

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[FRL-7406-6]

RIN 2060-AE78

**National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule; correction of effective date.

**SUMMARY:** On September 24, 2002, EPA promulgated final rule amendments to the national emission standards for hazardous air pollutants for secondary aluminum production at 65 FR 59787. Due to errors in the composition of the notice, an incorrect effective date of November 25, 2002 was published. However, under Clean Air Act (CAA) section 112(d)(10), the final rule amendments published on September 24, 2002 were legally effective upon promulgation, and the correct effective date for those amendments was September 24, 2002. This document corrects the erroneous effective date.

**EFFECTIVE DATE:** November 8, 2002.

**ADDRESSES:** Docket A-2002-06, containing supporting information used in developing the final rule to which this correction notice refers, is available for public inspection and copying between 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding Federal holidays, at the following address: U.S. EPA, Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Schaefer, U.S. EPA, Minerals and Inorganic Chemicals Group (C504-05), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541-0296, facsimile number (919) 541-5600, electronic mail address: [schaefer.john@epa.gov](mailto:schaefer.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** *Docket.* The docket is an organized and complete file of the administrative record compiled by EPA in the development of the final rule to which this correction document refers. 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. Other material related to this rulemaking is 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 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.

*Regulated Entities.* Regulated categories and entities are secondary aluminum production facilities and include:

Category	NAICS code	SIC code	Examples of regulated entities
Industry .....	331314	3341	Secondary smelting and alloying of aluminum facilities. Secondary aluminum production facility affected sources that are collocated at:
	331312	3334	Primary aluminum production facilities.
	331315	3353	Aluminum sheet, plate, and foil manufacturing facilities.
	331316	3354	Aluminum extruded product manufacturing facilities.
	331319	3355	Other aluminum rolling and drawing facilities.
	331521	3363	Aluminum die casting facilities.
	331524	3365	Aluminum foundry facilities.
State/local/tribal governments .....	.....	.....	Not affected.
Federal government .....	.....	.....	Not affected.

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 Agency is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in § 63.1500 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. **SUPPLEMENTARY INFORMATION:** We promulgated final rule amendments to

the national emission standards for hazardous air pollutants for secondary aluminum production, 40 CFR part 63, subpart RRR, on September 24, 2002 at 65 FR 59787. However, due to errors in the composition of the those amendments, an incorrect effective date of November 25, 2002 was published in two places. Under CAA section 112(d)(10), those amendments became legally effective on the date of promulgation—September 24, 2002. Today's document corrects the effective date of those amendments.

In the **EFFECTIVE DATE** section of the published document, the date was published as November 25, 2002. The correct effective date is September 24, 2002. We also incorrectly identified the

effective date in the *Congressional Review Act* section of the final rule. The correct language for that section should have read as follows:

“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**. A major rule cannot take effect until

60 days after it is published in the **Federal Register**. These final rule amendments are not a "major rule" as defined by 5 U.S.C. 804(2). These amendments will be effective on September 24, 2002."

We are taking this action to correct the erroneous effective date in the September 24, 2002 notice in part because the rule as it existed prior to the amendments might have been construed to impose certain compliance obligations on affected sources prior to November 25, 2002. Since one of the stated purposes of the amendments was to eliminate confusion concerning these same compliance obligations, failure to correct the erroneous effective date would frustrate this purpose. We do not believe that any affected source will be adversely impacted by correction of the effective date.

#### Administrative Requirements

##### *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 this correction notice does not constitute a "significant regulatory action" because it does not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

#### List of Subjects in 40 CFR Part 63

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

Dated: November 4, 2002.

**Jeffrey R. Holmstead,**

*Assistant Administrator for Air and Radiation.*

[FR Doc. 02-28501 Filed 11-7-02; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 131

[FRL-7406-1]

### Withdrawal of Federal Human Health and Aquatic Life Water Quality Criteria for Toxic Pollutants Applicable to Michigan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to amend the Federal regulations to withdraw water quality criteria applicable to Michigan. In 1992, EPA promulgated Federal regulations establishing water quality criteria for priority toxic pollutants for 12 States and two territories, including Michigan, that had not fully complied with Clean Water Act (CWA); these regulations are known as the "National Toxics Rule" or "NTR". Thereafter, EPA published regulations pursuant to section 118 of the CWA to establish consistent enforceable protections for the Great Lakes system (Water Quality Guidance for the Great Lakes System). In compliance with the Water Quality Guidance for the Great Lakes System, Michigan adopted water quality standards on July 29, 1997, which included numeric water quality criteria and methodologies for deriving numeric criteria for the same priority toxic pollutants included in the NTR. EPA approved these standards on August 4, 2000. Since Michigan now has criteria, effective under the CWA, for the same priority toxic pollutants in the NTR, EPA has determined that the Federally promulgated criteria are no longer needed. In this direct final rule, EPA is withdrawing Michigan from the NTR without prior proposal because EPA views this action as noncontroversial and does not anticipate adverse comment.

**DATES:** This rule is effective on February 6, 2003 without further notice, unless EPA receives adverse comment by December 9, 2002. If EPA receives such comment, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that this rule will not take effect.

Comments postmarked after this date may not be considered.

**ADDRESSES:** Please send an original and three copies of comments and enclosures (including references) to W-01-15, WQCR Comment Clerk; Water Docket, U.S. EPA, 1200 Pennsylvania Ave NW, MC-4101T, Washington, DC 20460. Alternatively, comments may be submitted electronically in ASCII or Word Perfect 5.1, 5.2, 6.1, or 8.0 formats avoiding the use of special characters and any form of encryption to *OW-Docket@epa.gov*. Identify electronic comments by the docket number W-01-15. Submit hand delivered comments to W-01-15, EPA's Water Docket, U.S. EPA, EPA West, 1301 Constitution Ave NW, Room B135, Washington DC 20460. No facsimiles (faxes) will be accepted. Comments will be available at the Water Docket, 202-566-2426, Monday through Friday, excluding legal holidays, during normal business hours of 8:30 a.m. to 4:30 p.m.

The supporting record for this rulemaking may be inspected at EPA Region 5, Office of Water, 77 West Jackson Boulevard, 16th Floor, Chicago, IL 60604-3507, Monday through Friday, excluding legal holidays, during normal business hours of 9 a.m. to 5 p.m.. Please contact Dave Pfeifer, as listed in the **FOR FURTHER INFORMATION CONTACT** section, before arriving.

A copy of Michigan's water quality standards may be obtained electronically from EPA's Water Quality Standards Repository, at <http://www.epa.gov/waterscience/standards/wqslibrary/mi/mi.html>.

#### FOR FURTHER INFORMATION CONTACT:

Manjali Gupta Vlcán at EPA Headquarters, Office of Water (4305T), 1200 Pennsylvania Ave NW., Washington, DC., 20460 (tel: 202-566-0373, fax 202-566-0409) or email at [vlcán.manjali@epa.gov](mailto:vlcán.manjali@epa.gov), or Dave Pfeifer in EPA's Region 5 at 312-353-9024 or e-mail at [pfeifer.david@epa.gov](mailto:pfeifer.david@epa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Potentially Regulated Entities

No one is regulated by this rule. This rule merely withdraws Federal water quality criteria applicable to Michigan.

#### Background

In 1992, EPA promulgated a final rule known as the "National Toxics Rule," or "NTR," to establish numeric water quality criteria for 12 States and two Territories, including Michigan, (hereafter "States") that had not complied fully with section 303(c)(2)(B) of the CWA (57 FR 60848). The criteria, codified at 40 CFR 131.36, became the applicable water quality standards in