

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[OAR-2002-0084; FRL-7808-1]

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; amendments.

SUMMARY: On March 23, 2000, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production under section 112 of the Clean Air Act (CAA), and on September 24, 2002, and on December 30, 2002, we published final amendments to the standards based on two separate settlement agreements. These amendments further clarify regulatory text, correct errors, and improve understanding of the rule requirements as promulgated. We are making the amendments by direct final rule, without prior proposal, because we view the revisions as noncontroversial and anticipate no adverse comments.

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 anticipate no adverse comments. We have explained our reasons for the amendments in the preamble to the direct final rule. If we receive no significant adverse comments, we will take no further action on the proposed amendments. If we receive significant adverse comments, we will withdraw only those provisions on which we received significant adverse comments. We will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn. If part or all of the direct final rule in the Rules and Regulations section of today's **Federal Register** is withdrawn, all comments pertaining to those provisions will be addressed in a subsequent final rule based on the proposed amendments. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Comments must be received on or before October 4, 2004, unless a hearing is requested by September 13, 2004. If a timely hearing is requested, written comments must be received by October 18, 2004. If a hearing is held, it will take place on September 20, 2004, beginning at 10 a.m.

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 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: Air Docket (in duplicate if possible), Environmental Protection Agency, Mail code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460,

- Hand Delivery: Air Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Mail code: 6102T, 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.

Instructions: Direct your comments to Docket ID No. OAR-2002-0084. 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, or e-mail. The EPA EDOCKET and the federal 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, 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 Air Docket, 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: Mr. Joseph Wood, Minerals and Inorganic Chemicals Group, Emission Standards Division, Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-5446, fax number (919) 541-5600, and electronic mail: wood.joe@epa.gov.

SUPPLEMENTARY INFORMATION:

Does this action apply to me? This action does not affect the applicability of the existing rule as amended on December 30, 2002 (67 FR 79808). Categories and entities potentially regulated by this action include:

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

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 is regulated by this action, you should examine the applicability criteria in § 63.1500 of the secondary aluminum production NESHAP. 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.

For further information, please see the information provided in the direct final rule that is located in the "Rules and Regulations" section of this **Federal Register** publication.

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

1. *Submitting CBI.* Do not submit this information to EPA through EDOCKET, regulations.gov or e-mail. 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 that is 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.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).

ii. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed rule will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules <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.

Administrative Requirements

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

The 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 another 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 rule on small entities, small entity is defined as: (1) A small business that is a business with less 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.

The EPA has also determined that the amendments will not have a significant economic impact on a substantial number of small entities. The direct final amendments do not pose any requirements or costs on any firm, large or small. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities.

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

Dated: August 25, 2004.

Michael O. Leavitt,
Administrator.

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BILLING CODE 6560-50-P