

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[OAR-2002-0035; FRL-7911-7]

RIN 2060-AM10

**National Emission Standards for Hazardous Air Pollutants: Asphalt Processing and Asphalt Roofing Manufacturing****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 asphalt processing and asphalt roofing manufacturing, which were issued on April 29, 2003 under section 112 of the Clean Air Act (CAA). This action proposes to correct minor errors and add a clarifying exemption inadvertently omitted in the final rule.

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 significant adverse comments. We have explained our reasons for the proposed 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withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn.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part or all of the direct final rule amendments in the Rules and Regulations section of this **Federal Register** are withdrawn, all comments pertaining to those provisions will be addressed in a subsequent final action based on the proposed amendments.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 June 16, 2005,

unless a public hearing is requested by May 27, 2005. If a public hearing is requested, written comments must be received by July 1, 2005.

*Public Hearing.* If anyone contacts EPA requesting to speak at a public hearing by May 27, 2005, a public hearing will be held on June 1, 2005.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OAR-2002-0035, 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](mailto:a-and-r-docket@epa.gov).
- Fax: (202) 566-1741.
- Mail: EPA Docket Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a duplicate copy, if possible.

- Hand Delivery: Air and Radiation Docket, Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B-108, 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.

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-2002-0035. 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.epa.gov), or e-mail. The EPA EDOCKET and the federal [regulations.gov](http://www.epa.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.epa.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 and Radiation 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.

*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, North Carolina or at an alternate site nearby.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Colyer, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504-05), U.S. EPA, Research Triangle Park, North Carolina 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>a</sup>		SIC <sup>b</sup>	
	Code	Description	Code	Description
Manufacturing .....	324122	Asphalt shingle and coating materials manufacturing.	2952	Asphalt felts and coatings.
Manufacturing .....	32411	Petroleum refineries .....	2911	Petroleum refining.
Federal Government .....	Not affected		Not affected	
State/Local/Tribal Government .....	Not affected		Not affected	

<sup>a</sup> Standard Industrial Classification Code.

<sup>b</sup> North American Information 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 §§ 63.8681 and 63.8682 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.

**Public Hearing.** Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Pamela Garrett, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504-05), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-7966, 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. Garrett 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 emission standards.

**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. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

#### 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 this **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 the processing of asphalt or the manufacture of asphalt roofing materials according to Small Business Administration (SBA) size standards by NAICS code (in this case, less than 750 employees for affected businesses classified in NAICS code 324122, Asphalt Shingles and Coating Materials

Manufacturing and less than 1,500 employees for businesses in NAICS code 32411, Petroleum Refineries); (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 amendments in today's action would improve the emission standards by correcting errors and omissions. 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: May 6, 2005.

**Stephen L. Johnson,**  
Administrator.

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