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Dated: November 25, 2008.

James Scott Sledge,

Chief Copyright Royalty Judge.

[FR Doc. E8-28466 Filed 11-28-08; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2004-0083; FRL-8747-1]

RIN 2060-AM71

Amendments to National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to amend the national emission standards for electric arc furnace (EAF) steelmaking facilities that are area sources of hazardous air pollutants published on December 28, 2007. The amendments to the area source standards for EAF steelmaking facilities clarify applicability of the opacity limit, make the performance test requirements for particulate matter consistent with requirements in the new source performance standards for EAF steelmaking facilities, allow title V test data to be used to demonstrate compliance, and revise the definition of “scrap provider” to include EAF steelmaking facilities that own and operate a scrap shredder.

DATES: This final rule is effective on March 2, 2009 without further notice, unless EPA receives significant adverse comment by December 31, 2008. If the effective date is delayed, timely notice will be published in the **Federal Register**. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that some or all of the amendments in this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2004-0083 by one of the following methods:

- *http://www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *E-mail*: a-and-r-docket@epa.gov.
- *Fax*: (202) 566-9744.
- *Mail*: National Emission Standards for Hazardous Air Pollutants for Area

Sources: Electric Arc Furnace Steelmaking Facilities Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.

- *Hand Delivery*: EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-HQ-OAR-2004-0083. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the National Emission Standards for

Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mulrine, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-5289; fax number: (919) 541-3207; e-mail address: mulrine.phil@epa.gov.

SUPPLEMENTARY INFORMATION:

The information presented in this preamble is organized as follows:

- I. Why is EPA using a direct final rule?
- II. Does this action apply to me?
- III. Where can I get a copy of this document?
- IV. What should I consider as I prepare my comments to EPA?
- V. What are the changes to the area source NESHAP for EAF steelmaking facilities?
 - A. Melt Shop Opacity Limit
 - B. Particulate Matter Performance Test Requirements
 - C. Certifying Initial Compliance Based on Previous Tests
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 - A. Executive Order 12866: Regulatory Planning and Review
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 - C. Regulatory Flexibility Act
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 - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
 - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer Advancement Act
 - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
 - K. Congressional Review Act

I. Why is EPA using a direct final rule?

EPA is publishing this final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no significant adverse comment. These amendments to the national emission standards for hazardous air pollutants (NESHAP) EAF steelmaking facilities that are area sources (40 CFR part 63, subpart

YYYYY) consist of technical corrections and clarifications that do not make material changes to the rule's requirements. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to amend the area source standards if EPA receives significant adverse comments on this final rule. We

will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on the rule, see the **ADDRESSES** section of this document. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the amendments or certain

amendments in this final rule will not take effect. We would address all comments in any subsequent final rule based on the proposed rule.

II. Does this action apply to me?

The regulated categories and entities potentially affected by the final rule include:

Category	NAICS code ¹	Examples of regulated entities
Industry	331111	Steel mills with electric arc furnace steelmaking facilities that are area sources.

¹ North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 63.10680 of subpart YYYYY (National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

III. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

IV. What should I consider as I prepare my comments to EPA?

Do not submit information containing CBI to EPA through <http://www.regulations.gov> or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2004-0083. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the

outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

V. What are the changes to the area source NESHAP for EAF steelmaking facilities?

On December 28, 2007 (72 FR 74088), we issued the NESHAP for Area Sources: Electric Arc Furnace Steelmaking Facilities (40 CFR part 63, subpart YYYYY). The final rule establishes air emission control requirements for new and existing facilities that are area sources of hazardous air pollutants. The final standards include emission limits for particulate matter (PM)(a surrogate for specific metal hazardous air pollutants) reflecting performance of generally available control technology (GACT), and pollution prevention standards for the control of mercury emissions reflecting performance of the maximum achievable control technology.

A. Melt Shop Opacity Limit

This final rule makes a technical clarification to the melt house opacity limit in paragraph (b)(2) of 40 CFR 63.10686 (What are the requirements for electric arc furnaces and argon-oxygen decarburization vessels?). The promulgated rule prohibits the discharge from an EAF or argon-oxygen decarburization (AOD) vessel of any gases which "exit from a melt shop and, due *solely* (emphasis added) to the operations of any affected EAF(s) or AOD vessel(s), exhibit 6 percent opacity or greater." This final rule amends that

language by removing the word "solely" from the text of the emissions limit. We are making this change because, in a few cases, fugitive emissions from other sources may be unavoidably commingled with the emissions from EAF(s) and AOD vessel(s). In those cases, the only practical way to determine compliance with the opacity limit is to observe the opacity of the combined emissions. On the other hand, if intermittent emissions from another source occasionally commingle with the fugitive emissions from the affected EAF(s) or AOD vessel(s) (such as emissions from point or fugitive sources that operate intermittently), the opacity determination must be made when the other sources are not interfering with the observations. The owner or operator has an incentive to make opacity observations when the emissions are not commingled because the additional emissions would result in higher opacity readings.

We are making a similar change to paragraph (d)(2) of 40 CFR 63.10686 (What are the requirements for electric arc furnaces and argon-oxygen decarburization vessels?), which establishes requirements for demonstrating initial compliance by means of an opacity performance test. In the promulgated rule, the first sentence of paragraph (d)(2) specifies the test methods to be used and the second sentence pertains to combined emissions from sources not subject to subpart YYYYY. The second sentence of paragraph (d)(2) states that "When emissions from any EAF or AOD vessel are combined with emissions from emission sources not subject to this subpart, you must demonstrate compliance with the melt shop opacity limit based *only* (emphasis added) on emissions from the emission sources subject to this subpart." This final rule removes the word "only" from the second sentence. We are making this correction for the same reasons just

discussed for removing the word “solely.”

B. Particulate Matter Performance Test Requirements

Paragraph (d) of 40 CFR 63.10686 (What are the requirements for electric arc furnaces and argon-oxygen decarburization vessels?) establishes requirements for demonstrating initial compliance by means of a PM performance test. Paragraph (d)(1)(v) of this section specifies the test method to be used, the number of test runs that comprise a test, and the sampling time for each test run. The promulgated rule requires the facility to sample EAFs only when metal is being melted and refined and to sample AOD vessels only when the operation(s) are being conducted. This final rule changes the EAF requirements to require either that: (1) The sampling time and volume for each run meet the requirement in 40 CFR 60.275a (the new source performance standard (NSPS)), or (2) each run consist of at least one heat cycle (i.e., a test run must include charging, melting and tapping operations). This change reflects EPA's actual intent in promulgating the December 2007 rule. Our intent there was to be consistent with the NSPS for EAFs and to require that sampling be performed over the entire heat cycle, not just during melting. See 72 FR 53826 where we explained that the NSPS PM limit was GACT, so that one could reasonably infer that the emission limit would be implemented as required in the NSPS. If the rule is left uncorrected, sampling would not have to be performed during charging and tapping, both of which generate emissions; consequently, sampling only when melting would not be representative of the complete EAF production cycle.

Paragraph (d)(4) of 40 CFR 63.10686 states the Administrator must approve procedures that will be used to determine compliance when emissions are combined with those from facilities not subject to this subpart. We are clarifying that these and other site-specific factors for a few facilities with a complex configuration of facilities controlled by a common emission control system must receive the Administrator's approval of procedures to determine compliance, including cases in which emissions are combined from multiple facilities subject to this subpart and when combined from multiple facilities that include both those subject and not subject to the subpart.

C. Certifying Initial Compliance Based on Previous Tests

Paragraph (d)(6) of 40 CFR 63.10686 (What are the requirements for electric arc furnaces and argon-oxygen decarburization vessels?) allows the owner or operator to use a previous performance test for an emissions source to demonstrate initial compliance for that emissions source provided the tests meet the rule's requirements: (1) The previous test must have been conducted within 5 years of the compliance date of the current rule using the procedures in paragraphs (d)(1) and (2) of § 63.10686, (2) the previous test was for that facility, and (3) the previous test was representative of current or anticipated operating processes and conditions. The rule also includes provisions in paragraph (d)(2) for conducting a new test if the permitting authority finds that the previous test is unacceptable.

This final rule makes three changes to the provisions governing the use of a previous performance test as the basis for certifying initial compliance. The first change allows the use of a previous test conducted for compliance certification according to the facility's title V permit if the test was conducted within 5 years of the compliance date for the current rule. This change is consistent with our intent to allow the use of a valid previous performance test, such as a test conducted for compliance certification in the facility's title V permit, if the test was conducted within 5 years of the compliance date. The second change is the addition of a provision which states that, if results of a previous performance test are utilized, the previous performance tests for PM emissions and melt shop opacity are not required to have been conducted simultaneously. We are making this change to prevent the unnecessary burden of requiring a new PM performance test simply because opacity observations were not made during the previous PM performance test. The opacity of fugitive emissions and the PM emission control performance can be measured separately to determine compliance. The third change is the addition of new paragraph (d)(7) which allows use of the baseline parametric monitoring information collected during a prior performance test to meet the requirements in 40 CFR 60.275a(f) if the information was collected under conditions that are representative of current or anticipated operating conditions. Documentation of representative conditions would be provided in the test report for the prior performance test and in company

records of the EAF steel production rate during the test. This clarification also reduces the unnecessary burden of requiring a new performance test just to collect operating data to establish baseline parameters (e.g., fan motor amperes or volumetric flow rate) when these parameters have already been established during previous valid performance tests.

D. Definition of “Scrap Provider”

Section 63.10692 of the current rule (What definitions apply to this subpart?) defines a “scrap provider” (a term used in the pollution prevention standards for mercury) as “the person (including a broker) who contracts directly with a steel mill to provide scrap that contains motor vehicle scrap. Scrap processors such as shredder operators or vehicle dismantlers that do not sell scrap directly to a steel mill are not *scrap providers*.” This final rule adds a sentence to include within the definition EAF steel making facilities that own and operate a scrap shredder. Under this final rule, a scrap provider is:

* * * the person (including a broker) who contracts directly with a steel mill to provide scrap that contains motor vehicle scrap. The owner or operator of an EAF steelmaking facility that also owns and operates a scrap shredder is a scrap provider for motor vehicle scrap that is processed in that shredder and supplied to the EAF steelmaking facility. Scrap processors such as shredder operators or vehicle dismantlers that do not sell scrap directly to a steel mill are not scrap providers.

This change is necessary because the previous definition did not address the possibility that EAF steelmaking facilities that operate their own onsite scrap shredders also can be scrap providers. There are a few instances where this occurs.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. These final amendments clarify applicability of the opacity limit, make the performance test requirements for particulate matter consistent with requirements in the new source performance standards for electric arc

furnace steelmaking facilities, allow title V test data to be used to demonstrate compliance, and revise the definition of "scrap provider" to include electric arc furnace steelmaking facilities that own and operate a scrap shredder. No new burden is associated with these requirements because the burden was included in the approved information request (ICR) for the existing rule. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR part 63 subpart YYYYY) under the provisions of the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0608. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 would 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 the purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses at 13 CFR 121.201 (whose parent company has fewer than 1,000 employees for NAICS code 331111); (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 this final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. We have determined that the nine small entities in this area source category will not incur any adverse impacts because this action makes only technical corrections and clarifications that increase flexibility and does not create any new requirements or burdens. No costs are associated with these amendments to the NESHAP.

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. The term "enforceable duty" does not include duties and conditions in voluntary Federal contracts for goods and services. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The technical corrections and clarifications made through this action contain no requirements that apply to such governments, impose no obligations upon them, and will not result in any expenditures by them or any disproportionate impacts on them.

E. Executive Order 13132: Federalism

Executive Order 13132 (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" are 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."

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. The final rule makes certain technical corrections and clarifications to the NESHAP for EAF steelmaking area sources. These final corrections and clarifications do not impose requirements on State and local governments. Thus, Executive Order 13132 does not apply to the final rule.

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

This final action does not have tribal implications, as specified in Executive

Order 13175 (65 FR 67249, November 6, 2000). This final rule makes certain technical corrections and clarifications to the NESHAP for EAF steelmaking area sources. These final corrections and clarifications do not impose requirements on tribal governments. They also have no 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. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern 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 action is not subject to Executive Order 13045 because it makes technical corrections and clarifications to the area source NESHAP for EAF steelmaking facilities which is based solely on technology performance.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113, section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when the Agency does not use available and applicable VCS.

This final rule does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The technical corrections and clarifications in this final rule do not change the level of control required by the NESHAP.

K. 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 Congress and to the Comptroller General of the United States. EPA will submit a report containing these final rule amendments and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rule amendments in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This final rule will be effective on March 2, 2009.

List of Subjects in 40 CFR Part 63

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

Dated: November 24, 2008.

Stephen L. Johnson,
Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, 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 YYYYY—[Amended]

■ 2. Section 63.10686 is amended by:

- a. Revising paragraph (b)(2);
- b. Revising paragraph (d)(1)(v);
- c. Revising the second sentence in paragraph (d)(2);
- d. Revising paragraph (d)(4);
- e. Revising paragraph (d)(6); and
- f. Adding paragraph (d)(7) to read as follows:

§ 63.10686 What are the requirements for electric arc furnaces and argon-oxygen decarburization vessels?

* * * * *

(b) * * *

(2) Exit from a melt shop and, due to the operations of any affected EAF(s) or AOD vessel(s), exhibit 6 percent opacity or greater.

* * * * *

(d) * * *

(1) * * *

(v) Method 5 or 5D of appendix A-3 of 40 CFR part 60 to determine the PM concentration. Three valid test runs are needed to comprise a PM performance test. For EAF, you must either meet the requirements in 40 CFR 60.275a for the sampling time and volume for each run, or each run must consist of at least one heat cycle as defined in 40 CFR 60.271a (i.e., a test run must include charging, melting and tapping operations). For AOD vessels, sample only during the heat cycle.

(2) * * * When emissions from any EAF or AOD vessel are combined with emissions from emission sources not subject to this subpart, you must demonstrate compliance with the melt shop opacity limit based on emissions from the emission sources subject to this subpart.

* * * * *

(4) You must notify and receive approval from the Administrator for procedures that will be used to determine compliance for an EAF or AOD vessel when emissions are combined with those from facilities not subject to this subpart, combined with those from multiple facilities subject to this subpart, or both.

* * * * *

(6) If you own or operate an existing affected source that is subject to the emissions limits in paragraph (b) or (c) of this section, you may certify initial compliance with the applicable emission limit for one or more emissions sources based on the results

of a previous performance test for that emissions source in lieu of the requirement for an initial performance test provided that the test(s) were conducted within 5 years of the compliance date; the test(s) were conducted using the methods and procedures specified in paragraph (d)(1) or (2) of this section or were conducted as specified for compliance certification testing in the facility's title V permit; the test(s) were for the affected facility; and the test(s) were representative of current or anticipated operating processes and conditions. The previous performance tests for PM emissions and melt shop opacity are not required to have been conducted simultaneously. Should the permitting authority deem the prior test data unacceptable to demonstrate compliance with an applicable emissions limit, the owner or operator must conduct an initial performance test within 180 days of the compliance date or within 90 days of receipt of the notification of disapproval of the prior test, whichever is later.

(7) You may use information collected during a prior performance test to meet the parametric monitoring requirements in 40 CFR 60.275a(f) if the information was collected under conditions that are representative of current or anticipated operating conditions.

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■ 3. Section 63.10692 is amended by revising the definition of "Scrap provider" to read as follows:

§ 63.10692 What definitions apply to this subpart?

* * * * *

Scrap provider means the person (including a broker) who contracts directly with a steel mill to provide scrap that contains motor vehicle scrap. The owner or operator of an EAF steelmaking facility that also owns and operates a scrap shredder is a scrap provider for motor vehicle scrap that is processed in that shredder and supplied to the EAF steelmaking facility. Scrap processors such as shredder operators or vehicle dismantlers that do not sell scrap directly to a steel mill are not *scrap providers*.

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[FR Doc. E8-28455 Filed 11-28-08; 8:45 am]

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