

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[FRL-7225-6]

RIN 2060-AE77

**National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production**

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

**ACTION:** Direct final 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 action amends the standards to clarify compliance dates and defer certain early compliance obligations. These changes are being made as part of settlement agreements with industry trade associations, including the Aluminum Association and the American Foundrymen's Society. We are making these amendments by a direct final rule, without prior proposal, because we view these revisions as noncontroversial and anticipate no adverse comments. In addition, because we are publishing a separate proposal which includes substantive clarifications and revisions of the standard, we believe it will prevent confusion and disruption if we defer any compliance obligations until after that separate rulemaking can be completed.

**DATES:** This rule is effective on August 13, 2002 without further notice, unless EPA receives adverse written comment by July 15, 2002. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**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-2002-05, 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. The EPA requests that a separate copy also be sent to the contact person listed below (*see FOR FURTHER INFORMATION CONTACT*).

**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*.

**SUPPLEMENTARY INFORMATION:** *Comments.* We are publishing this direct final rule without prior proposal because we view the amendments as noncontroversial and do not anticipate adverse comments. We consider these changes to be noncontroversial because the only effect is to defer certain early compliance obligations which might otherwise come due before we complete a separate rulemaking concerning substantive clarifications and revisions in the standards. The revisions adopted by this direct final rule retain the overall March 23, 2003 compliance date for existing sources. In the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to make the amendments to the standards for secondary aluminum production set forth in this direct final rule in the event that timely and significant adverse comments are received.

If we receive any relevant adverse comments on one or more distinct amendments, we will publish a timely withdrawal in the **Federal Register** informing the public which provisions will become effective and which provisions are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule. Any of the distinct amendments in today's rule for which we do not receive adverse comment will become effective on the date set out above. We will not institute a second comment period on this direct final rule. Any parties interested in commenting must do so at this time.

*Docket.* The docket is an organized and complete file of the administrative record compiled by EPA in the development of this direct final rule. 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 that 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-2002-05.

*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.* Entities potentially regulated by this action are secondary aluminum production facilities including those collocated at primary aluminum production facilities using clean charge, post-consumer scrap, aluminum scrap, ingots, foundry returns, dross, or molten metal as the raw material, and performing one or more of the following processes: aluminum scrap shredding, scrap drying/ delacquering/ decoating, thermal chip drying, furnace operations (*i.e.*, melting, holding, refining, fluxing, or alloying), in-line fluxing, or dross cooling. Affected sources at facilities that are major sources of HAP are regulated under the final rule. In addition, emissions of dioxins and furans from affected sources at facilities that are area sources of hazardous air pollutants are also regulated. Regulated categories and entities 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.

Category	NAICS code	SIC code	Examples of regulated entities
State/local/tribal governments .....	331521 331524	3363 3365	Aluminum die casting facilities. Aluminum foundry facilities.
Federal government .....	.....	.....	Not affected. 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.

*Judicial Review.* Under section 307(b)(1) of the CAA, judicial review of this direct final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by August 13, 2002. Under section 307(d)(7)(B) of the CAA, only an objection to this direct final rule 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 this direct final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

*Outline.* The following outline is provided to aid in reading this preamble to this direct final rule.

- I. Background
- II. Amendments to the NESHAP for Secondary Aluminum Production
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  - B. How are we revising the requirements for submission of the OM&M plan?
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- III. Administrative Requirements
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- E. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
- F. Unfunded Mandates Reform Act of 1995
- G. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
- H. Paperwork Reduction Act
- I. National Technology Transfer and Advancement Act of 1995
- J. Congressional Review Act

#### I. Background

On March 23, 2000, we promulgated the national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production (63 FR 15710). 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 standard 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 process. 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 when 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 rule. During 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 standards. 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 MACT (maximum available control technology) 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 and an advance notice of proposed rulemaking (ANPR) announcing new standards. However, during the process of preparing for information collection, the petitioners concluded that the existing 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. Pursuant to that settlement, we agreed to propose changes in the applicability of the present standards which would permit customer returns without solid paints or coatings to be treated like internal scrap, and would permit facilities operated by the same company at different locations to be aggregated for purposes of determining what is internal scrap. These revisions are addressed in separate proposed rule amendments published elsewhere in today's **Federal Register**.

In the *Foundrymen's* settlement, we also agreed to defer the compliance date for new sources constructed or reconstructed at existing aluminum die casters, aluminum foundries, and aluminum extruders until the compliance date for existing sources, so

that the rulemaking on general applicability issues could be completed first. This is the only element of that settlement which is implemented by this direct final rule.

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, although none of these comments addressed the only element in the settlement which is implemented by this direct final rule. After reviewing these comments, we decided to proceed with settlement. A copy of these comments and of our responses to them is available in Docket No. A-2002-05 for the separate proposed rule concerning the applicability changes.

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. These substantive changes are addressed by the same proposed rule as the applicability changes for aluminum die casters and foundries, which is published elsewhere in today's **Federal Register**. The *Aluminum Association* settlement also requires that we clarify and simplify the compliance dates for the standards, and defer certain early compliance obligations until after the substantive rulemaking can be completed. These compliance issues are addressed by this direct final rule.

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-2002-05 for the separate proposed rule.

## II. Amendments to the NESHAP for Secondary Aluminum Production

### A. How Are We Clarifying the Compliance Dates?

A number of provisions in the existing secondary aluminum rule require compliance on and after the date of a successful initial performance test. Our intent in adopting this general approach was to assure that compliance with the standards would begin as soon as the facility had demonstrated its

ability to comply. However, this approach has created confusion concerning the date when compliance will be expected, particularly since an affected facility may be unable to finalize its required operation, maintenance, and monitoring (OM&M) plan until after evaluating the results of the initial performance test. This approach also may discourage facilities from conducting early performance tests, even though such early tests could facilitate identification and correction of problems before the compliance date.

The amendments in this direct final rule revise §§ 63.1505, 63.1506, 63.1510, and 63.1511 of 40 CFR part 63, subpart RRR, to specify that existing affected sources must meet the emission limitations and comply with applicable monitoring requirements by the compliance date in § 63.1501. If an initial performance test is required, the owner or operator of an existing affected source must conduct the test by the compliance date for existing affected sources in § 63.1501(a). If an initial performance test is required for a new affected source, the owner or operator must conduct the test within 90 days after the compliance date for new affected sources in § 63.1501(b).

The basic compliance dates for existing affected sources and new affected sources established by the current standards are not changed. Section 63.1501(a) of the rule sets the compliance date for existing affected sources at March 24, 2003 (3 years after promulgation). Under § 63.1501(b), the compliance date for a new affected source that began construction or reconstruction after February 11, 1999 is March 24, 2000 or the date of startup, whichever is later.

A new paragraph (c) is being added to the compliance dates section (§ 63.1501) that defers the compliance date for a new affected source which is constructed or reconstructed at an existing aluminum die casting facility, aluminum foundry, or aluminum extrusion facility that is subject to the rule. This type of new affected source must comply by March 24, 2003 or upon startup, whichever is later. This deferral of the compliance date until the rest of the facility must comply will eliminate uncertainty and confusion by assuring that the separate rulemaking concerning the applicability criteria for aluminum die casters, foundries, and extruders will be completed before compliance obligations are determined.

### B. How Are We Revising the Requirements for Submission of the OM&M Plan?

The provisions in the existing rule pertaining to OM&M plans are ambiguous. Although the preamble to the final rule stated that submission of OM&M plans would be required 6 months before the compliance date, the rule itself did not require this. This direct final rule clarifies the timing for submission of the OM&M plan. In separate proposed rule amendments published elsewhere in today's **Federal Register**, we are clarifying the process for submission of OM&M plans to the permitting authority and for adoption of any necessary revisions of such plans.

This action amends the standards to require the owner or operator of an existing affected source to submit the OM&M plan to the responsible permitting authority no later than the compliance date established by § 63.1501(a). For a new affected source, the plant owner or operator must submit the OM&M plan within 90 days after a successful initial performance test or within 90 days after the compliance date established by § 63.1501(b) if no initial performance test is required.

### C. How Are We Revising the Performance Test Requirements?

The existing rule contains provisions which have resulted in confusion regarding the timing of any required initial performance test. It was our intention to assure that the performance test would be completed before the compliance date, as indicated by the provisions in the existing rule requiring early compliance following a successful performance test. However, the existing rule also incorporates § 63.7 of the NESHAP General Provisions (40 CFR part 63, subpart A), which provides that performance tests must be completed within 180 days after the compliance date. We intended to adopt the general procedures established by § 63.7(c) for preparation and approval of a site-specific test plan and for actual conduct of the performance test, but not the timetable for the performance test established by § 63.7(a). We are, therefore, adopting amendments to clarify our original intent.

The amendments clarify § 63.1511(a) to state that prior to conducting any performance test, the owner or operator must prepare a site-specific plan that meets the requirements of § 63.7(c) and obtain approval of the plan according to the procedures in § 63.7(c). The amendments also clarify § 63.1511(b) to specify that the owner or operator must conduct any performance test required

for an existing affected source no later than the compliance date in § 63.1501(a). If a performance test is required for a new affected source, the owner or operator must conduct the test within 90 days after the compliance date in § 63.1501(b) of the rule. Because this timetable differs from the one established by the General Provisions, we are revising the table in appendix A to the rule, which shows which requirements of the General Provisions apply to affected sources.

#### *D. How Are We Revising the Requirements for the Notification of Compliance Status?*

The amendments clarify the date by which the owner or operator must submit the notification of compliance status for an existing affected source and allow more time for submission of the report for a new affected source. Under § 63.1515(b) of the existing rule, the owner or operator is required to submit the report within 60 days of the compliance date in § 63.1501. The amendments clarify that the report for a plant with an existing affected source is required within 60 days after the compliance date in § 63.1501(a). However, the report for a new affected source is required within 90 days after conducting the initial performance test or within 90 days after the compliance date in § 63.1501(b) if no performance test is required. Because the period of time allowed for new affected sources differs in some instances from period provided by § 63.9(h) of the General Provisions in 40 CFR part 63, subpart A (i.e., up to 60 days of the performance test), we are revising the table in appendix A to the rule, which shows which requirements of the General Provisions apply to affected sources.

### **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 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 direct 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 these amendments. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### *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 direct final 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 direct final 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 considered by the Agency.

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 direct final rule is not subject to Executive Order 13045 because it is 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*

This direct final rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is 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 one 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 this direct final rule does 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 one year, nor does the rule significantly or uniquely impact small governments, because it contains no requirements that apply to such governments or impose obligations upon them. Thus, the requirements of the UMRA do not apply to this direct final rule.

*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 EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with today's direct final rule amendments. Because there is no cost associated with these amendments, the EPA has also determined that today's direct final rule

amendments will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impacts of today's final rule amendments on small entities, small entities are defined as: (1) A small business that 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; 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 direct final rule amendments on small entities, the EPA has concluded that this action will not have a significant impact on a substantial number of small entities.

*H. Paperwork Reduction Act*

This action does not impose any new information collection burden. Today's action consists primarily of clarifications to the final rule that impose no new information collection requirements on industry or EPA. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and assigned OMB control No. 2060-0433, EPA ICR No. 1894.01. Copies of the ICR document may be obtained from Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Avenue, NW, Washington DC 20460, by email at

[auby.susan@epamail.epa.gov](mailto:auby.susan@epamail.epa.gov), or by calling (202) 566-1672. A copy may also be downloaded from the internet at <http://www.epa.gov/icr>. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provided 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 purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search 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*

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**. This direct final rule is 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: 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 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 63.1501 is revised to read as follows:

**§ 63.1501 Dates.**

(a) The owner or operator of an existing affected source must comply with the requirements of this subpart by March 24, 2003.

(b) Except as provided in paragraph (c) of this section, the owner or operator of a new affected source that commences construction or reconstruction after February 11, 1999 must comply with the requirements of this subpart by March 24, 2000 or upon startup, whichever is later.

(c) The owner or operator of any affected source which is constructed or reconstructed at any existing aluminum die casting facility, aluminum foundry, or aluminum extrusion facility which otherwise meets the applicability criteria set forth in § 63.1500 must comply with the requirements of this subpart by March 24, 2003 or upon startup, whichever is later.

\* \* \* \* \*

3. Section 63.1505 is amended by:

a. Revising the introductory text of paragraphs (b), (c), (d), and (e);

b. Revising paragraph (f)(2); and

c. Revising the introductory text of paragraphs (g), (h), and (k).

The revisions read as follows:

**§ 63.1505 Emission standards for affected sources and emission units.**

\* \* \* \* \*

(b) *Aluminum scrap shredder.* On and after the compliance date established by § 63.1501, the owner or operator of an aluminum scrap shredder at a secondary aluminum production facility that is a major source must not discharge or cause to be discharged to the atmosphere:

\* \* \* \* \*

(c) *Thermal chip dryer.* On and after the compliance date established by § 63.1501, the owner or operator of a thermal chip dryer must not discharge or cause to be discharged to the atmosphere emissions in excess of:

\* \* \* \* \*

(d) *Scrap dryer/delacquering kiln/decoating kiln.* On and after the compliance date established by § 63.1501:

\* \* \* \* \*

(e) *Scrap dryer/delacquering kiln/decoating kiln: alternative limits.* The owner or operator of a scrap dryer/delacquering kiln/decoating kiln may choose to comply with the emission limits in this paragraph as an alternative to the limits in paragraph (d) of this section if the scrap dryer/delacquering kiln/decoating kiln is equipped with an afterburner having a design residence time of at least 1 second and the afterburner is operated at a temperature of at least 750 °C (1400 °F) at all times. On and after the compliance date established by § 63.1501:

\* \* \* \* \*

(f) *Sweat furnace.* \* \* \*

(2) On and after the compliance date established by § 63.1501, the owner or operator of a sweat furnace at a secondary aluminum production facility that is a major or area source must not discharge or cause to be discharged to the atmosphere emissions in excess of 0.80 nanogram (ng) of D/F TEQ per dscm ( $3.5 \times 10^{-10}$  gr per dscf) at 11 percent oxygen (O<sub>2</sub>).

(g) *Dross-only furnace.* On and after the compliance date established by § 63.1501, the owner or operator of a dross-only furnace at a secondary aluminum production facility that is a major source must not discharge or cause to be discharged to the atmosphere:

\* \* \* \* \*

(h) *Rotary dross cooler.* On and after the compliance date established by § 63.1501, the owner or operator of a rotary dross cooler at a secondary aluminum production facility that is a major source must not discharge or cause to be discharged to the atmosphere:

\* \* \* \* \*

(k) *Secondary aluminum processing unit.* On and after the compliance date established by § 63.1501, the owner or operator must comply with the emission limits calculated using the equations for PM and HCl in paragraphs (k)(1) and (2) of this section for each secondary aluminum processing unit at a secondary aluminum production facility that is a major source. The owner or operator must comply with the emission limit calculated using the equation for D/F in paragraph (k)(3) of this section for each secondary aluminum processing unit at a secondary aluminum production facility that is a major or area source.

\* \* \* \* \*

4. Section 63.1506 is amended by revising paragraph (a)(1) to read as follows:

**§ 63.1506 Operating requirements.**

(a) *Summary.* (1) On and after the compliance date established by § 63.1501, the owner or operator must operate all new and existing affected sources and control equipment according to the requirements in this section.

\* \* \* \* \*

5. Section 63.1510 is amended by revising paragraphs (a) and

(b) introductory text to read as follows:

**§ 63.1510 Monitoring requirements.**

(a) *Summary.* On and after the compliance date established by § 63.1501, the owner or operator of a

new or existing affected source or emission unit must monitor all control equipment and processes according to the requirements in this section. Monitoring requirements for each type of affected source and emission unit are summarized in Table 3 to this subpart.

(b) *Operation, maintenance, and monitoring (OM&M) plan.* The owner or operator must prepare and implement for each new or existing affected source and emission unit, a written operation, maintenance, and monitoring (OM&M) plan. The owner or operator of an existing affected source must submit the OM&M plan to the responsible permitting authority no later than the compliance date established by § 63.1501(a). The owner or operator of any new affected source must submit the OM&M plan to the responsible permitting authority within 90 days after a successful initial performance test under § 63.1511(b), or within 90 days after the compliance date established by § 63.1501(b) if no initial performance test is required. Each plan must contain the following information:

\* \* \* \* \*

6. Section 63.1511 is amended by revising paragraphs (a) and (b) introductory text to read as follows:

**§ 63.1511 Performance test/compliance demonstration general requirements.**

(a) *Site-specific test plan.* Prior to conducting any performance test required by this subpart, the owner or operator must prepare a site-specific test plan which satisfies all of the requirements, and must obtain approval of the plan pursuant to the procedures, set forth in § 63.7(c) in subpart A of this part.

(b) *Initial performance test.* Following approval of the site-specific test plan, the owner or operator must demonstrate initial compliance with each applicable emission, equipment, work practice, or operational standard for each affected source and emission unit, and report the results in the notification of compliance status report as described in § 63.1515(b). The owner or operator of any existing affected source for which an initial performance test is required to demonstrate compliance must conduct this initial performance test no later than the date for compliance established by § 63.1501(a). The owner or operator of any new affected source for which an initial performance test is required must conduct this initial performance test within 90 days after the date for compliance established by § 63.1501(b). Except for the date by which the performance test must be conducted, the owner or operator must conduct each performance test in accordance with the

requirements and procedures set forth in § 63.7(c). Owners or operators of affected sources located at facilities which are area sources are subject only to those performance testing requirements pertaining to D/F. Owners or operators of sweat furnaces meeting the specifications of § 63.1505(f)(1) are not required to conduct a performance test.

\* \* \* \* \*

7. Section 63.1515 is amended by removing the first sentence in the

introductory text of paragraph (b) and adding, in its place, two new sentences to read as follows:

**§ 63.1515 Notifications.**

\* \* \* \* \*

(b) *Notification of compliance status report.* Each owner or operator of an existing affected source must submit a notification of compliance status report within 60 days after the compliance date established by § 63.1501(a). Each owner or operator of a new affected

source must submit a notification of compliance status report within 90 days after conducting the initial performance test required by § 63.1511(b), or within 90 days after the compliance date established by § 63.1501(b) if no initial performance test is required. \* \* \*

\* \* \* \* \*

8. Appendix A to subpart RRR is amended by revising the entries for § 63.7(a)–(h) and § 63.9(h)(1)–(3) to read as follows:

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

Citation	Requirement	Applies to RRR	Comment
* * * * * § 63.7(a)–(h) .....	* * * * * Performance Test Requirements- Applicability and Dates.	* * * * * Yes .....	* * * * * Except § 63.1511 establishes dates for initial performance tests.
* * * * * § 63.9(h)(1)–(3) .....	* * * * * Notification of Compliance Status	* * * * * Yes .....	* * * * * Except § 63.1515 establishes dates for notification of compli- ance status reports.
* * * * *	* * * * *	* * * * *	* * * * *