

EPA—APPROVED KENTUCKY REGULATIONS FOR KENTUCKY—Continued

Regulation	Title/subject	State effective date	EPA approval date	Federal Register notice
*	*	*	*	*
Chapter 65 Mobile Source Related Emissions				
401 KAR, 65:001	Definitions for 401, KAR Chapter 65	8/15/01	September 24, 2002	[Insert FR page citation]
*	*	*	*	*
401 KAR, 65:010	Vehicle emission control programs	8/15/01	September 24, 2002	[Insert FR page citation]

EPA—APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

Regulation	Title/subject	District effective date	EPA approval date	Federal Register notice
*	*	*	*	*
Reg 8 Mobile Source Emissions Control				
8.01	Mobile Source Emissions Control Requirements	11/21/01	September 24, 2002	[Insert FR page citation]
8.02	Vehicle Emissions Testing Procedure	11/21/01	September 24, 2002	[Insert FR page citation]
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[FR Doc. 02-24091 Filed 9-23-02; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-7382-4]

RIN 2060-AE78

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On June 14, 2002, the EPA promulgated amendments to the national emission standards for secondary aluminum production as a direct final rule along with a parallel proposal to be used as a basis for final action in the event we received any adverse comments. On August 13, 2002, we withdrew the direct final rule amendments because one commenter submitted adverse comments on certain amendments. This action promulgates final amendments to the national emission standards for secondary aluminum production based on the June 14, 2002 proposal which accompanied the direct final rule.

EFFECTIVE DATE: November 25, 2002.

ADDRESSES: Docket A-2002-05, containing supporting information used in developing these final rule amendments, 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.

SUPPLEMENTARY INFORMATION: *Docket.* The docket is an organized and complete file of the administrative record compiled 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.

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.

World Wide 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 Clean Air Act (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 November 25, 2002. 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 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.
	331521	3363	Aluminum die casting facilities.
State/local/tribal governments	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.

Outline. The following outline is provided to aid in reading this preamble to these final rule amendments.

- I. Background
- II. Response to Comments on Amendments to the NESHAP for Secondary Aluminum Production
- III. Administrative Requirements
 - A. Executive Order 12866, Regulatory Planning and Review
 - B. Executive Order 13132, Federalism
 - C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
 - D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
 - E. 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 (RFA), 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 (40 CFR 63, subpart RRR) at 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 v. U.S. Environmental Protection Agency*, 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. Environmental Protection Agency*, 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 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 first considered during the initial rulemaking. 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 the rulemaking, 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 rule. At the time of promulgation of the standards, in response to a request by the die casters and foundries, we announced we would withdraw the standards as applied to die casters and foundries and develop separate maximum achievable control technology (MACT) standards for those 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 standard for those 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) concerning new standards. However, during the process of preparing for information collection, the petitioners concluded that the present rule was not as sweeping in applicability as they had feared, and the parties then agreed to explore an alternate approach to settlement based

on clarifications of the current standards.

We subsequently reached agreement with the *Foundrymen's* petitioners on a new settlement. 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. Those revisions were addressed in a separate proposed rule (67 FR 41125, June 14, 2002).

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 related rulemaking on general applicability issues could be completed first. This element of that settlement is the only one which is implemented by this 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 the comments addressed the only element in the settlement which is implemented by this final rule. After reviewing the comments, we decided to proceed with settlement. A copy of the comments and our responses to them is available in the docket for this rule.

In separate discussions, we also agreed on a settlement of the *Aluminum Association* case. That settlement required that we propose a number of substantive clarifications and revisions of the standards. The substantive changes have been addressed in the same separate proposed rule as the applicability changes for aluminum die casters and foundries. The *Aluminum Association* settlement also required that we propose to clarify and simplify the compliance dates for the standards and to defer certain early compliance obligations until after the substantive rulemaking can be completed. The compliance issues are addressed by amendments in this 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). We received one adverse comment concerning that settlement. After reviewing that comment, we decided to proceed with

settlement. A copy of that comment and our response to it is available in the docket for this rule.

We originally published the amendments adopted by this final rule as a direct final rule (67 FR 41118, June 14, 2002). The intent of these amendments is to eliminate confusion and to clarify various compliance dates in the promulgated standard, to encourage early performance tests, and to permit some basic applicability questions for aluminum die casters, foundries, and extruders to be resolved before the compliance date for new sources constructed or reconstructed at existing facilities. Therefore, we decided to utilize a direct final rule so that these changes could become effective as quickly as possible.

Along with the direct final rule, we published a proposed rule to serve as the basis for final action in the event that we received any adverse comment on the proposed rule. We received a letter from one commenter expressing opposition to six of the amendments in the direct final rule. We also received a letter from another commenter expressing support for all of the amendments in the direct final rule. Because of the receipt of adverse comment, we published a notice withdrawing the direct final rule at 63 FR 52616. In view of the relationship between those amendments concerning which we received adverse comment and some of the remaining amendments, and to avoid the possibility of confusion resulting from partial adoption of the amendments, we decided to withdraw all amendments contained in the direct final rule. Today's final rule amendments serve as our final administrative action concerning all of the amendments set forth in the direct final rule and parallel proposal.

II. Response to Comments on Amendments to the NESHAP for Secondary Aluminum Production

We received one letter in which a commenter expressed opposition to six specific amendments set forth in the direct final rule. Our responses to these adverse comments are set forth below. We also received one other letter expressing support for all of the amendments in the direct final rule. Both letters are available in the docket.

One of the commenters opposed the proposed new 40 CFR 63.1501(c), which would defer the compliance date for affected sources which are constructed or reconstructed at an existing aluminum die casting facility, aluminum foundry, or aluminum extruder, and which meet the current applicability criteria for the secondary

aluminum standards, until March 24, 2003 (the compliance date for existing sources) or startup, whichever is later. The commenter stated that these sources are able to achieve compliance with MACT as originally promulgated, that any major sources excluded from the source category will still be required to achieve a MACT level of control, and that, if EPA later promulgates less stringent standards for these sources, they will be permitted to demonstrate compliance with those standards.

We believe that the commenter misconstrued the very narrow purpose of this provision. We proposed in a separate rulemaking at 63 FR 41118 to make some modest adjustments in the applicability criteria for aluminum die casting facilities, aluminum foundries, and aluminum extruders. Those proposed applicability changes would permit customer returns without any 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 in determining which facilities are subject to the standards. The only purpose of the amendment in 40 CFR 63.1501(c) is to defer the compliance date for affected sources which are constructed or reconstructed at existing facilities until after the scope of the applicability criteria has been clearly resolved. We do not think it is reasonable to require sources which may no longer be covered by the applicability criteria after we complete action on the other rule proposed at 63 FR 41125 to undertake compliance activities during this brief interim period. If the newly constructed or reconstructed sources remain within the applicability criteria after the separate rulemaking has been concluded, such sources will be subject to the same substantive control requirements.

The same commenter also expressed opposition to the proposed amendments to § 63.1505(c), (d), (e), (f), and (k) that would change the compliance date for certain existing sources to a single certain date, rather than requiring compliance to begin immediately after a successful performance test. The commenter opposed the changes because they would permit facilities to shut down control devices even though they have demonstrated the capacity to meet the standards.

While we understand the concern that reductions in HAP emissions may be deferred by affected facilities, the commenter has not addressed the reasons why we decided it is necessary to make these changes. The change to a single definite compliance date for

certain existing sources is an integral part of a larger set of changes which are intended to resolve confusion and facilitate rational planning for compliance at the affected facilities. In particular, the existing rule is confusing because a facility could be unable to finalize its required operation, maintenance, and monitoring (OM&M) plan until after completing, and then evaluating the results, of an initial performance test. The existing rule could also discourage facilities from conducting early performance tests, even though such early tests could facilitate identification and correction of problems before the compliance date.

We did not receive adverse comment on any of the other amendments previously set forth in the direct final rule. However, we decided to withdraw all of the amendments, in view of the relationship between the amendments concerning which we received adverse comment and some of the remaining amendments, and the potential for confusion which would be associated with partial promulgation. In today's action, we have decided to adopt all of the amendments as proposed. We hereby incorporate by reference the explanation we previously provided for those amendments on which no adverse comment was received.

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 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 tribal governments do not own or operate any sources subject to the amendments. Thus, Executive Order 13175 does not apply to the final rule amendments.

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

Executive Order 13045 applies to any rule that EPA determines (1) is "economically significant" as defined under Executive Order 12866, and (2) the environmental health or safety risk

addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency 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.

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 the rule and amendments 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 final rule amendments.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this 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 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 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 because the intent of these amendments is to eliminate confusion and to clarify various compliance dates in the promulgated standard, to encourage early performance tests, and to permit some basic applicability questions for aluminum die casters, foundries, and

extruders to be resolved before the compliance date for new sources constructed or reconstructed at existing facilities.

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. Therefore, the existing ICR has not been revised. 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. 1894.02). A copy of the ICR document may be obtained from Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division (2822T), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at 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 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; 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 number 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

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104-113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical

standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to 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**. 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 November 25, 2002.

List of Subjects in 40 CFR Part 63

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

Dated: September 18, 2002.

Christine T. 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 (e) 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 (3.5×10^{-10} gr per dscf) at 11 percent oxygen (O₂).

(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).

(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.

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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 compliance status reports.

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