

## Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that the proposed approvals in this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The proposed partial disapproval will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA’s partial disapproval of the submittal does not impose a new Federal requirement. Therefore, the Administrator certifies that this proposed disapproval action does not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the

distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

## List of Subjects

### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

### 40 CFR Part 62

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides, Sulfuric acid plants, Waste treatment and disposal.

Dated: September 23, 2005.

**James B. Gulliford,**

*Regional Administrator, Region 7.*

[FR Doc. 05–19711 Filed 9–30–05; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[OAR–2002–0084; FRL–7978–5]

RIN 2060–AN38

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

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

**ACTION:** Proposed rule; amendments.

**SUMMARY:** The EPA is proposing amendments to the national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production, which were issued on March 23, 2000 under section 112 of the Clean Air Act (CAA), and amended on December 30, 2002. This action proposes to correct a punctuation error in the definition of “clean charge” and a typographical error in the operating temperature of a scrap dryer/delacquering kiln/decoating kiln afterburner.

In the Rules and Regulations section of this **Federal Register**, we are taking direct final action on the proposed amendments because we view the amendments as noncontroversial, and we anticipate no adverse comments. We have explained our reasons for the proposed amendments in the preamble to the direct final rule.

If we receive no adverse comments, we will take no further action on the proposed amendments. If we receive adverse comments, we will withdraw the amendments. We will publish a timely withdrawal in the **Federal Register** indicating that the amendments are being withdrawn. If the direct final rule amendments in the Rules and Regulations section of this **Federal Register** are withdrawn, all comments will be addressed in a subsequent final action based on the proposed amendments. We will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time.

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.* Written comments must be received by November 2, 2005, unless a public hearing is requested by October 13, 2005. If a hearing is requested, written comments must be received by November 17, 2005. Public

Hearing. If anyone contacts EPA requesting to speak at a public hearing by October 13, 2005, we will hold a public hearing on October 18, 2005.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OAR-2002-0084, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Website: <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](mailto:a-and-r-docket@epa.gov) and [colyer.rick@epa.gov](mailto:colyer.rick@epa.gov).

- Fax: (202) 566-1741 and (919) 541-5600.

- Mail: U.S. Postal Service, send comments to: EPA Docket Center (6102T), Attention Docket ID No. OAR-2002-0084, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a duplicate copy, if possible. We request that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

- Hand Delivery: In person or by courier, deliver comments to: EPA Docket Center (6102T), Attention Docket ID No. OAR-2002-0084, 1301 Constitution Avenue, NW., Room B-108, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a duplicate copy, if possible. We request that a separate copy also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

**Instructions:** Direct your comments to Docket ID No. OAR-2002-0084. 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. Send or deliver information identified as CBI only to the following address: Mr. Roberto Morales, OAQPS Document Control Officer, EPA (C404-02), Attention Docket ID No. OAR 2002-0084, Research Triangle Park, NC 27711. Clearly mark the part or all of the information that you claim to be CBI. The EPA EDOCKET and the Federal [regulations.gov](http://www.regulations.gov) Web sites 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. For additional information about EPA's public docket, visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102). **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 material, such as copyrighted material, 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 at the EPA Docket Center, Docket ID No. OAR 2002-0084, EPA West Building, Room B-102, 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 EPA Docket Center is (202) 566-1742. A reasonable fee may be charged for copying docket materials.

**Public Hearing.** If a public hearing is held, it will be held at 10 a.m. at the EPA's Environmental Research Center Auditorium, Research Triangle Park, NC, or at an alternate site nearby. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Janet Eck, EPA, Office of Air Quality Planning and Standards, Emission Standards Division, Coatings and Consumer Products Group (C539-03), Research Triangle Park, NC 27711; telephone number (919) 541-7946; e-mail address: [eck.janet@epa.gov](mailto:eck.janet@epa.gov), at least 2 days in advance of the potential date of the public hearing. Persons interested in attending the public hearing must also call Ms. Eck to verify the time, date, and location of the hearing.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Colyer, EPA, Office of Air Quality Planning and Standards, Emission Standards Division, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504-05), Research Triangle Park, NC 27711; telephone number (919) 541-5262; facsimile number (919) 541-5600; electronic mail address: [colyer.rick@epa.gov](mailto:colyer.rick@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

**Regulated Entities.** Categories and entities potentially regulated by this action include:

TABLE 1.—REGULATED CATEGORIES AND ENTITIES

Category	NAICS <sup>1</sup>	Examples of regulated entities
Industry .....	331314	Secondary smelting and alloying of aluminum facilities.
	331312	Secondary aluminum production facility affected sources that are collocated at:
	331315	Primary aluminum production facilities.
	331316	Aluminum sheet, plate, and foil manufacturing facilities.
	331319	Aluminum extruded product manufacturing facilities.
	331521	Other aluminum rolling and drawing facilities.
	331524	Aluminum die casting facilities.
		Aluminum foundry facilities.

<sup>1</sup> 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 is regulated by this action, you should examine the applicability criteria in 40 CFR 63.1500 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. *Worldwide Web (WWW)*. In addition to being available in the docket, an electronic copy of today's proposal will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly proposed rules at <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

#### Statutory and Executive Order Reviews

For information regarding other administrative requirements for this action, please see the direct final rule action that is located in the Rules and Regulations section of today's **Federal Register**.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) 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.

For purposes of assessing the impacts of today's proposed amendments on small entities, a small entity is defined as: (1) A small business that is primarily engaged in secondary aluminum production according to Small Business Administration (SBA) size standards by NAICS code (in this case, less than 500 employees for affected businesses classified in NAICS codes 331314, Secondary Smelting and Alloying of Aluminum, 331521, Aluminum Die-castings, and 331524, Aluminum Foundries; less than 750 employees for businesses in NAICS codes 331315, Aluminum Sheet, Plate, and Foil, and 331316, Aluminum Extruded Products; and less than 1,000 employees for businesses in NAICS code 331312, Primary Aluminum Production); (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 that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed amendments on small entities, I certify that this action would not have a significant economic impact on a substantial number of small entities. The proposed amendments will not impose any requirements on small entities. The proposed amendment in today's action would improve the emission standards by correcting a definitional error. 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: September 27, 2005.

**Stephen L. Johnson**,  
Administrator.

[FR Doc. 05-19714 Filed 9-30-05; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

#### 49 CFR Part 192

[Docket No. RSPA-1998-4868; Notice 5]

RIN 2137-AB15

#### Gas Gathering Line Definition; Alternative Definition for Onshore Lines and Proposed Safety Standards

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** On September 25, 1991, DOT published a notice of proposed rulemaking to revise the definition of "gathering line" in its gas pipeline safety standards. Because the proposal proved controversial, final action was postponed pending collection of additional information. In this Supplemental Notice of Proposed Rulemaking (SNPRM), PHMSA is proposing use of a consensus standard to distinguish onshore gathering lines. PHMSA's gas pipeline safety standards

do not provide an adequate basis for distinguishing these pipelines from production facilities and transmission lines. In addition, PHMSA is proposing to establish safety standards for certain higher-risk onshore gathering lines, and to relax current standards on certain low-risk onshore gathering lines. (Onshore gathering lines in inlets of the Gulf of Mexico are not affected by this rulemaking.) Operators would use a new risk-based approach to determine which of its gathering lines are "regulated onshore gathering lines" and what safety standards the lines must meet. At present, PHMSA's safety standards do not apply to onshore gathering lines in rural locations, while onshore gathering lines in non-rural locations must meet the same requirements as transmission lines. This regulatory approach is insufficient to assure that conditions on gathering lines that pose a greater risk to the public and property are addressed. And it does not take into account the lower risk some other gathering lines pose. The intended effects of the proposed rules are improved identification of gathering lines, improved public confidence in the safety of gathering lines, and safety requirements better tailored to gathering line risks.

**DATES:** Persons interested in submitting written comments on the rules proposed in this notice must do so by January 3, 2006. Late filed comments will be considered so far as practicable.

**ADDRESSES:** Comments should reference Docket No. RSPA-1998-4868 and may be submitted in the following ways:

- DOT Web site: <http://dms.dot.gov>.

To submit comments on the DOT electronic docket site, click "Comment/Submissions," click "Continue," fill in the requested information, click "Continue," enter your comment, then click "Submit."

- Fax: 1-202-493-2251.
- Mail: Docket Management System: U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: DOT Docket Management System; Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- E-Gov Web Site: <http://www.Regulations.gov>. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

**Instructions:** You should identify the docket number, RSPA-1998-4868, at the beginning of your comments. If you