owner or operator may do combined performance testing of two or more individual affected sources or emission units which are not included in a single

existing SAPU or new SAPU, but whose emissions are manifolded to a single control device. Any such performance testing of commonly-ducted units must satisfy the following basic requirements:

(1) All testing must be designed to verify that each affected source or emission unit individually satisfies all emission requirements applicable to that affected source or emission unit;

(2) All emissions of pollutants subject to a standard must be tested at the outlet from each individual affected source or emission unit while operating under the highest load or capacity reasonably expected to occur, and prior to the point that the emissions are manifolded together with emissions from other affected sources or emission units;

(3) The combined emissions from all affected sources and emission units which are manifolded to a single emission control device must be tested at the outlet of the emission control device;

(4) All tests at the outlet of the emission control device must be conducted with all affected sources and emission units whose emissions are manifolded to the control device operating simultaneously under the highest load or capacity reasonably expected to occur; and

(5) For purposes of demonstrating compliance of a commonly-ducted unit with any emission limit for a particular type of pollutant, the emissions of that pollutant by the individual unit shall be presumed to be controlled by the same percentage as total emissions of that pollutant from all commonly-ducted units are controlled at the outlet of the emission control device.

8. Section 63.1512 is amended by revising paragraph (h) to read as follows:

§ 63.1512 Performance test/compliance demonstration requirements and procedures.

* * * * *

(h) *In-line fluxer.* (1) The owner or operator of an in-line fluxer that uses reactive flux materials must conduct a performance test to measure emissions of HCl and PM or otherwise demonstrate compliance in accordance with paragraph (h)(2) of this section. If the in-line fluxer is equipped with an add-on control device, the emissions must be measured at the outlet of the control device.

(2) The owner or operator may choose to limit the rate at which reactive chlorine flux is added to an in-line fluxer and assume, for the purposes of demonstrating compliance with the SAPU emission limit, that all chlorine in the reactive flux added to the in-line

fluxer is emitted as HCl. Under these circumstances, the owner or operator is not required to conduct an emission test for HCl. If the owner or operator of any in-line flux box which has no ventilation ductwork manifolded to any outlet or emission control device chooses to demonstrate compliance with the emission limit for HCl by limiting use of reactive chlorine flux and assuming that all chlorine in the flux is emitted as HCl, compliance with the HCl limit shall also constitute compliance with the emission limit for PM, and no separate emission test for PM is required. In this case, the owner or operator of the unvented in-line flux box must utilize the maximum permissible PM emission rate for the in-line flux boxes when determining the total emissions for any SAPU which includes the flux box.

* * * * *

9. Section 63.1515 is amended by revising paragraphs (b)(8) and (b)(9) to read as follows:

§ 63.1515 Notifications.

* * * * *

(b) * * *

(8) Manufacturer's specification or analysis documenting the design residence time of no less than 0.8 seconds and design operating temperature of no less than 1,600 °F for each afterburner used to control emissions from a sweat furnace that is not subject to a performance test.

(9) The OM&M plan (including site-specific monitoring plan for each group 1 furnace with no add-on air pollution control device).

* * * * *

10. Section 63.1517 is amended by revising paragraphs (b)(11) and (b)(16)(ii) to read as follows:

§ 63.1517 Records.

* * * * *

(b) * * *

(11) For each in-line fluxer for which the owner or operator has certified that no reactive flux was used:

(i) Operating logs which establish that no source of reactive flux was present at the in-line fluxer;

(ii) Labels required pursuant to § 63.1506(b) which establish that no reactive flux may be used at the in-line fluxer; or

(iii) Operating logs which document each flux gas, agent, or material used during each operating cycle.

* * * * *

(16) * * *

(ii) OM&M plan; and

* * * * *

11. Table 2 to subpart RRR is amended under the entry for "Group 1

furnace with lime-injected fabric filter (including those that are part of a

secondary aluminum processing unit)" by revising in column 2 the entry

"Fabric filter inlet temperature" to read as follows:

TABLE 2 TO SUBPART RRR OF PART 63.—SUMMARY OF OPERATING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS

Affected source/emission unit	Monitor type/operation/process	Operating requirements
* * *	* * *	* * *
Group 1 furnace with lime-injected fabric filter (including those that are part of a secondary aluminum processing unit).	Fabric filter inlet temperature	Maintain average fabric filter inlet unit temperature for each 3-hour period at or below average temperature during the performance test +14 °C (+25 °F).
* * *	* * *	* * *

12. Table 3 to subpart RRR is amended by:

a. Under the entry for "Group 1 furnace with lime-injected fabric filter", revising in column 2 the entry "Reactive flux injection rate Weight measurement device accuracy of +1%^b; calibrate every 3 months; record weight and type of

reactive flux added or injected for each 15-minute block period while reactive fluxing occurs; calculate and record total reactive flux injection rate for each operating cycle or time period used in performance test; or Alternative flux injection rate determination procedure per § 63.1510(j)(5)."; and

b. Under the entry for "Group 1 furnace without add-on controls", adding an entry in the third column for the entry in the second column "Feed material (melting/holding furnace)".

The revisions read as follows:

TABLE 3 TO SUBPART RRR OF PART 63.—SUMMARY OF MONITORING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS

Affected source/emission unit	Monitor type/operation/process	Monitoring requirements
* * *	* * *	* * *
Group 1 furnace with lime-injected fabric filter	Reactive flux injection rate	Weight measurement device accuracy of ±1% ^b ; calibrate every 3 months; record weight and type of reactive flux added or injected for each 15-minute block period while reactive fluxing occurs; calculate and record total reactive flux injection rate for each operating cycle or time period used in performance test; or Alternative flux injection rate determination procedure per § 63.1510(j)(5).
Group 1 furnace without add-on controls	Feed material (melting/holding furnace).	Record type of permissible feed/charge material; certify charge materials every 6 months.
* * *	* * *	* * *

13. Appendix A to subpart RRR is amended by revising the entry for § 63.14 to read as follows:

APPENDIX A TO SUBPART RRR OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART RRR

Citation	Requirement	Applies to RRR	Comment
* * *	* * *	* * *	* * *
§ 63.14	Incorporation by reference.	Yes	Chapters 3 and 5 of ACGIH Industrial Ventilation Manual for capture/collection system; and Interim Procedures for Estimating Risk Associated with Exposure to Mixtures of Chlorinated Dibenzofurans (CDDs and CDFs) and 1989 Update (incorporated by reference in § 63.1502).

APPENDIX A TO SUBPART RRR—GENERAL PROVISIONS APPLICABILITY TO SUBPART RRR—Continued

Citation	Requirement	Applies to RRR	Comment
*	*	*	*
[FR Doc. 02–14627 Filed 6–13–02; 8:45 am]			
BILLING CODE 6560–50–P			
ENVIRONMENTAL PROTECTION AGENCY			
40 CFR Part 63			
[FRL–7225–7]			
RIN 2060–AE77			
National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production			
AGENCY: Environmental Protection Agency (EPA).			
ACTION: Proposed rule; amendments.			
SUMMARY: On March 23, 2000, the EPA issued national emission standards for hazardous air pollutants for secondary aluminum production under section 112 of the Clean Air Act (CAA). This proposal would amend the standards to clarify compliance dates and defer certain early compliance obligations. These amendments are proposed as part of settlement agreements with industry trade associations, including the Aluminum Association and the American Foundrymen's Society.		DATES: <i>Comments.</i> We must receive written comments on or before July 15, 2002, unless a hearing is requested by June 24, 2002. If a timely hearing request is submitted, we must receive written comments on or before July 29, 2002.	
In the Rules and Regulations section of to Federal Register , we are making these amendments in a direct final NESHAP without prior proposal because we view the revisions as noncontroversial and anticipate no adverse comments. We have explained our reasons for these revisions in the direct final rule. If we receive no significant adverse comments, we will take no further action on this proposed rule. If we receive significant adverse comments, we will withdraw only those provisions on which we received significant adverse comments. We will publish a timely withdrawal in the Federal Register indicating which provisions will become effective and which provisions are being withdrawn. If part or all of the direct final rule in the Rules and Regulations section of today's Federal Register is withdrawn, all comments pertaining to those provisions will be addressed in a subsequent final rule based on this proposed rule.		<i>Public Hearing.</i> If anyone contacts the EPA requesting to speak at a public hearing by June 24, 2002, a public hearing will be held on June 28, 2002.	
		ADDRESSES: <i>Comments.</i> By U.S. Postal Service, send comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket No. A–2002–05, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket No. A–2002–05, Room M–1500, U.S. EPA, 401 M Street, SW., Washington, DC 20460. We request a separate copy of each public comment be sent to the contact person listed below (see FOR FURTHER INFORMATION CONTACT).	
		<i>Public Hearing.</i> If a public hearing is held, it will be held at the EPA Office of Administration Auditorium, Research Triangle Park, North Carolina beginning at 10 a.m.	
		<i>Docket.</i> Docket No. A–2002–05 contains supporting information used in developing the amendments. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.	
		FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, U.S. EPA, Minerals and Inorganic Chemicals Group, Emission Standards Division (Mail Code C504–05), Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, telephone number (919) 541–0296, electronic mail address, schaefer.john@epa.gov .	
		SUPPLEMENTARY INFORMATION: <i>Comments.</i> Comments and data may be submitted by electronic mail (e-mail) to air-and-r-docket@epa.gov . Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and	
		will also be accepted on disks in WordPerfect® file format. All comments and data submitted in electronic form must note the docket number: A–2002–05. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.	
		Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Mr. Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Research Triangle Park, NC 27711, Attn: Mr. John Schaefer. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available without further notice to the public.	
		<i>Public Hearing.</i> Persons interested in attending the hearing or inquiring as to whether a hearing is to be held should notify Ms. Tanya Medley, U.S. EPA, Minerals and Inorganic Chemicals Branch (C504–05), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, telephone (919) 541–5422, at least 2 days in advance of the hearing. Persons interested in attending the public hearing should also call Ms. Tanya Medley to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed amendments.	
		<i>Docket.</i> The docket is an organized and complete file of the administrative record compiled by EPA in the development of these amendments. The docket is a dynamic file because information is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents	