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Part IV

Environmental Protection Agency

40 CFR Part 63

**National Emission Standards for
Chromium Emissions From Hard and
Decorative Chromium Electroplating and
Chromium Anodizing Tanks; Proposed
Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[AD-FRL-7221-7]

RIN 2060-AH69

National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: On January 25, 1995, the EPA issued national emission standards under section 112 of the Clean Air Act (CAA) for Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. We are proposing new requirements that accommodate the use of fume suppressants for controlling chromium emissions from hard chromium electroplating tanks, and an alternative standard to the existing concentration emission limit for hard chromium electroplating tanks equipped with enclosing hoods. We are proposing to change the definition of chromium electroplating and anodizing tank to include all ancillary equipment necessary to accomplish electroplating or anodizing so that existing electroplaters and anodizers do not become subject to new source standards due to unintended reconstruction determinations. We are proposing to amend the monitoring requirements for composite mesh pads by expanding the acceptable pressure drop range and proposing revisions to several definitions to improve clarity and consistency.

DATES: *Comments.* Submit comments on or before August 5, 2002.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by June 25, 2002, a public hearing will be held on July 5, 2002.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-88-02, 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 Number A-88-02, Room M-1500, U.S. EPA, 401 M Street, SW, Washington, DC 20460. The EPA requests a separate copy also be sent to the contact person listed

below (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If a public hearing is held, it will be held at the new EPA facility complex in Research Triangle Park, North Carolina beginning at 10 a.m.

Docket. Docket No. A-88-02 contains supporting information used in developing the standards. The docket is located at the U.S. EPA, 401 M Street SW, Washington, DC 20460 in Room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mulrine, Metals Group, Emission Standards Division (C439-02), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-5289, electronic mail address: mulrine.phil@epa.gov.

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® format. All comments and data submitted in electronic form must note the docket number: A-88-02. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: U.S. EPA, OAQPS Document Control Officer (C404-02), Attention: Phil Mulrine, Metals Group, Emission Standards Division (C439-02), U.S. EPA, Research Triangle Park, NC 27711. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Cassie Posey, Metals Group, Emission Standards Division,

(C439-02), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-0069 in advance of the public hearing. Persons interested in attending the public hearing should also call Ms. Cassie Posey to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed amendments.

Docket. The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. 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 standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are 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 the proposed amendments will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the proposed rule will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN 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 include facilities engaged in chromium electroplating, hard and decorative, or chromium anodizing of metal or plastic parts either as a primary activity or as an activity incidental to a larger fabricating or manufacturing establishment. Regulated categories and entities include sources listed under the North American Information Classification System (NAICS) U.S. Industries code 332813, as well as sources listed under numerous industry codes within the industry subsector titled "Fabricated Metal Product Manufacturing."

This description is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.340 of the current standard promulgated on January 25, 1995 (60 FR 4963). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Outline. The information presented in this preamble is organized as follows:

- I. Background
 - A. What are the requirements of the current rule?
 - B. Do the proposed amendments apply to me?
- II. Summary of the Proposed Amendments
- III. Rationale for the Proposed Amendments
 - A. The Use of Fume Suppressants for Controlling Chromium Emissions from Hard Chromium Electroplating Tanks
 - B. Revised Surface Tension Limit When Measuring Surface Tension with a Tensiometer
 - C. Hard Chromium Electroplating Facilities Which Operate Tanks Equipped with Enclosing Hoods
 - D. Chromium Electroplating and Chromium Anodizing Tank Definitions
 - E. Pressure Drop Monitoring Requirement for Composite Mesh Pads
- IV. 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. Unfunded Mandates Reform Act of 1995
 - F. Regulatory Flexibility Act (RFA), as Amended by Small Business Regulatory Enforcement Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
 - G. Paperwork Reduction Act
 - H. National Technology Transfer and Advancement Act of 1995
 - I. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution or Use

I. Background

A. What Are the Requirements of the Current Rule?

The current national emission standards for chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks were promulgated on January 25, 1995 (60 FR 4963). In that rule, EPA established different standards for small and large facilities which operate hard chromium electroplating tanks. The standard for existing hard chromium

electroplating tanks at small facilities limits the concentration of chromium air emissions discharged to the atmosphere to 0.03 milligrams of total chromium per dry standard cubic meter (mg/dscm). A hard chromium electroplating facility is considered small if its maximum rectifier capacity is less than 60 million ampere-hours per year (amp-hr/yr). The standard for new sources and existing hard chromium electroplating tanks at large facilities is 0.015 mg/dscm. A performance test must be conducted to demonstrate compliance. In addition, the rule includes operation, maintenance, and monitoring requirements for the control devices.

The standard for new and existing decorative chromium electroplating tanks and new and existing chromium anodizing tanks is 0.01 mg/dscm. Decorative chromium electroplating and chromium anodizing tanks using a fume suppressant for controlling emissions can elect to maintain the surface tension of the plating solution at 45 dynes per centimeter (dynes/cm) or less as an alternative standard. Sources can choose to monitor the surface tension of the plating solution instead of conducting a performance test.

B. Do the Proposed Amendments Apply to Me?

The amendments contained in today's proposed rule may apply to you if your facility meets any of the following criteria:

- Your facility operates a hard chromium electroplating tank and uses fume suppressants for emission control.
- Your facility operates an enclosed hard chromium electroplating tank.
- Your facility is considering replacing a chromium electroplating or anodizing tank and is concerned about triggering a reconstruction determination.
- Your facility operates a composite mesh pad control system for emission control.
- Your facility operates a decorative chromium electroplating tank or chromium anodizing tank that uses fume suppressants for emission control and uses a tensiometer to measure surface tension.

II. Summary of the Proposed Amendments

The proposed amendments would allow hard chromium electroplating facilities using fume suppressants for emission control to meet a surface tension limit similar to the requirements for decorative chromium electroplating and chromium anodizing facilities instead of the present requirement to

meet an emission limit. Facilities choosing to use fume suppressants for emission control would be required to monitor the surface tension at the same frequency currently required for decorative chromium and chromium anodizing tanks and demonstrate compliance with either one of two surface tension operating limits: 45 dynes/cm if measured with a stalagmometer, or 35 dynes/cm if measured with a tensiometer.

The proposed amendments would allow affected facilities which operate hard chromium electroplating tanks equipped with enclosing hoods the option of meeting an alternative and equivalent, site specific mass rate emission limit instead of the present concentration limit. An affected facility would have the option of meeting the alternative standard if the affected tank is equipped with an enclosing hood, and the ventilation is no more than half the rate of a comparable open surface tank of the same surface area equipped with conventional hooding and ventilation.

The proposed amendments would change the chromium electroplating or anodizing tank definition to include all the ancillary components necessary to accomplish electroplating or anodizing. Specifically, the definition of tank would be expanded to include ancillary components such as rectifiers, anodes, heat exchanger equipment, circulation pumps and air agitation systems. These components would then be included in the 50 percent fixed capital cost calculation for determining reconstruction.

The proposed amendments would change the operating limit for pressure drop across composite mesh pad control devices. The current standard requires composite mesh pad devices to be operated at all times within ± 1 inch of water column of the pressure drop value established during an initial or subsequent performance test. We are proposing to change this operating limit from ± 1 inch to ± 2 inches.

III. Rationale for the Proposed Amendments

A. The Use of Fume Suppressants for Controlling Chromium Emissions From Hard Chromium Electroplating Tanks

This change is being proposed in response to recommendations made by the Common Sense Initiative (CSI) metal finishing subcommittee and research conducted by EPA's Office of Research and Development (ORD). The CSI was established to bring together a broad spectrum of stakeholders to advise, consult with and make

recommendations on matters pertaining to improving the Nation's pollution prevention and control programs. Metal finishing was one of six industry sectors for which CSI subcommittees were convened. Participants included independent experts selected from among the national and local environmental interest groups, industry, State and local governments, and other stakeholders such as labor organizations, environmental justice organizations, and the Federal government.

The CSI metal finishing subcommittee has overseen several studies designed to identify cleaner, cheaper, and smarter ways for the metal finishing industry to achieve environmental compliance. Among these were studies performed by EPA's ORD to demonstrate that new generation fume suppressants applied to hard chromium electroplating operations are a viable alternative to tank ventilation and air pollution control devices. The first study evaluated using fume suppressants in conjunction with air pollution control devices. The dramatic results in terms of emission reduction led to a second study which examined the effectiveness of fume suppressants independent of air pollution control devices. The study results clearly demonstrate that these commercially available fume suppressants are very effective in suppressing misting and, thus, limiting chromium emissions from hard chromium electroplating tanks. In addition, the studies demonstrate that fume suppressants can be used without adverse impact on plating quality, which historically has been a major concern for this industry and an impediment to their use.

The use of fume suppressants is a highly cost-effective pollution prevention approach which enables hard chromium electroplaters to meet the standards with little or no additional capital investment. Like decorative chromium electroplating and chromium anodizing facilities, hard chromium electroplating facilities would now be allowed to monitor surface tension to demonstrate compliance in lieu of performance testing. The surface tension would be limited to 45 dynes/cm when measured by a stalagmometer or 35 dynes/cm when measured by a tensiometer.

B. Revised Surface Tension Limit When Measuring Surface Tension With a Tensiometer

The 35 dynes/cm limit when measured by a tensiometer is a new requirement we are proposing which would apply to any affected facility,

whether it be a decorative chromium electroplating facility, a hard chromium electroplating facility, or a chromium anodizing facility that elects to measure surface tension using a tensiometer. The current standard has a surface tension limit of 45 dynes/cm regardless of the instrument used to make the measurement. During the development of the 45 dynes/cm standard, all surface tension measurements were made with a stalagmometer. Since the promulgation of the standards, we have become aware of differences in the surface tension measurement depending on whether the measurement is made using a stalagmometer or a tensiometer. The aforementioned study performed by EPA's ORD observed that surface tension measurements made with a tensiometer were typically about 20 percent lower than measurements of the same plating bath with a stalagmometer. Measurements made with both a tensiometer and stalagmometer over a range of different surface tension levels showed that the two devices measurements varied at different surface tension values. We believe that the proposed new limit for the tensiometer is comparable to the existing limit when measured with a stalagmometer. Therefore, we are proposing to add a new alternative requirement of 35 dynes/cm to the 45 dyne/cm standard for hard chromium electroplating, decorative chromium electroplating and chromium anodizing facilities that measure surface tension using a tensiometer.

C. Hard Chromium Electroplating Facilities Which Operate Tanks Equipped With Enclosing Hoods

Since the promulgation of the standards, we have become aware of several sources that are experiencing difficulty in complying with the concentration emission limit for new sources, even though they have installed and are operating composite mesh pad scrubbers similar or identical to those used as the basis for the concentration limit. These sources operate new state-of-the-art plating tanks not encountered during rule development which feature enclosing hoods that completely cover the surface of the plating tank. The covered tank design allows for effective capture and ventilation at substantially lower ventilation rates than otherwise encountered with more conventional hooding. Tanks with conventional hooding typically require 250 cubic feet of ventilation air per minute per square foot of plating tank surface area, while tanks equipped with enclosing hoods typically require less than 100 cubic feet per minute per square foot of plating

tank surface area. Consequently, although these sources often exceed the concentration limit of 0.015 mg/dscm, actual mass rate (pounds per hour) emissions are typically half or less than the mass rate which would otherwise be achieved by a complying source with the same size tank and workload with conventional hooding and ventilation rates. To address this problem, we are proposing procedures for demonstrating equivalent performance by establishing an alternative mass rate emission limit for these sources.

D. Chromium Electroplating and Chromium Anodizing Tank Definitions

At least in one instance, the existing regulations have led to the determination that tank replacement was considered a reconstruction. The final rule was interpreted to mean that a facility replacing an electroplating tank (*i.e.*, the receptacle or container in which chromium electroplating occurs) would qualify as a reconstructed source and, therefore, must comply with new source standards according to the provisions for reconstructed sources prescribed in § 63.5 of the General Provisions to 40 CFR part 63. This is an unintended and unforeseen outcome. Furthermore, tank replacements are considered routine preventive maintenance. If sources were subject to change from existing to new source standards due to tank replacement, there would be a disincentive to replacements of tanks until a failure occurred which obviously would be more detrimental to the environment.

Reconstruction means the replacement of components of an affected source to such an extent that the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source. Upon reconstruction, an existing affected source becomes subject to relevant standards for new sources irrespective of any change in emissions of hazardous air pollutants from that source. The chromium electroplating standards designate each electroplating or anodizing tank as an affected source. Furthermore, chromium electroplating or chromium anodizing tanks are defined as the receptacle or container in which hard or decorative chromium electroplating or chromium anodizing occurs.

It has come to our attention that the designation of source coupled with the definition of "chromium electroplating or chromium anodizing tank" as currently written may lead to an unintended determination that tank replacement alone qualifies as

reconstruction, causing the new tank to be subject to new source standards. The intent of the standards is to limit chromium emissions from chromium electroplating and anodizing processes. A hard chromium electroplating facility needs many other components and ancillary equipment in addition to the plating tank. The minimum equipment needed for even a small hard chromium electroplating process would include the following: an electroplating tank, rectifiers, anodes, heat exchanger equipment, circulation pumps and air agitation systems. Similarly, decorative chromium electroplating and chromium anodizing facilities include many other components in addition to the tank. Therefore, the 50 percent fixed capital cost trigger for determining reconstruction should be measured against all equipment components needed to achieve plating or anodizing. In most cases, similar tank replacement should be considered routine preventive maintenance and not trigger a reconstruction determination in and of itself. We are, therefore, proposing revisions to the definitions to clarify this intent.

E. Pressure Drop Monitoring Requirement for Composite Mesh Pads

Since the promulgation of the standards, we have been informed of many sources that are experiencing difficulty in complying with the standards' pressure drop operating limit for composite mesh pad control devices. The current operating limit requires composite mesh pad devices to be operated at all times within ± 1 inch of water column of the pressure drop value established during the initial performance test. The most common problem encountered occurs when a pad is cleaned or replaced. The cleaner or newer pad often operates at a pressure drop outside of the allowed range causing the source to be out of compliance with the operating limit. We have obtained results of numerous performance tests conducted at several different facilities that clearly demonstrate that sources can meet the emission limit even though the pressure drop is outside the ± 1 inch allowable range. We solicited and received information from a manufacturer and major supplier of composite mesh pad devices indicating that a more appropriate value for the pressure drop operating limit would be ± 1.5 or ± 2 inches of water column. Consequently, we are proposing to change the current operating limit from ± 1 inch to ± 2 inches.

IV. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule 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 entitlements, 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 regulatory action is not a "significant regulatory action" because none of the listed criteria apply to this action. 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."

The proposed amendments do not have federalism implications. None of the affected facilities are owned or operated by State governments, and the proposed amendments would not preempt any State laws that are more stringent. Therefore, it will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the

distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. In addition, the amendments if implemented as proposed, will not impose any substantial direct compliance costs. Thus, Executive Order 13132 does not apply to this proposal. Although section 6 of Executive Order 13132 does not apply, we consulted with State and local officials in developing this proposal, as noted above in section III A. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comments on this proposed rule amendment from State and local officials.

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 9, 2000), requires the 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 the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

The proposed rule does not have tribal implications. It will 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. Thus, Executive Order 13175 does not apply to the proposed rule.

In the spirit of Executive Order 13175 and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on the proposed rule from tribal officials.

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, the EPA 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.

The EPA interprets 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. The proposed amendments are not subject to Executive Order 13045 because they are technology based and not based on health or safety risks. No children's risk analysis was performed because no alternative technologies exist that would provide greater stringency at a reasonable cost. Further, the proposed amendments have been determined not to be "economically significant" as defined under Executive Order 12866.

E. 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 by State, local, and tribal governments, in the aggregate, or by 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 the proposed amendments do not contain a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector in any 1 year. Thus, today's proposed amendments are not subject to sections 202 and 205 of the UMRA. In addition, the EPA has determined that the proposed amendments contain no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed amendments are not subject to the requirements of section 203 of the UMRA.

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

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule 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.

After considering the economic impacts of today's proposed rule amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives "which minimize any significant economic impact of the proposed rule amendments on small entities" (5 U.S.C. 603 and 604). Thus, an agency may certify that a rule will

not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive effect on the small entities subject to the rule. The amendments proposed in today's action only provide options designed to provide facilities with increased flexibility. The proposed amendments will not impose any additional requirements on any small entities and is expected to relieve burden for some small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

G. Paperwork Reduction Act

This action does not impose any new information collection burden. The proposed amendments provide owners and operators alternatives to existing requirements. The existing alternatives will still be available for those owners and operators that choose to use them. The 26 amendments we are proposing will increase the flexibility of compliance with the current regulations without imposing any additional recordkeeping requirements. The OMB has previously approved the information collection requirements contained in the final chromium electroplating rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned the OMB control number 2060-0327.

A copy of the information collection request (ICR) support document prepared by EPA for the approved information collection requirements (ICR No. 1611.02) may be obtained from Sandy Farmer by mail at the Office of Environmental Information, Collection Strategies Division (2822), U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, by e-mail at farmer.sandy@epa.gov, or by calling (202) 260-2740. A copy also may be downloaded off the Internet at <http://www.epa.gov/icr>. Include the ICR and/or OMB number in any correspondence.

These recordkeeping and reporting requirements are specifically authorized by section 112 of the CAA (42 U.S.C. 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency procedures set forth in 40 CFR part 2, subpart B.

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 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.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 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. This proposed rulemaking does not involve technical standards other than those already specified in the final rule. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

The proposed rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedures, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: May 23, 2002.

Christine Todd Whitman,
Administrator.

For reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is proposed to be 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 N—[AMENDED]

2. Section 63.341 is amended by removing the definition *Chromium electroplating or chromium anodizing tank*, adding definitions for *Chromium anodizing tank*, *Chromium electroplating tank*, *Enclosed hard chromium electroplating tank*, *Open surface hard chromium electroplating tank*, and by revising the definitions for *Stalagmometer* and *Tensiometer*, to read as follows:

§ 63.341 Definitions and nomenclature.

(a) * * *

Chromium anodizing tank means the receptacle or container along with the following accompanying internal and external components needed for chromium anodizing: rectifiers fitted with controls to allow for voltage adjustments, heat exchanger equipment, circulation pumps and air agitation systems.

Chromium electroplating tank means the receptacle or container along with the following internal and external components needed for chromium electroplating: rectifiers, anodes, heat exchanger equipment, circulation pumps and air agitation systems.

* * * * *

Enclosed hard chromium electroplating tank means a chromium electroplating tank that is equipped with an enclosing hood and ventilated at half the rate or less that of an open surface tank of the same surface area.

* * * * *

Open surface hard chromium electroplating tank means a chromium electroplating tank that is ventilated at a rate consistent with good ventilation practices for open tanks.

* * * * *

Stalagmometer means an instrument used to measure the surface tension of a solution by determining the mass of a drop of liquid by weighing a known number of drops or by counting the number of drops obtained from a given volume of liquid.

* * * * *

Tensiometer means an instrument used to measure the surface tension of

a solution by determining the amount of force needed to pull a ring from the liquid surface. The amount of force is proportional to the surface tension.

* * * * *

3. Section 63.342 is amended by:

- a. Revising paragraph (b),
- b. Revising paragraph (c),
- c. Revising paragraph (d)(2), and
- d. Revising paragraph (f)(2)(ii)(B).

The revisions read as follows:

§ 63.342 Standards.

* * * * *

(b) *Applicability of emission limitations.* (1) The emission limitations in this section apply during tank operation as defined in § 63.341, and during periods of startup and shutdown as these are routine occurrences for affected sources subject to this subpart. The emission limitations do not apply during periods of malfunction, but the work practice standards that address operation and maintenance and that are required by paragraph (f) of this section must be followed during malfunctions.

* * * * *

(c)(1) *Standards for open surface hard chromium electroplating tanks.* During tank operation, each owner or operator of an existing, new, or reconstructed affected source shall control chromium emissions discharged to the atmosphere from that affected source by either:

(i) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.015 milligrams of total chromium per dry standard cubic meter (mg/dscm) of ventilation air (6.6×10^{-6} grains per dry standard cubic foot (gr/dscf)) for all open surface hard chromium electroplating tanks that are affected sources other than those that are existing affected sources located at small hard chromium electroplating facilities; or

(ii) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.03 mg/dscm (1.3×10^{-5} gr/dscf) if the open surface hard chromium electroplating tank is an existing affected source and is located at a small, hard chromium electroplating facility; or

(iii) If a chemical fume suppressant containing a wetting agent is used, by not allowing the surface tension of the electroplating or anodizing bath contained within the affected tank to exceed 45 dynes per centimeter (dynes/cm) (3.1×10^{-3} pound-force per foot (lb_f/ft)) as measured by a stalagmometer or 35 dynes/cm (2.4×10^{-3} lb_f/ft) as measured by a tensiometer at any time during tank operation.

(2) *Standards for enclosed hard chromium electroplating tanks.* During tank operation, each owner or operator of an existing, new, or reconstructed affected source shall control chromium emissions discharged to the atmosphere from that affected source by either:

(i) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.015 mg/dscm (6.6×10^{-6} gr/dscf) for all enclosed hard chromium electroplating tanks that are affected sources other than those that are existing affected sources located at small hard chromium electroplating facilities; or

(ii) Not allowing the concentration of total chromium in the exhaust gas stream discharged to the atmosphere to exceed 0.03 mg/dscm (1.3×10^{-5} gr/dscf) if the enclosed hard chromium electroplating tank is an existing affected source and is located at a small, hard chromium electroplating facility; or

(iii) If a chemical fume suppressant containing a wetting agent is used, by not allowing the surface tension of the electroplating or anodizing bath contained within the affected tank to exceed 45 dynes/cm (3.1×10^{-3} lb_f/ft) as measured by a stalagmometer or 35 dynes/cm (2.4×10^{-3} lb_f/ft) as measured by a tensiometer at any time during tank operation; or

(iv) Not allowing the mass rate of total chromium in the exhaust gas stream discharged to the atmosphere to exceed the maximum allowable mass emission rate determined by using the calculation procedure in § 63.344(f)(1)(i) for all enclosed hard chromium electroplating tanks that are affected sources other than those that are existing affected sources located at small hard chromium electroplating facilities; or

(v) Not allowing the mass rate of total chromium in the exhaust gas stream discharged to the atmosphere to exceed the maximum allowable mass emission rate determined by using the calculation procedure in § 63.344(f)(1)(ii) if the enclosed hard chromium electroplating tank is an existing affected source and is located at a small, hard chromium electroplating facility.

(3)(i) An owner or operator may demonstrate the size of a hard chromium electroplating facility through the definitions in § 63.341(a). Alternatively, an owner or operator of a facility with a maximum cumulative potential rectifier capacity of 60 million amp-hr/yr or more may be considered small if the actual cumulative rectifier capacity is less than 60 million amp-hr/yr as demonstrated using the following procedures:

(A) If records show that the facility's previous annual actual rectifier capacity was less than 60 million amp-hr/yr, by using nonresettable ampere-hr meters and keeping monthly records of actual ampere-hr usage for each 12-month rolling period following the compliance date in accordance with § 63.346(b)(12). The actual cumulative rectifier capacity for the previous 12-month rolling period shall be tabulated monthly by adding the capacity for the current month to the capacities for the previous 11 months; or

(B) By accepting a federally-enforceable limit on the maximum cumulative potential rectifier capacity of a hard chromium electroplating facility and by maintaining monthly records in accordance with § 63.346(b)(12) to demonstrate that the limit has not been exceeded. The actual cumulative rectifier capacity for the previous 12-month rolling period shall be tabulated monthly by adding the capacity for the current month to the capacities for the previous 11 months.

(ii) Once the monthly records required to be kept by § 63.346(b)(12) and by this paragraph (c)(3)(ii) show that the actual cumulative rectifier capacity over the previous 12-month rolling period corresponds to the large designation, the owner or operator is subject to the emission limitation identified in paragraph (c)(1)(i), (iii), (c)(2)(i), (iii), or (iv) of this section, in accordance with the compliance schedule of § 63.343(a)(5).

* * * * *

(d) * * *

(2) If a chemical fume suppressant containing a wetting agent is used, by not allowing the surface tension of the electroplating or anodizing bath contained within the affected source to exceed 45 dynes/cm (3.1×10^{-3} lb_f/ft) as measured by a stalagmometer or 35 dynes/cm (2.4×10^{-3} lb_f/ft) as measured by a tensiometer at any time during operation of the tank.

* * * * *

(f) * * *

(2) * * *

(ii) * * *

(B) Fails to provide for the proper operation of the affected source, the air pollution control techniques, or the control system and process monitoring equipment during a malfunction in a manner consistent with good air pollution control practices; or

* * * * *

- 4. Section 63.343 is amended by:
 - a. Revising paragraph (b)(2),
 - b. Revising paragraph (c)(1),
 - c. Revising paragraphs (c)(5)(i) and (ii).

The revisions read as follows:

§ 63.343 Compliance provisions.

* * * * *

(b) * * *

(2) If the owner or operator of an affected source meets all of the following criteria, an initial performance test is not required to be conducted under this subpart:

(i) The affected source is a hard chromium electroplating tank, a decorative chromium electroplating tank or a chromium anodizing tank; and

(ii) A wetting agent is used in the plating or anodizing bath to inhibit chromium emissions from the affected source; and

(iii) The owner or operator complies with the applicable surface tension limit of paragraph (c)(1)(iii), (c)(2)(iii), or (d)(2) of § 63.342 as demonstrated through the continuous compliance monitoring required by paragraph (c)(5)(ii) of this section.

* * * * *

(c) * * *

(1) *Composite mesh-pad systems.* (i) During the initial performance test, the owner or operator of an affected source, or a group of affected sources under common control, complying with the emission limitations in § 63.342 through the use of a composite mesh-pad system shall determine the outlet chromium concentration using the test methods and procedures in § 63.344(c), and shall establish as a site-specific operating parameter the pressure drop across the system, setting the value that corresponds to compliance with the applicable emission limitation, using the procedures in § 63.344(d)(5). An owner or operator may conduct multiple performance tests to establish a range of compliant pressure drop values, or may set as the compliant value the average pressure drop measured over the three test runs of one performance test and accept ±2 inches of water column from this value as the compliant range.

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, the owner or operator of an affected source, or group of affected sources under common control, shall monitor and record the pressure drop across the composite mesh-pad system once each day that any affected source is operating. To be in compliance with the standards, the composite mesh-pad system shall be operated within ±2 inches of water column of the pressure drop value established during the initial performance test, or shall be operated

within the range of compliant values for pressure drop established during multiple performance tests.

* * * * *

(5) *Wetting agent-type or combination wetting agent-type/foam blanket fume suppressants.* (i) During the initial performance test, the owner or operator of an affected source complying with the emission limitations in § 63.342 through the use of a wetting agent in the electroplating or anodizing bath shall determine the outlet chromium concentration using the procedures in § 63.344(c). The owner or operator shall establish as the site-specific operating parameter the surface tension of the bath using Method 306B, appendix A of this part, setting the maximum value that corresponds to compliance with the applicable emission limitation. In lieu of establishing the maximum surface tension during the performance test, the owner or operator may accept 45 dynes/cm as measured by a stalagmometer or 35 dynes/cm as measured by a tensiometer as the maximum surface tension value that corresponds to compliance with the applicable emission limitation. However, the owner or operator is exempt from conducting a performance test only if the criteria of paragraph (b)(2) of this section are met.

(ii) On and after the date on which the initial performance test is required to be completed under § 63.7, except for hard chromium electroplaters and chromium anodizing operations in California which have until January 25, 1998, the owner or operator of an affected source shall monitor the surface tension of the electroplating or anodizing bath. Operation of the affected source at a surface tension greater than the value established during the performance test, or greater than 45 dynes/cm as measured by a stalagmometer or 35 dynes/cm as measured by a tensiometer if the owner or operator is using this value in accordance with paragraph (c)(5)(i) of this section, shall constitute noncompliance with the standards. The surface tension shall be monitored according to the following schedule:

(A) The surface tension shall be measured once every 4 hours during operation of the tank with a stalagmometer or a tensiometer as specified in Method 306B, appendix A of this part.

(B) The time between monitoring can be increased if there have been no exceedances. The surface tension shall be measured once every 4 hours of tank

operation for the first 40 hours of tank operation after the compliance date. Once there are no exceedances during 40 hours of tank operation, surface tension measurement may be conducted once every 8 hours of tank operation. Once there are no exceedances during 40 hours of tank operation, surface tension measurement may be conducted once every 40 hours of tank operation on an ongoing basis, until an exceedance occurs. The minimum frequency of monitoring allowed by this subpart is once every 40 hours of tank operation.

(C) Once an exceedance occurs as indicated through surface tension monitoring, the original monitoring schedule of once every 4 hours must be resumed. A subsequent decrease in frequency shall follow the schedule laid out in paragraph (c)(5)(ii)(B) of this section. For example, if an owner or operator had been monitoring an affected source once every 40 hours and an exceedance occurs, subsequent monitoring would take place once every 4 hours of tank operation. Once an exceedance does not occur for 40 hours of tank operation, monitoring can occur once every 8 hours of tank operation. Once an exceedance does not occur for 40 hours of tank operation on this schedule, monitoring can occur once every 40 hours of tank operation.

* * * * *

5. Section 63.344 is amended by adding paragraph (f) as follows:

§ 63.344 Performance test requirements and test methods.

* * * * *

(f) *Compliance provisions for the mass rate emission standard for enclosed hard chromium electroplating tanks.* (1) This section identifies procedures for calculating the maximum allowable mass emission rate for owners or operators of affected sources who choose to meet the mass emission rate standard in § 63.342(c)(2)(iv) or (v).

(i)(A) The owner or operator of an enclosed hard chromium electroplating tank that is an affected source other than an existing affected source located at a small hard chromium electroplating facility who chooses to meet the mass emission rate standard in § 63.342(c)(2)(iv) shall determine compliance by not allowing the mass rate of total chromium in the exhaust gas stream discharged to the atmosphere to exceed the maximum allowable mass emission rate calculated using equation 9:

$$MAMER = ETSA \times K \times 0.015 \text{ mg/dscm} \quad (9)$$

Where:

MAMER=the alternative emission rate for enclosed hard chromium electroplating tanks in mg/hr.

ETSA=the hard chromium electroplating tank surface area in square feet(ft²).

K=a conversion factor, 425 dscm/(ft² × hr).

(B) Compliance with the alternative mass emission limit is demonstrated if the three-run average mass emission rate determined from Method 306 testing is less than or equal to the maximum allowable mass emission rate calculated from equation 9.

(ii)(A) The owner or operator of an enclosed hard chromium electroplating tank that is an existing affected source located at a small hard chromium electroplating facility who chooses to meet the mass emission rate standard in § 63.342(c)(2)(v) shall determine compliance by not allowing the mass rate of total chromium in the exhaust gas stream discharged to the atmosphere to exceed the maximum allowable mass emission rate calculated using equation 10:

$$MAMER = ETSA \times K \times 0.03 \text{ mg/dscm} \quad (10).$$

(B) Compliance with the alternative mass emission limit is demonstrated if the three-run average mass emission rate determined from testing using Method 306 of appendix A to part 63 is less than or equal to the maximum allowable mass emission rate calculated from equation 10.

* * * * *

6. Section 63.347 is amended by revising paragraph (c)(1)(viii) to read as follows:

§ 63.347 Reporting requirements.

* * * * *

(c) * * *

(1) * * *

(viii) For sources performing hard chromium electroplating, a statement of whether the owner or operator of an affected source(s) will limit the maximum potential cumulative rectifier capacity in accordance with § 63.342(c)(2) such that the hard chromium electroplating facility is considered small; and

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