approved plan to remove the State's part 61 National Emission Standards for Hazardous Air Pollutants regulations from the federally-approved SIP (and related update to the part 61 table).

EFFECTIVE DATE: The additions of 40 CFR 52.1820(c)(32) is withdrawn as of December 6, 2002.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Environmental Protection Agency, Region VIII, (303) 312–6449.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule located in the Rules and Regulations section of the October 7, 2002 **Federal Register** (67 FR 62432).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, and Vinyl chloride.

Accordingly, the addition of 40 CFR 52.1820(c)(32) is withdrawn as of December 6, 2002.

Dated: November 26, 2002.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. 02–30941 Filed 12–5–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7416–9]

RIN 2060–AJ57

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: The EPA is taking final action today on certain amendments to the national emission standards for the portland cement manufacturing industry, which were originally promulgated on June 14, 1999 under the authority of section 112 of the Clean Air Act (CAA). The amendments make improvements to the implementation of the emission standards, primarily in the areas of applicability, testing, and monitoring where issues and questions were raised since promulgation of the rule.

On April 5, 2002, the EPA promulgated amendments to the national emission standards for the portland cement manufacturing industry as a direct final rule with a parallel proposal. On July 2, 2002, we withdrew certain provisions in the direct final rule in order to assess adverse comments. This action promulgates the amendments previously withdrawn based on the parallel proposal published on April 5, 2002.

EFFECTIVE DATE: December 6, 2002.

ADDRESSES: Docket A–92–53, containing supporting information used in developing these amendments, is available for public inspection and copying between 8 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: U.S. EPA, Air and Radiation Docket and Information Center (6102T), 1301 Constitution Avenue, NW., Washington, DC 20460 in room B–108, or by calling (202) 260–7548. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Wood, P.E., Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5446, facsimile number (919) 541–5600, electronic mail address: *wood.joe@epa.gov*.

SUPPLEMENTARY INFORMATION:

Docket. The docket is an organized and complete file of all of the information considered by EPA in the development of these final rule amendments. The docket is a dynamic file because material 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 rules and their preambles, the contents of the docket will serve as the record in the case of judicial review. The docket number for this rulemaking is A–92–53.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: *http://www.epa.gov/ttn/oarpg.* The TTN at EPA's web site 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.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of these final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by February 4, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to these final rule amendments that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by these final rule amendments may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Regulated Entities. Entities potentially regulated by this action are those that manufacture portland cement. Regulated categories and entities include:

Category	NAICS	SIC	Examples of regulated entities
Industry	32731	3241	Owners or operators of portland cement manufacturing plants.
Tribal associations	32731	3241	Owners or operators of portland cement associations manufacturing plants.
Federal agencies	(1)	(1)	(1)

[1] None.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. To determine whether your facility, company, business organization, etc., is regulated by this action, you should carefully examine the applicability criteria in § 63.1340 of the rule. If you have 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 following outline is provided to aid in reading this preamble to these final rule amendments.

I. Background

On June 14, 1999 (64 FR 31898), we published the final rule entitled ''National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry'' (40 CFR part 63, subpart LLL). The American Portland Cement Alliance (APCA) petitioned the United States Court of Appeals for the District of Columbia Circuit for review of the final rule under section 307(b)(1) of the CAA. (See 42 U.S.C. 7607(b)(1).) The APCA and the EPA have agreed to the terms of a settlement agreement and its implementation.

Consistent with the settlement agreement, we promulgated amendments to the national emission standards for hazardous air pollutants (NESHAP) on April 5, 2002. We issued the amendments as a direct final rule (67 FR 16614) with a parallel proposal (67 FR 16625) which we would finalize in the event that we received any adverse comments on the direct final rule. The amendments made specific changes to the NESHAP, generally relating to applicability, performance testing, and monitoring.

We received a total of five comment letters on the direct final rule amendments. Three comment letters were from the APCA, one was from an individual cement company, and one was from a private citizen. These commenters mainly requested additional clarification of and corrections to the final rule amendments. In response to some of the comments we received, we published a notice containing corrections and clarifications of two issues arising from explanatory language in the preamble to the direct final rule amendments (67 FR 44766, July 5, 2002).

Two adverse comments on the direct final rule amendments were included in the industry comments, and we also received three adverse comments from the private citizen. Consequently, we withdrew those amendments for which adverse comments were received (67 FR 44371, July 2, 2002). The amendments withdrawn were §§ 63.1340(c), 63.1344(a)(3), 63.1349(e)(3), and 63.1350(a)(4)(v) through (vii), (c)(2)(i), (d)(2)(i), and (e). In the withdrawal document, we stated that the adverse comments would be addressed in a subsequent final rule based on the proposed rule published on April 5, 2002. The remaining amendments not withdrawn became effective July 5, 2002.

After full and careful consideration of the adverse comments, we are promulgating the proposed amendments with a few minor changes summarized as follows. In the amendment related to the exemption from monitoring totally enclosed conveying system transfer points (§ 63.1350(a)(4)(v) through (vii)), we now require that the enclosures for these transfer points be operated and maintained as total enclosures on a continuing basis, as part of the source's operations and maintenance plan. In the amendments related to the daily monitoring of certain affected sources (§ 63.1350(c)(2)(i), (d)(2)(i), and (e)), we are dropping the requirement that the monitoring be conducted in accordance with § 63.7(e).

II. Response to Comments

A. Applicability of Rule to Crushers Following Raw Material Storage

Comment: The proposed amendment to § 63.1340(c) would clarify that primary and secondary crushers are not subject to the rule regardless of their location in the production line relative to raw material storage. One commenter argued that it is inappropriate to exempt crushers because the final rule explicitly qualified the applicability of the rule to crushers that follow raw material storage. Further, the commenter stated that if the present emission limit does not represent maximum achievable control technology (MACT), EPA must use available data to set a standard for crushers, or absent this, the promulgated standard should not be altered. The commenter stated that the new source performance standard (NSPS) applicability is irrelevant because it may not represent MACT, and not all sources are subject to the NSPS.

Response: As discussed in the preamble to the proposed rule (63 FR 14194, March 24, 1998), the final rule (64 FR 31900, June 14, 1999), and the direct final rule amendments that we withdrew (67 FR 16615, April 5, 2002), we never intended for the rule to cover crushers (whether located before or after raw material storage). The phrase ''which precedes the raw material storage'' was included inadvertently. While most crushers are located before raw material storage, a few may be located after raw material storage. Instead of clarifying that crushers are not covered by the rule, the existing rule language erroneously implies that crushers following raw material could be subject to the rule. Crushers are not included in this source category and it has never been our intent to include them in the rule. Further, we disagree that the applicability of the NSPS for the portland cement manufacturing industry (40 CFR 60, subpart F) is irrelevant. Although we have some discretion in defining the affected sources covered under a rule, we typically try to maintain consistency with previous regulatory history. See CAA section 112(c)(1), which states that EPA should endeavor in the MACT source listing process to be as consistent as possible with the categorization and subcategorization scheme used for issuing NSPS; in this case, EPA is acting consistently with the source category definition used for establishing NSPS. We are, therefore, amending the final rule as we proposed to clarify that primary and secondary crushers are not covered by the final rule regardless of

their location relative to raw material storage.

As to the comments regarding the emission limit and MACT for crushers under this rule, since crushers are not affected sources, there is no emission limit that applies to crushers.

B. Operating Limits for Kilns and In-Line Kiln/Raw Mills With Alkali Bypasses

Comment: Section 63.1344 of the final rule establishes operating limits for kilns and in-line kiln/raw mills. Paragraph (a)(3) of that section pertains to the operating temperature limit of an in-line kiln/raw mill equipped with an alkali bypass. The proposed amendment to § 63.1344(a)(3) would clarify that the operating limit for gas stream temperature at the inlet to the alkali bypass particulate matter (PM) control device may be established during a performance test either with or without the raw mill being in operation. One commenter objected to this amendment because EPA did not provide test data to support the assumption that the raw mill status does not affect alkali bypass emissions.

Response: The EPA does not believe that data are needed to support the Agency's view that the raw mill operating status does not affect the alkali bypass gas emissions, because the portion of the exhaust gas sent through the alkali bypass is directed there before the remaining exhaust gas reaches the raw mill. Thus, the raw mill operating status has no effect on levels of dioxin/furan (D/F; the HAP of concern for this emission point) in the gas stream. In contrast, we believe that the raw mill operational status could affect D/F emission levels in the main exhaust gas stream because, unlike alkali bypass emissions, this gas stream does pass through the raw mill. The rule accounts for these potential emissions. See paragraphs (1) and (2) of § 63.1344(a). But there is no reason to think the alkali bypass emissions would be affected by the raw mill operational status, since, as explained, these emissions do not pass through the raw mill. The amendment, thus, appropriately provides additional flexibility to the facility by allowing the test for D/F emissions from the alkali bypass to be conducted whether or not the raw mill is operating.

C. Performance Test Requirements When Operating Conditions Change

Comment: Paragraphs (1) and (2) of § 63.1349(e) require a new performance test if a plant anticipates making a significant operational change that may adversely affect compliance with an applicable D/F or PM emission limitation. We proposed to add new paragraphs (e)(3)(i) through (iv) allowing a source to operate under the planned operational change conditions for a period not to exceed 360 hours, provided that certain conditions are met. Two industry representatives support the proposed amendment but object to one of the four conditions that would be required—conducting and completing the test within the 360-hour period. The commenters argue that the test requirement should not be automatic because the operator may determine (after operating for 360 hours) that the operational change is not appropriate. They stated that portland cement plants should be allowed to file a notification stating that the operational change will not be implemented.

Response: The additional time allowed under the amendments allows the operator to fine-tune process operations under the new conditions (*e.g.*, a PM control device inlet temperature higher than the current temperature operating limit) and to conduct the test(s). One purpose of requiring that the performance test be conducted is to avoid sources claiming a waiver from their temperature operating limit under the guise of an operational change that they never intend to implement. Without the performance test requirement, a loophole is created whereby sources could take advantage of the 360 hours we give them to operate at a temperature higher than their operating limit any number of times without demonstrating compliance. Additionally, the change suggested by the commenters is outside the scope of what was agreed to under the terms of the settlement agreement. For these reasons, we have decided to promulgate the amendment as proposed, without the change recommended by the commenters.

D. Conveying System Transfer Points

Comment: Section 63.1350(a) of the existing rule establishes informational requirements for the operation and maintenance (O&M) plan. Paragraph (a)(4) of this section deals with procedures for visible emissions monitoring. The proposed amendments would add new paragraphs (a)(4)(v) through (vii) that exempt conveying system transfer points from visible emission monitoring if the transfer points are totally enclosed. One commenter stated that the proposed monitoring exemption must include specific criteria and methods to establish permanent total enclosure status.

Response: As stated in the preamble to the proposed amendments and in background language of the settlement agreement (but not in the rule text), ''the enclosures for these transfer points shall be operated and maintained as total enclosures on a continuing basis in accordance with the facility operations and maintenance plan.'' We agree with the commenter, and because this issue is already discussed in the settlement agreement, we have added this statement to the rule text.

E. Visible Emission Monitoring At Highest Load or Capacity

Comment: Paragraphs (c)(2)(i), (d)(2)(i), and (e) of § 63.1350 of the existing rule require daily visible emission observations for certain affected sources when the emission unit is operating at the highest load or capacity level reasonably expected to occur. The proposed amendments would revise these paragraphs to require that performance tests be conducted under representative conditions in accordance with § 63.7(e). Two industry representatives believe the reference to § 63.7(e) is inappropriate and should be removed.

Response: We agree that the reference to § 63.7(e) is inappropriate because it pertains to performance tests, not monitoring requirements. We have removed the phase ''in accordance with § 63.7(e)'' from the final rule amendments.

III. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 5173, 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 standards 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 these final rule amendments do not constitute a ''significant regulatory action'' because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

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.''

These final rule amendments do not have federalism implications. They 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, because State and local governments do not own or operate any sources that would be subject to the amendments. Thus, Executive Order 13132 does not apply to these final 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.'' These final rule amendments do not have tribal implications, as specified in Executive Order 13175, because they will not have any substantial direct effects on an Indian tribe, the relationship between the Federal Government and an Indian tribe, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Thus, Executive Order 13175 does not apply to these final rule amendments.

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

Executive Order 13045 (63 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. These final rule amendments are not subject to Executive Order 13045 because they are not an economically significant regulatory action as defined by Executive Order 12866, and because they are based on technology performance and not on health or safety risks.

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

These final rule amendments are not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

F. 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 to State, local, and tribal governments, in the aggregate, or to 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 final rule amendments do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in aggregate, or the private sector in any 1 year, nor do the amendments significantly or uniquely impact small governments, because they contain no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to these amendments.

G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 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 organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A portland cement manufacturing company with less 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; and (3)

a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the proposed rule on small entities.'' 5 U.S.C. Sections 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive effect on the small entities subject to the rule. The amendments in today's rule make improvements to the emission standards, primarily by clarifying issues in the areas of applicability, testing, and monitoring. We have, therefore, concluded that today's final rule amendments will have no adverse impacts on any small entities and may relieve burden in some cases.

Although the final rule amendments will not have a significant economic impact on a substantial number of small entities, we worked with the portland cement industry, including small entities, throughout the rulemaking process. Meetings were held on a regular basis with industry representatives in connection with the settlement agreement to discuss the development of the final rule, exchange information, and solicit comments on final rule requirements.

H. Paperwork Reduction Act

The information collection requirements in the existing rule were submitted to and approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned OMB control No. 2060–0416. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 1801.02) and a copy may be obtained from Susan Auby by mail at Office of Environmental Information, Collection Strategies Division (2822T), U.S. EPA, 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 from the Internet at *http://www.epa.gov/icr*.

Today's action makes clarifying changes to the existing rule and imposes no new information collection requirements on industry. Because only clarifying changes are being made, there is no additional burden on industry as a result of these final rule amendments and the ICR has not been revised.

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.

I. National Technology Transfer and Advancement Act of 1995

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 impractical. Voluntary consensus standards are technical standards (such as materials specifications, test methods, sampling procedures, business practices) developed or adopted by voluntary consensus standards 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.

Because today's action contains no new test methods, sampling procedures or other technical standards, there is no need to consider the availability of voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. These final rule amendments are not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

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

Dated: November 26, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter 1, part 63 of the Code of 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.*

Subpart LLL—[Amended]

2. Section 63.1340 is amended by revising paragraph (c) to read as follows:

§ 63.1340 Applicability and designation of affected sources.

* * * * *

(c) For portland cement plants with on-site nonmetallic mineral processing facilities, the first affected source in the sequence of materials handling operations subject to this subpart is the raw material storage, which is just prior to the raw mill. Any equipment of the on-site nonmetallic mineral processing plant which precedes the raw material storage is not subject to this subpart. In addition, the primary and secondary crushers of the on-site nonmetallic mineral processing plant, regardless of whether they precede the raw material storage, are not subject to this subpart. Furthermore, the first conveyor transfer point subject to this subpart is the transfer point associated with the conveyor transferring material from the raw material storage to the raw mill.

* * * * *

3. Section 63.1344 is amended by revising paragraph (a)(3) to read as follows:

§ 63.1344 Operating limits for kilns and in-line kiln/raw mills.

(a) * * *

(3) If the in-line kiln/raw mill is equipped with an alkali bypass, the applicable temperature limit for the alkali bypass specified in paragraph (b) of this section and established during the performance test, with or without the raw mill operating, is not exceeded.

* * * * * *

4. Section 63.1349 is amended by adding new paragraph (e)(3) to read as follows:

§ 63.1349 Performance testing requirements.

* * * * * *

(e) * * *

(3) In preparation for and while conducting a performance test required in paragraph (e)(1) of this section, a source may operate under the planned operational change conditions for a period not to exceed 360 hours, provided that the conditions in paragraphs (e)(3)(i) through (iv) of this section are met. The source shall submit temperature and other monitoring data that are recorded during the pretest operations.

(i) The source must provide the Administrator written notice at least 60 days prior to undertaking an operational change that may adversely affect compliance with an applicable standard under this subpart, or as soon as practicable where 60 days advance notice is not feasible. Notice provided under this paragraph shall include a description of the planned change, the emissions standards that may be affected by the change, and a schedule for completion of the performance test required under paragraph (e)(1) of this section, including when the planned operational change period would begin.

(ii) The performance test results must be documented in a test report according to paragraph (a) of this section.

(iii) A test plan must be made available to the Administrator prior to testing, if requested.

(iv) The performance test must be conducted, and it must be completed within 360 hours after the planned operational change period begins.

* * * * * *

5. Section 63.1350 is amended by:

a. Adding paragraphs (a)(4)(v) through (vii);

b. Revising paragraph (c)(2)(i);

c. Revising paragraph (d)(2)(i); and

d. Revising paragraph (e) introductory text.

The revisions and additions read as follows:

§ 63.1350 Monitoring requirements.

(a) * * *

(4) * * *

(v) The requirement to conduct Method 22 visible emissions monitoring under this paragraph shall not apply to any totally enclosed conveying system transfer point, regardless of the location of the transfer point. ''Totally enclosed conveying system transfer point'' shall mean a conveying system transfer point that is enclosed on all sides, top, and bottom. The enclosures for these transfer points shall be operated and maintained as total enclosures on a continuing basis in accordance with the facility operations and maintenance plan.

(vi) If any partially enclosed or unenclosed conveying system transfer point is located in a building, the owner or operator of the portland cement plant shall have the option to conduct a Method 22 visible emissions monitoring test according to the requirements of paragraphs (a)(4)(i) through (iv) of this section for each such conveying system transfer point located within the building, or for the building itself, according to paragraph (a)(4)(vii) of this section.

(vii) If visible emissions from a building are monitored, the requirements of paragraphs (a)(4)(i) through (iv) of this section apply to the monitoring of the building, and you must also test visible emissions from each side, roof and vent of the building for at least 1 minute. The test must be conducted under normal operating conditions.

* * * * * *

(c) * * *

(2) * * *

(i) Perform daily visual opacity observations of each stack in accordance with the procedures of Method 9 of appendix A to part 60 of this chapter. The Method 9 test shall be conducted while the affected source is operating at the representative performance conditions. The duration of the Method 9 test shall be at least 30 minutes each day.

* * * * * *

(d) * * *

(2) * * *

(i) Perform daily visual opacity observations of each stack in accordance with the procedures of Method 9 of appendix A to part 60 of this chapter. The Method 9 test shall be conducted while the affected source is operating at the representative performance conditions. The duration of the Method 9 test shall be at least 30 minutes each day.

* * * * * *

(e) The owner or operator of a raw mill or finish mill shall monitor opacity by conducting daily visual emissions observations of the mill sweep and air separator PMCD of these affected sources in accordance with the procedures of Method 22 of appendix A to part 60 of this chapter. The Method 22 test shall be conducted while the affected source is operating at the representative performance conditions. The duration of the Method 22 test shall be 6 minutes. If visible emissions are observed during any Method 22 visible emissions test, the owner or operator must:

* * * * * *

[FR Doc. 02–30844 Filed 12–5–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0237; FRL–7274–8]

Cyromazine; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of cyromazine in or on bean, dry at 3.0 parts per million (ppm). The Interregional Research Project Number 4 (IR-4), requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation is effective December 6, 2002. Objections and requests for hearings, identified by docket ID number OPP–2002–0237, must be received on or before February 4, 2003.

ADDRESSES: Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW.,Washington, DC 20460–0001; telephone number: (703) 305–7610; e-mail address: *jackson.sidney@epa.gov@epa.gov*.

SUPPLEMENTARY INFORMATION: