

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[OGC–2004–0004; FRL–7826–1]

National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; amendments.

SUMMARY: On April 14, 2003, pursuant to section 112 of the Clean Air Act (CAA), the EPA issued national emission standards to control hazardous air pollutants emitted from pushing, quenching, and battery stacks at new and existing coke oven batteries. This proposed action would amend the parametric operating limits and associated compliance provisions for capture systems used to control emissions from pushing. This action also would amend the requirements for mobile scrubber cars that capture emissions which occur during pushing and travel.

In the Rules and Regulations section of this **Federal Register**, we are issuing the amendments as a direct final rule. We are making the amendments as a direct final rule without prior proposal because we view the amendments as noncontroversial and anticipate no adverse comments. We have explained our reasons for the amendments in the direct final rule.

If we receive any significant, adverse comments on one or more distinct amendments in the direct final rule, we will publish a timely notice of withdrawal in the **Federal Register** informing the public which amendments will become effective and which amendments are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule (should we decide to issue a final rule). If no significant adverse comments are received, no further action will be taken on the proposal, and the direct final rule will become effective as provided in that action.

The regulatory text for the proposal is identical to that for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For

further supplementary information, see the direct final rule.

DATES: *Comments.* Comments must be received on or before November 12, 2004, unless a hearing is held. If a hearing is held, comments must be received on or before November 29, 2004.

ADDRESSES: Submit your comments, identified by Docket ID No. OGC–2004–0004, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- E-mail: a-and-r-docket@epa.gov.
- Fax: (202) 566–1741.
- Mail: Proposed Settlement Agreement in *AISI/ACCCI Coke Oven Environmental Task Force vs. U.S. EPA*, No. 03–1167 (D.C. Cir.) Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies.

- Hand Delivery: Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B102, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. OGC–2004–0004. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA EDOCKET and the Federal [regulations.gov](http://www.regulations.gov) websites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through

EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other information, such as copyrighted materials, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy form at the Proposed Settlement Agreement in *AISI/ACCCI Coke Oven Environmental Task Force vs. U.S. EPA*, No. 03–1167 (DC Cir.) Docket, Docket ID No. OGC–2004–0004, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Lula Melton, Emission Standards Division, Office of Air Quality Planning and Standards (C439–02), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone number (919) 541–2910, fax number (919) 541–3207, e-mail address: melton.lula@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information****A. Does This Action Apply To Me?**

Categories and entities potentially regulated by this action include:

Category	NAICS code ¹	Examples of regulated entities
Industry	331111, 324199	Coke plants and integrated iron and steel mills.
Federal government		Not affected.

Category	NAICS code ¹	Examples of regulated entities
State/local/tribal government		Not affected.

¹ North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in § 63.7281 of the national emission standards for coke ovens: Pushing, quenching, and battery stacks. 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.

B. What Should I Consider as I Prepare My Comments for EPA?

Do not submit information containing CBI to EPA through EDOCKET, regulations.gov or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404-02), U.S. EPA, Research Triangle Park, NC 27711, Attention Docket ID No. OGC-2004-0004. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

C. Where Can I Get a Copy of This Document and Other Related Information?

In addition to being available in the docket, an electronic copy of today's proposed amendments is also available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the proposed amendments will be placed 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.

D. Will There Be a Public Hearing?

If anyone contacts the EPA requesting to speak at a public hearing by October 25, 2004, a public hearing will be held on October 27, 2004. If a public hearing is requested, it will be held at 10 a.m. at the EPA Facility Complex in Research Triangle Park, North Carolina or at an alternate site nearby.

II. Statutory and Executive Order Reviews

For information regarding other statutory and executive order reviews associated with this action, please see the direct final rule located in the Rules and Regulations section of today's **Federal Register**.

A. Paperwork Reduction Act

The proposed action does not impose any new information collection burden. The costs of the information collection requirements associated with the new operating limit and operation and maintenance plan provisions related to the settlement agreement do not increase the existing burden estimates for the final rule. The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing rule (40 CFR part 63, subpart CCCCC) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060-0521, EPA ICR number 1995.02. A copy of the approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566-1672.

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 in 40 CFR part 63 are listed in 40 CFR part 9.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of today's proposed amendments on small entities, small entity is defined as: (1) A small business according to U.S. Small Business Administration size standards for NAICS codes 331111 and 324199 ranging from 500 to 1,000 employees; (2) a government 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 that is not dominant in its field.

After considering the economic impacts of today's proposed 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 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 on small entities (5 U.S.C. 603-604). 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 proposed amendments make improvements to the existing standards by adding new compliance options for monitoring of capture systems operating parameters and by adding provisions for a type of control system not covered by the existing standards. We have, therefore, concluded that today's proposed amendments will have no adverse impacts on any small entities and may relieve burden in some cases.

Although the proposed rule amendments will not have a significant economic impact on a substantial number of small entities, we nonetheless tried to reduce the impact of the proposed amendments on small entities. We held meetings with the petitioners to discuss the proposed amendments related to the settlement agreement and have included provisions that address their concerns. We continue to be interested in the potential impacts of the proposed amendments on small entities and

welcome comments on issues related to such impacts.

List of Subjects in 40 CFR Part 63

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

Dated: October 4, 2004.

Michael O. Leavitt,
Administrator.

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