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**Part III**

## **Environmental Protection Agency**

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**40 CFR Part 63**

**National Emission Standards for  
Hazardous Air Pollutants for Area  
Sources: Clay Ceramics Manufacturing,  
Glass Manufacturing, and Secondary  
Nonferrous Metals Processing; Proposed  
Rule**

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

[EPA-HQ-OAR-2006-0424; EPA-HQ-OAR-2006-0360; EPA-HQ-OAR-2006-0940; FRL-8469-9]

RIN 2060-AM12

**National Emission Standards for  
Hazardous Air Pollutants for Area  
Sources: Clay Ceramics  
Manufacturing, Glass Manufacturing,  
and Secondary Nonferrous Metals  
Processing**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing national emission standards for the Clay Ceramics Manufacturing, Glass Manufacturing, and Secondary Nonferrous Metals Processing area source categories. The proposed emissions standards for new and existing sources are based on EPA's proposed determination as to what constitutes the generally available control technology or management practices for each area source category.

**DATES:** Comments must be received on or before October 22, 2007 unless a public hearing is requested by October 1, 2007. If a hearing is requested on the proposed rules, written comments must be received by November 5, 2007. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by the Office of Management and Budget (OMB) on or before October 22, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2006-0424 (for Clay Ceramics Manufacturing), Docket ID No. EPA-HQ-OAR-2006-0360 (for Glass Manufacturing), or Docket ID No. EPA-HQ-OAR-2006-0940 (for Secondary Nonferrous Metals Processing) by one of the following methods:

- *www.regulations.gov*. 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) 566-9744.
- *Mail:* National Emission Standards for Hazardous Air Pollutants for Area Sources: Clay Ceramics Manufacturing, Glass Manufacturing, and Secondary Nonferrous Metals Processing, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection

provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.

• *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., 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. EPA-HQ-OAR-2006-0424 (for Clay Ceramics Manufacturing), Docket ID No. EPA-HQ-OAR-2006-0360 (for Glass Manufacturing), or Docket ID No. EPA-HQ-OAR-2006-0940 (for Secondary Nonferrous Metals Processing). EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, 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 *www.regulations.gov* or e-mail. The *www.regulations.gov* website is an "anonymous access" system, 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 *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 *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in

*www.regulations.gov* or in hard copy at the EPA Docket Center, Public Reading Room, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Eastern Standard Time (EST), 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:** For questions about the proposed rule for Clay Ceramics Manufacturing, contact Mr. Bill Neuffer, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Metals and Minerals Group (D243-02), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541-5435; fax number: (919) 541-3207; e-mail address: [Neuffer.Bill@epa.gov](mailto:Neuffer.Bill@epa.gov). For questions about the proposed rule for Glass Manufacturing or Secondary Nonferrous Metals Processing, contact Ms. Susan Fairchild, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Metals and Minerals Group (D243-02), Research Triangle Park, NC 27711, telephone number: (919) 541-5167, fax number: (919) 541-3207, e-mail address: [Fairchild.Susan@epa.gov](mailto:Fairchild.Susan@epa.gov).

**SUPPLEMENTARY INFORMATION:** The supplementary information presented in this preamble is organized as follows:

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  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
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  - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

- H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
- I. National Technology Transfer Advancement Act
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**I. General Information**

*A. Does this action apply to me?*

The regulated categories and entities potentially affected by the proposed standards include:

| Category                                | NAICS code <sup>1</sup>    | Examples of regulated entities  |
|---|----------------------------|---|
| Industry:                               |                            |   |
| Clay Ceramics Manufacturing .....       | 327122<br>327111<br>327112 | Area source facilities that manufacture ceramic wall and floor tile, vitreous plumbing fixtures, vitreous china tableware and kitchenware, and/or pottery.  |
| Glass Manufacturing .....               | 327211<br>327212<br>327213 | Area source facilities that manufacture flat glass, glass containers, and other pressed and blown glass and glassware.  |
| Secondary Nonferrous Metals Processing. | 331492<br>331423           | Area source brass and bronze ingot making, secondary magnesium processing, or secondary zinc processing plant that melts post-consumer nonferrous metal scrap to make products including bars, ingots, and blocks, or metal powders. <sup>2</sup> |

<sup>1</sup> North American Industry Classification System.

<sup>2</sup> The Secondary Nonferrous Metals Processing area source category was originally established under SIC code 3341, a broader classification which included brass and bronze ingot makers. The corresponding NAICS code for brass and bronze ingot makers is 331423.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility would be regulated by this action, you should examine the applicability criteria in 40 CFR 63.11435 of subpart RRRRRR (national emissions standards for hazardous air pollutants (NESHAP) for Clay Ceramics Manufacturing Area Sources), 40 CFR 63.11448 of subpart SSSSSS (NESHAP for Glass Manufacturing Area Sources), and 40 CFR 63.11462 of subpart TTTTTT (NESHAP for Secondary Nonferrous Metals Processing). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA Regional representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

*B. What should I consider as I prepare my comments to EPA?*

Do not submit CBI to EPA through [www.regulations.gov](http://www.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), Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention

Docket ID No. EPA-HQ-OAR-2006-0424 (for Clay Ceramics Manufacturing), or Docket ID EPA-HQ-OAR-2006-0360 (for Glass Manufacturing), or Docket ID EPA-HQ-OAR-2006-0940 (for Secondary Nonferrous Metals Processing). 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.

*C. Where can I get a copy of this document?*

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

the following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

*D. When would a public hearing occur?*

If anyone contacts EPA requesting to speak at a public hearing concerning the proposed rules by October 1, 2007, we will hold a public hearing on October 5, 2007. If you are interested in attending the public hearing, contact Ms. Pamela Garrett at (919) 541-7966 to verify that a hearing will be held.

**II. Background Information for Proposed Area Source Standards**

*A. What is the statutory authority for the proposed NESHAP?*

Section 112(k)(3)(B) of the Clean Air Act (CAA) requires EPA to identify at least 30 hazardous air pollutants (HAP) which, as the result of emissions from area sources,<sup>1</sup> pose the greatest threat to public health in urban areas. Consistent with this provision, in 1999, in the Integrated Urban Air Toxics Strategy, EPA identified the 30 HAP that pose the greatest potential health threat in urban

<sup>1</sup> An area source is a stationary source of HAP emissions that is not a major source. A major source is a stationary source that emits or has the potential to emit 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAP.

areas, and these HAP are referred to as the "urban HAP." See 64 FR 38706, 38715–716, July 19, 1999. Section 112(c)(3) requires EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation. EPA listed the source categories that account for 90 percent of the urban HAP emissions in the Integrated Urban Air Toxics Strategy.<sup>2</sup> Sierra Club sued EPA, alleging a failure to complete standards for the source categories listed pursuant to CAA section 112(c)(3) and 112(k)(3)(B) within the timeframe specified by the statute. See *Sierra Club v. Johnson*, No. 01–1537, (D.D.C.). On March 31, 2006, the court issued an order requiring EPA to promulgate standards under CAA section 112(d) for those area source categories listed pursuant to CAA section 112(c)(3) and 112(k)(3)(B).

Among other things, the order requires that, by December 15, 2007, EPA complete standards for 10 area source categories. As part of our effort to meet the December 15, 2007 deadline, we are proposing in this action the NESHAP for the following three listed area source categories: (1) Clay Ceramics Manufacturing; (2) Glass Manufacturing; and (3) Secondary Nonferrous Metals Processing. The standards for the other categories are being proposed in separate actions.

We added Glass Manufacturing and Secondary Nonferrous Metals Processing to the Integrated Urban Air Toxics Strategy area source category list on June 26, 2002 (67 FR 43112). The Glass Manufacturing area source category is comprised of three distinct industry sectors: (1) Flat Glass Manufacturing; (2) Container Glass Manufacturing; and (3) Pressed and Blown Glass Manufacturing. On November 22, 2002, we added Clay Products Manufacturing to the area source category list (67 FR 70428). The Clay Products Manufacturing area source category was later split into the two categories of Brick and Structural Clay Products (BSCP) Manufacturing and Clay Ceramics Manufacturing to better match the categories already scheduled to be regulated by major source NESHAP. The Clay Ceramics Manufacturing area source category is being addressed in this proposed rule, while the BSCP Manufacturing area source category will be addressed in a future action. (For more information on the area source categories, see [http://](http://www.epa.gov/ttn/atw/area/arearules.html)

[www.epa.gov/ttn/atw/area/arearules.html](http://www.epa.gov/ttn/atw/area/arearules.html).)

The inclusion of the Clay Ceramics Manufacturing, Glass Manufacturing, and Secondary Nonferrous Metals Processing area source categories on the section 112(c)(3) area source category list is based on 1990 emissions data, as EPA used 1990 as the baseline year for that listing. Specifically, the Clay Products Manufacturing area source category was listed based on emissions of compounds of chromium, lead, manganese, and nickel that represent part of the 90 percent of those urban HAP emissions in the 1990 inventory and are hereafter referred to as "clay ceramics metal HAP." The Glass Manufacturing area source category was listed based on emissions of compounds of arsenic, cadmium, chromium, lead, manganese, and nickel that represent part of the 90 percent of those urban HAP emissions in the 1990 inventory and are hereafter referred to as "glass manufacturing metal HAP." The Secondary Nonferrous Metals Processing area source category was listed based on emissions of compounds of arsenic, chromium, lead, manganese, and nickel that represent part of the 90 percent of those urban HAP emissions in the 1990 inventory and are hereafter referred to as "secondary nonferrous metal HAP."

#### *B. What criteria did EPA use in developing the proposed NESHAP?*

Under CAA section 112(d)(5), the Administrator may, in lieu of standards requiring maximum achievable control technology (MACT) under section 112(d)(2), elect to promulgate standards or requirements for area sources "which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants." Under section 112(d)(5), the Administrator has the discretion to use generally available control technology or management practices (GACT) in lieu of MACT. Pursuant to section 112(d)(5), we have decided not to issue MACT standards and concluded that GACT is appropriate for these three source categories.

Additional information on the definition of GACT is found in the Senate report on the legislation (Senate Report Number 101–228, December 20, 1989), which indicates GACT means:

\* \* \* methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems.

Consistent with the legislative history, in addition to considering technical capabilities of the facilities and the availability of control measures, we may consider costs and economic impacts in determining GACT, which is particularly important when developing regulations for source categories that may have few establishments and many small businesses.

Determining what constitutes GACT involves considering the control technologies and management practices that are generally available to the area sources in the source category. We also consider the standards applicable to major sources in the same industrial sector to determine if the control technologies and management practices are transferable and generally available to area sources. In appropriate circumstances, we may also consider technologies and practices at area and major sources in similar categories to determine whether such technologies and practices could be considered generally available for the area source category at issue. Finally, as noted above, in determining GACT for a particular area source category, we consider the costs and economic impacts of available control technologies and management practices on that category.

### **III. Proposed Area Source NESHAP for Clay Ceramics Manufacturing**

#### *A. What area source category is affected by the proposed rule?*

The Clay Ceramics Manufacturing area source category includes those facilities that process greater than 45 megagrams per year (Mg/yr) (50 tons per year (tpy)) wet clay to manufacture pressed floor tile, pressed wall tile, and other pressed tile; sanitaryware (toilets and sinks); dinnerware; or pottery. Clay ceramics are primarily composed of clay and shale, and may include many different additives, including silica, talc, and various high purity powders produced by chemical synthesis.

To estimate the number of facilities in the Clay Ceramics Manufacturing area source category, we gathered detailed information from the NESHAP for Clay Ceramics Manufacturing major sources. Also, we compiled information from other sources, including site visits, Internet searches, and industry submittals. Based on this information and taking into account recent facility shutdowns, we have identified 51 area source facilities with spray glaze operations or kilns that fire glazed ceramic ware that would be subject to the final clay ceramics manufacturing area source NESHAP.

<sup>2</sup> Since its publication in the Integrated Urban Air Toxics Strategy in 1999, the area source category list has undergone several amendments.

With this action, we are also clarifying that artisan potters, small ceramics studios, noncommercial entities, and schools and universities with ceramic arts programs, which typically have annual production rates of 45 Mg/yr (50 tpy) or less, are not a part of the source category listed pursuant to section 112(c)(3) and (k)(3)(B), and are, therefore, not covered by this area source standard. Urban HAP emissions from these facilities were not included in the 1990 baseline emissions inventory that was used as the basis for the area source category listing. Specifically, in reviewing the inventory on which we based the listing of this source category, we determined that the sources that were the basis of the listing decision were those with an annual production rate in excess of 45 Mg/yr (50 tpy).

*B. What are the production processes and emissions points at facilities that manufacture clay ceramics?*

Clay ceramics manufacturing generally includes raw material processing and handling and forming of the clay product shapes, followed by drying, glazing, and firing. Some tile products and most dinnerware/pottery are fired in a kiln prior to some type of glazing operation. More than 95 percent of all clay ceramic products are coated with a glaze and then fired in a kiln.

Spray glaze operations and kilns that fire glazed ceramic ware account for most of the particulate matter (PM) and urban metal HAP emitted from clay ceramics manufacturing facilities (about 80 to 90 percent from spray glaze operations and 10 to 20 percent from kilns). Overspray accounts for most of the PM and clay ceramics metal HAP emitted during spray glaze operations. Emissions from kilns firing glazed ceramic ware consist primarily of volatilized materials from the glaze. The type and volume of HAP emissions vary according to the glaze materials. Emissions of PM from spray glaze operations and kilns firing glazed ceramic ware are estimated at about 407 Mg/yr (449 tpy) nationwide, with about 7.1 Mg/yr (7.9 tpy) of clay ceramics metal HAP (mostly lead and chromium, with smaller quantities of nickel and manganese). Lead emissions are estimated at about 4.1 Mg/yr (4.5 tpy), and most of those emissions come from the two dinnerware facilities still using leaded glazes. Since 1990, most clay ceramics facilities have ceased using leaded glazes because of potential environmental and worker exposure issues.

Spray glazing operations at area source facilities are currently controlled

in terms of clay ceramics metal HAP emissions as a result of state and local air pollution standards, permit requirements, and/or management practices already implemented by the industry to reduce clay ceramics metal HAP from spray glaze operations. Capture systems for spray glaze operations typically include spray booths; partial or total enclosures; and process area ventilation systems. Several different types of air pollution control devices (APCD) are used to control overspray emissions from glaze spray booths, including wet scrubbers, fabric filters, water curtains, and water-wash systems.

Most, if not all, facilities practice waste minimization in their glazing operations to minimize glaze cost and cleanup downtime. Examples of waste minimization practices include, but are not limited to, minimizing glaze overspray emissions using high-volume, low pressure (HVLP) spray equipment or similar spray equipment; minimizing HAP emissions during cleanup of spray glazing equipment; operating and maintaining spray glazing equipment according to manufacturer's instructions; and minimizing spills through careful handling of HAP-containing glaze materials. HVLP spray equipment operates at low atomizing air pressure—0.69 to 69 kilopascals (0.1 to 10 pounds per square inch) at the air nozzle and use 0.42 to 0.85 cubic meters per minute (15 to 30 cubic feet per minute) of air.

No APCD are used by area sources in the clay ceramics manufacturing industry to control emissions from kilns. However, available operating permit information shows that most, if not all, clay ceramics kilns firing glazed ceramic ware are fired with natural gas or some other clean-burning, low-HAP fuel (e.g., propane). Some clay ceramics manufacturing facilities use electric-powered kilns. Furthermore, clay ceramics manufacturing facilities maintain the peak firing temperatures of their kilns firing glazed ceramic ware well below the volatilization temperatures of the clay ceramics metal HAP in their spray glazes.

1. Selection of Affected Source

Affected source means the collection of equipment and processes in the source category or subcategory to which the subpart applies. In selecting the affected source for regulation, we identified the clay ceramics metal HAP-emitting operations, the clay ceramics metal HAP emitted, and the quantity of clay ceramics metal HAP emissions from the individual or groups of emissions points. We concluded that

designating the group of atomized spray glaze operations and kilns firing glazed ceramic ware within the clay ceramics manufacturing operation as the affected source was the most appropriate approach and consistent with the basis for the original listing. This proposed rule includes requirements for the control of emissions from all atomized spray glaze operations and all curing operations involving kilns firing glazed ceramic ware.

2. Selection of Pollutants

For this proposed rule, we decided that it was not practical to establish individual standards for each specific type of clay ceramics metal HAP that could be present in the various processes. A sufficient correlation exists between PM and these clay ceramics metal HAP to rely on PM as a surrogate for both the presence of the HAP and for their control.<sup>3</sup> When released, each of the clay ceramics metal HAP compounds behaves as PM. The control technologies used for the control of PM emissions achieve comparable levels of performance on the individual clay ceramics metal HAP emissions. Therefore, standards requiring good control of PM also achieve good control of clay ceramics metal HAP emissions. Furthermore, establishing separate standards for each individual metal HAP would impose costly and significantly more complex compliance and monitoring requirements and achieve little, if any, HAP emissions reductions beyond what would be achieved using the surrogate pollutant approach based on total PM. Based on these considerations, we decided to establish standards for Clay Ceramics Manufacturing based on control of total PM as a surrogate pollutant for the individual clay ceramics metal HAP.

*C. How did EPA subcategorize spray glaze operations?*

As part of the GACT analysis, we considered whether there were differences in processes, sizes, or other factors affecting emissions that would warrant subcategorization. Under section 112(d)(1) of the CAA, EPA "may distinguish among classes, types, and sizes within a source category or subcategory in establishing such standards\* \* \*". In our review of the available data, we observed significant differences between spray glaze operations based on the level of wet glaze usage and clay ceramics metal HAP emissions. For these reasons, we

<sup>3</sup> *National Lime Association v. EPA*, 233 F.3d 625, 639–640 (D.C. Cir. 2000) and *Sierra Club v. EPA*, 353 F.3d 976 (D.C. Cir. 2004).

are proposing two subcategories for spray glaze operations based on annual wet glaze usage: those facilities with annual wet glaze usage of more than 227 Mg/yr (250 tpy) and facilities with annual wet glaze usage of 227 Mg/yr (250 tpy) or less. These subcategories differentiate between general sizes of glazing operations at clay ceramics manufacturing facilities, but do not differentiate clay product types or other processes.

Those facilities with wet glaze usage above the threshold level would be subject to a different set of management practices than those facilities at or below the threshold level, which are more likely to be small businesses and comprise a much smaller fraction of total production, glaze usage, and clay ceramics metal HAP emissions. Our analysis indicates that approximately 88 percent of wet glaze usage and 75 percent of clay ceramics metal HAP emissions are associated with 11 clay ceramic manufacturing area source facilities in the subcategory with wet glaze usage levels greater than 227 Mg/yr (250 tpy) and the other 12 percent of wet glaze usage and 25 percent of clay ceramics metal HAP emissions come from 40 facilities in the subcategory with wet glaze usage at or below 227 Mg/yr (250 tpy). To account for those facilities that use non-HAP glazes in some or all of their processes, we have included a provision allowing sources to exclude glazes that contain less than 0.1 (weight) percent clay ceramics metal HAP in determining their total wet glaze usage relative to the 227 Mg/yr (250 tpy) subcategorization threshold.

#### D. How was GACT determined?

As provided in CAA section 112(d)(5), we are proposing standards representing GACT for the clay ceramics metal HAP. As noted in section II of this preamble, the statute allows the Agency to establish standards for area sources listed pursuant to section 112(c) based on GACT. The statute does not set any condition precedent for issuing standards under section 112(d)(5) other than that the area source category or subcategory at issue must be one that EPA listed pursuant to section 112(c), which is the case here.

Moreover, most of the facilities in this source category have good operational controls in-place and use small quantities of clay ceramics metal HAP in their glazes. We evaluated the control technologies and management practices that reduce HAP emissions that are generally available for the clay ceramics manufacturing area source category. We also considered costs and economic impacts in determining GACT. We

believe the consideration of costs and economic impacts is especially important for the well-controlled clay ceramics manufacturing area sources because, given current well-controlled levels, requiring additional controls would result in only marginal reductions in emissions at very high costs for modest incremental improvement in control for this area source category. We explain below in detail our proposed GACT determinations.

#### 1. GACT for Kilns

As noted previously, we are not aware of any APCD used by clay ceramics manufacturing area source facilities to control emissions from kilns, but most, if not all, clay ceramics kilns firing glazed ceramic ware are fired with natural gas or some other clean-burning, low-HAP fuel (e.g., propane). Based on the available information for all types and sizes of kilns in this industry, we are not aware of any add-on control techniques being used to reduce PM emissions from kilns. Consequently, we determined GACT for kilns to be using natural gas, or an equivalent fuel, for all firing of glazed ceramic ware. For simplicity, we are proposing GACT for all kilns that fire glazed ceramic ware at a given facility and not differentiating between the subcategories identified in the following sections of this preamble involving glazing operations. There are no differences in control equipment or control levels associated with kilns firing different amounts of glazed ceramic ware; therefore, GACT is the same for all kilns.

As noted previously, clay ceramics manufacturing facilities also maintain the peak firing temperatures of their kilns firing glazed ceramic ware well below the volatilization temperatures of the clay ceramics metal HAP in their spray glazes. For those clay ceramics metal HAP that would be present in the kiln exhaust, the lowest volatilization temperature is approximately 1740°C (3160°F) for lead. Based on available information, the highest peak firing temperature used in the clay ceramics manufacturing industry is approximately 1370°C (2500°F). In order to keep peak firing temperatures well below the volatilization temperatures for the relevant clay ceramics metal HAP, we are conservatively proposing GACT as requiring that facilities maintain the peak firing temperatures of their kilns firing glazed ceramic ware below 1540°C (2800°F).

#### 2. GACT for Glaze Spray Booths at Facilities with Wet Glaze Usage Above 227 Mg/yr (250 tpy)

All of the known area source facilities above the threshold of 227 Mg/yr (250 tpy) with atomized spray glaze operations are controlled for PM emissions (e.g., water-wash system or wet scrubber). Many of the glaze spray systems and associated control equipment are custom-designed and -built, depending on product type/size and glaze application spray rates. We lack empirical data for a majority of the facilities in this subcategory for performance testing or actual emission rates associated with spray glaze booths.

In evaluating GACT options, we found that major source clay ceramics manufacturing facilities also utilize similar PM controls on their spray glazing operations. Based on the existing operating permit requirements for clay ceramics facilities, we found a variety of formats and units, e.g., percent opacity, allowable PM or PM<sub>10</sub> emission rates (pounds per hour (lbs/hr) or tpy), percent removal efficiency, and outlet concentrations (grains per dry standard cubic foot (gr/dscf)). While these requirements cover a wide range of spray glazing processes and products, we believe that they achieve a similar level of control and are generally available. (See technical memorandum in the docket for more details on spray booth permit requirements and estimated clay ceramics metal HAP emissions). Therefore, we determined GACT for the subcategory for glaze spray booths at facilities with wet glaze usage above 227 Mg/yr (250 tpy) to be an equipment requirement: wet control systems for PM emissions. Per the legislative history, a management practice in the form of an equipment requirement is an appropriate standard under section 112(d)(5).

#### 3. GACT for Glaze Spray Booths at Facilities with Wet Glaze Usage At or Below 227 Mg/yr (250 tpy)

Area source facilities at or below the threshold of 227 Mg/yr (250 tpy) typically practice waste minimization in their glazing operations to minimize glaze cost and cleanup downtime. We evaluated the potential costs and emission reductions for APCD for facilities with lower glaze usage and found the cost effectiveness to be unreasonable, e.g., average cost of approximately \$71,000/Mg (\$64,000/ton) of PM and \$10 million/Mg (\$9 million/ton) of metal HAP. Therefore, for the subcategory for glaze spray booths at facilities with wet glaze usage at or below 227 Mg/yr (250 tpy), we

determined GACT for spray glaze operations to be waste minimization practices.

*E. What are the proposed requirements for area sources?*

1. Applicability and Compliance Dates

The proposed standards would apply to any new or existing affected source at a clay ceramics manufacturing facility that is an area source and uses more than 45 Mg/yr (50 tpy) of clay. The affected source includes all kilns that fire glazed ceramic ware and all atomized spray glaze operations located at such a facility.

The owner or operator of an existing affected source would have to comply with the standards by the date of promulgation of the final rule. The owner or operator of a new affected source would be required to comply with the standards by the date of promulgation of the final rule, or upon startup, whichever is later.

2. Proposed Standards

For each kiln firing glazed ceramic ware, the proposed standards would require the facility owner or operator to maintain the kiln peak temperature below 1540°C (2800°F) and either use natural gas, or an equivalent clean-burning fuel, as the kiln fuel. The facility owner or operator would also have the option of using an electric-powered kiln.

The requirements for atomized spray glaze operations at clay ceramic manufacturing area source facilities differ depending on whether a facility has annual wet glaze usage above or below 227 Mg/yr (250 tpy). Consequently, we are proposing that the facility owner or operator maintain annual wet glaze usage records in order to document whether they are above or below 227 Mg/yr (250 tpy) wet glaze usage.

For each atomized spray glaze operation located at a clay ceramics manufacturing facility that uses more than 227 Mg/yr (250 tpy) of wet glaze(s), the proposed standards would require the facility owner or operator to have an APCD on their glazing operations and operate and maintain the control device according to the equipment manufacturer's specifications. As a pollution prevention alternative to this proposed requirement, we are also providing the option to use glazes containing less than 0.1 (weight) percent clay ceramics metal HAP for those facilities above the threshold, which is expected to provide emissions reductions equivalent or greater than those obtained using PM controls.

For each atomized spray glaze operation located at a clay ceramics manufacturing facility that uses 227 Mg/yr (250 tpy) or less of wet glaze(s), the proposed standards would require the facility owner or operator to employ waste minimization practices in their glazing operations. As an alternative to this proposed requirement, we are also providing the option to comply with the equipment standard or management practices for facilities with glaze usage greater than 227 Mg/yr (250 tpy) the threshold (i.e., PM controls or the use of glazes containing less than 0.1 (weight) percent clay ceramics metal HAP), which is expected to provide emissions reductions equivalent or greater than those obtained using waste minimization practices.

3. Proposed Compliance Requirements

*Initial compliance demonstration requirements.* The owner or operator would be required to include compliance certifications for the proposed standards in their Notification of Compliance Status. For any wet spray glaze operations controlled with an APCD, an initial inspection of the control equipment must be conducted within 60 days of the compliance date and the results of the inspection included in the Notification of Compliance Status.

*Monitoring requirements.* For each kiln firing glazed ceramic ware, the proposed standards would require the owner or operator to conduct a check of the kiln peak firing temperature on a daily basis. If the peak firing temperature exceeds 1540°C (2800°F), the owner or operator would be required to take corrective action according to the facility's standard operating procedures.

Based on available permit information, there are several clay ceramic manufacturing area source facilities with weekly monitoring requirements associated with APCD used for PM emissions. For all sources that operate one or more APCD for their atomized spray glaze operations, we are proposing daily and weekly visual APCD inspections, daily EPA Method 22 visible emissions (VE) tests, or an EPA-approved alternative monitoring program to ensure that the APCD is kept in a satisfactory state of maintenance and repair and continues to operate effectively.

The owner or operator would be allowed to use existing operating permit documentation to meet the monitoring requirements, provided it includes the necessary monitoring records (e.g., the date, place, and time of the monitoring; the person conducting the monitoring; the monitoring technique or method; the

operating conditions during monitoring; and the monitoring results).

*Notification and recordkeeping requirements.* We are proposing that affected sources submit Initial Notifications and Notifications of Compliance Status under this proposed rule because they are consistent with the part 63 General Provisions and are needed to identify the affected sources subject to the standards and confirm the compliance status of the sources. To ensure that facilities have sufficient time to submit the notifications once the rule was promulgated, we are proposing that facilities submit the notifications 120 days after the promulgation date. (The promulgation date is also the compliance date for this rule.) The submittal date for the notifications is based on the requirement for submitting Initial Notifications specified in the part 63 General Provisions.

We are soliciting information on any control technologies or management practices used to limit emissions of PM or metal HAP from clay ceramics manufacturing area sources and any cost information associated with such control approaches. We also request comment on GACT and the proposed standards.

**IV. Proposed Area Source NESHAP for Glass Manufacturing**

*A. What area source category is affected by the proposed rule?*

The glass manufacturing area source category consists of plants that operate one or more glass melting furnaces that produce at least 45 Mg/yr (50 tpy) of glass and are charged with one or more of the glass manufacturing metal HAP.

Pressed and Blown Glass and Glassware Manufacturing was listed as an area source category on June 26, 2002 (67 FR 43112). The inclusion of this source category on the area source category list was based on emissions of the six glass manufacturing metal HAP. These HAP are emitted from glass melting furnaces.

The proposed glass manufacturing rule would apply to manufacturers producing glass by melting a mixture of minerals and other compounds, then cooling the melt in a manner that prevents it from crystallizing. The primary constituent of all glass is silica, but most glass contains several other minerals and substances. Examples include soda ash, potash, limestone, feldspar, potassium nitrate, boric acid, iron oxide, and sodium nitrate. Metal oxides can be included in the glass manufacturing formulation to produce colored or tinted glass. Some examples include iron oxide, chromium oxide,

cobalt oxide, nickel, and selenium. Other compounds, such as lead oxide and arsenic compounds, can be added to enhance or modify the final product. Recycled glass, also known as cullet, is a primary ingredient of many glass formulations.

Glass manufacturing plants can be broadly classified by product type as one of the following: Flat glass, container glass, or pressed and blown glass. Flat glass includes plate glass used for building windows and automobile windshields. Container glass includes soda, beer, and wine bottles, jars, and other glass containers. Pressed and blown glass includes a wide variety of products such as light bulbs, glass tubing, optical glass, glass cooking ware, and industrial glassware.

As noted previously, the glass manufacturing area source category was listed based on emissions of the six glass manufacturing metal HAP. The Section 112(k) inventory included emissions of these metal HAP from glass manufacturing plants that use compounds of one or more of the metal HAP as raw materials that are added to the glass manufacturing formulation to impart specific characteristics to the final glass product. We estimate that there currently are 21 such plants in operation in the U.S., and these 21 plants comprise the glass manufacturing area source category.

#### *B. What are the production processes and emission points at facilities that manufacture glass?*

Regardless of the type of glass, the process of manufacturing glass entails batch measuring and mixing raw materials in specified proportions, charging the raw material batch mix into a furnace, where it is melted to form molten glass, forming the molten glass into the desired shapes, and finishing and packaging the final product.

Compounds of the glass manufacturing metal HAP are incorporated into glass manufacturing batch formulations to either color, tint, or impart certain characteristics, such as clarity and brilliance, to the final glass product. Lead oxide is used as a clarifier, former, stabilizer, and for radiation shielding in glass. Arsenic is used as a fining agent to facilitate the removal of bubbles from molten glass. The other four glass manufacturing metal HAP compounds are used primarily to color or tint the glass.

Other metal HAP may also be emitted from glass manufacturing furnaces. These include antimony, selenium, and cobalt. Although the source category was not listed for these other metal HAP, the air pollution controls used to

obtain reductions of the glass manufacturing metal HAP also reduce emissions of other metal HAP where they are used in the same process.

#### 1. Selection of Source Category

Although listed originally as "Pressed and Blown Glass and Glassware Manufacturing," the Glass Manufacturing area source category listing was based upon data from all of the three primary sectors of the glass manufacturing industry: Flat glass, container glass, and pressed and blown glass. We are clarifying that the Glass Manufacturing area source category includes any glass manufacturing facility that operates one or more furnaces which produce at least 45 Mg/yr (50 tpy) of glass per furnace and use the glass manufacturing metal HAP compounds as raw materials, regardless of the type of glass product manufactured. This clarification does not change the universe of sources that were the basis of the original listing notice.

#### 2. Selection of Affected Sources

The affected source includes glass manufacturing furnaces that meet two criteria: The furnaces are charged with one or more of the glass manufacturing metal HAP as raw materials, and the furnaces have annual production rates of at least 45 Mg/yr (50 tpy). We selected furnaces as the affected source because glass melting furnaces emit the HAP for which this source category was listed pursuant to sections 112(c)(3) and (k)(3)(B) (i.e., arsenic, cadmium, chromium, lead, manganese, and nickel).

#### *C. How was GACT determined?*

While most of the facilities that would be subject to the proposed rule have good operational controls in place to control emissions of glass manufacturing metal HAP, a few facilities would have to install emission controls or change their glass formulation to meet the emission limits in the proposed rule. We considered costs and economic impacts in determining GACT and found that the cost effectiveness of reducing PM-10 using add-on control is excellent for PM as well as for reducing glass manufacturing metal HAP. While we believe the consideration of costs and economic impacts is important for area sources, we found that the emission reductions achieved by the proposed rule were compelling. Our analyses show that the proposed rule would result in substantial reductions in emissions at reasonable costs for this area source category, achieving 28 tons

per year reductions in glass manufacturing metal HAP and 415 tons per year reductions in PM. We explain below in detail our proposed GACT determinations.

#### 1. Background

Section 112(d)(5) of the CAA allows us to develop area source standards based on GACT. In identifying GACT for the affected sources in the Glass Manufacturing area source category, we compiled data on existing glass manufacturing plants through a series of site visits, a Section 114 information collection request (ICR), operating permits and permit applications, emission inventory reports, emission test reports, published reports on the industry, and databases such as the Toxic Release Inventory and National Emission Inventory (NEI) databases. Detailed data on approximately 80 glass manufacturing plants were compiled in a database, which we then used for subsequent analyses to determine GACT.

The data compiled on existing glass manufacturing facilities included permit limits for PM emissions for approximately 150 furnaces. When converted to a common format (e.g., pounds per ton (lbs/ton)) the data show a wide range in PM emission limits. To meet the most stringent PM emission limits specified in title V permits, plants typically use electrostatic precipitators (ESPs) or fabric filters.

The data also show that many existing glass furnaces are subject to 40 CFR 60, subpart CC, Standards of Performance for Glass Manufacturing Plants (Glass NSPS). The Glass NSPS establishes emission limits for PM and applies to all glass manufacturing plants constructed or modified since 1980 that produce or have the design capacity to produce at least 4,550 kilograms (kg) (about 5 tons) of glass in one day. Depending on the glass recipe, fuel, and process used, the NSPS limits range from 0.2 to 2.0 lbs of PM/ton of glass produced. To comply with the NSPS, plants typically use ESP, fabric filters, or process modifications. Based on the data compiled, approximately 40 percent of container glass furnaces, 50 percent of flat glass furnaces, and 25 percent of pressed and blown glass furnaces are subject to the NSPS.

#### 2. Selection of PM as a Surrogate for Glass Manufacturing Metal HAP

For glass manufacturing furnaces that are charged with any of the glass manufacturing metal HAP as raw materials, PM emissions contain those glass manufacturing metal HAP, and emissions control equipment that is



designed and operated to control PM emissions also control emissions of the glass manufacturing metal HAP. Furthermore, many glass manufacturing plants have title V operating permits that require PM emissions controls and establish emissions limits for PM. For these reasons, we are proposing to establish standards using PM as a surrogate for the glass manufacturing metal HAP. Controlling PM emissions will control emissions of the glass manufacturing metal HAP since the metals are contained within the PM—they are in the particulate form as opposed to the gaseous form. Particulate matter controls used at existing glass manufacturing plants are the same controls available to control particulate metal HAP such as the six glass manufacturing metal HAP. These controls capture particulate metal HAP non-preferentially along with other PM, thus making PM a reasonable surrogate for the metal HAP. We have used this approach in several other NESHAP in which PM was determined to be a surrogate for the metal HAP in the PM.

### 3. Selection of Emission Factor Format

The data compiled on existing glass manufacturing facilities included permit limits for PM emissions for approximately 150 furnaces. The permit limits are expressed in a variety of formats (units), such as emission factors or production-based mass emission rates (e.g., lbs emitted per ton of glass produced), emission concentrations (e.g., gr/dscf of exhaust), and emission rates (e.g., lbs/hr). Due to the wide range in furnace sizes, we are proposing to use the emission factor format because this format normalizes emissions as a function of production rate. Furthermore, of the 150 permit limits reviewed, the permits for 55 furnaces specified emission limits in the format of an emission factor. In addition, the Glass NSPS specifies emission limits as emission factors.

### 4. Selection of GACT for Glass Melting Furnaces

In evaluating GACT for the glass manufacturing area source category, we reviewed the available data for glass melting furnaces that have installed emission controls to reduce emissions of PM and metal HAP. Electrostatic precipitators are by far the most commonly used device for controlling emissions of PM or metal HAP from glass furnaces. Among the furnaces that produce glass using metal HAP compounds as raw materials, approximately 35 percent are controlled with ESPs. This includes all of the controlled furnaces in the flat glass and

container glass sectors that are charged with metal HAP. For furnaces in the pressed and blown glass sector that produce glass using metal HAP, approximately 38 percent are controlled with ESPs and 24 percent are controlled with fabric filters.

The available test data on controlled emissions of PM and/or metal HAP from furnaces were reviewed. The resulting data set includes the results from 19 tests of PM emissions on ESP-controlled furnaces. The emission factors developed from the data ranged from 0.032 to 0.25 lb PM/ton of glass produced, and the average emission factor was determined to be 0.11 lb PM/ton of glass produced. In order to establish an emission limit representing the variation in normal process operation and emissions from a well-controlled glass furnace, we utilized a statistical approach by calculating the 99th percentile of the data set. This resulted in a PM emission limit of 0.2 lb/ton.

As an alternative to expressing the identified limit in terms of PM, we evaluated expressing the limit in terms of an equivalent emission limit for metal HAP. In this regard, we reviewed the available data on controlled furnaces that were charged with the glass manufacturing metal HAP as raw materials. The resulting data set included the results from 15 emission tests. The emission factors developed from the data ranged from 0.0001 to 0.023 lb metal HAP/ton and averaged 0.008 lb metal HAP/ton. Applying the same methodology that we used to determine the PM emission limit for GACT, we developed GACT in terms of an equivalent metal HAP emission limit to be 0.02 lb metal HAP/ton of glass produced. We consider the PM emission factor of 0.2 lb/ton of glass produced and the glass manufacturing metal HAP emission factor of 0.02 lb/ton of glass produced to be equivalent measures of GACT for well-controlled glass manufacturing furnaces.

The estimated cost effectiveness for requiring furnaces charged with glass manufacturing metal HAP to meet the 0.2 lb/ton PM emission limit ranges from approximately \$2,000 to \$6,300 per ton of PM removed. In terms of metal HAP removed, the cost effectiveness of meeting the 0.2 lb/ton PM emission limit depends largely on the amount of metal HAP included in the batch formulation. For example, for furnaces that produce glass containing 30 percent lead, the cost effectiveness would be approximately \$6,500 per ton of metal HAP removed. However, some facilities produce glass using metal HAP in very small amounts; some plants also

use a glass manufacturing formulation that retains most of the metal HAP in the glass product. In both cases, the cost effectiveness for installing controls to meet the proposed 0.2 lb/ton PM emission limit could exceed several million dollars per ton of metal HAP removed. In such cases, the equivalent metal HAP emission limit of 0.02 lb/ton would allow plants to comply with the proposed rule by using glass formulations with very low metal HAP emissions.

Our GACT determinations reflect the levels of emissions reductions that are being achieved by well-controlled sources, and we have concluded that the proposed rule would achieve significant reductions of metal HAP and PM when applied to this source category. We considered the costs and economic impacts of the proposed emission limits. We also considered whether an emission limit more stringent than the 0.2 lb PM/ton or 0.02 lb metal HAP/ton could be achieved by facilities using the technologies described above. We are proposing that requiring more stringent emission limits would not result in significantly greater emission reductions than what we project the proposed rule would achieve. Requiring additional controls would result in only marginal reductions of emissions at very high costs for modest incremental improvement in control for this area source category.

### D. What are the proposed requirements for area sources?

#### 1. Applicability and Compliance Dates

The proposed NESHAP would apply to any glass manufacturing plant that is an area source of HAP emissions and operates one or more furnaces which produce at least 50 tpy of glass per furnace by melting a mixture of raw materials that includes compounds of one or more of the glass manufacturing metal HAP.

Under this proposed rule, the compliance date for existing sources would be 2 years following promulgation of the final rule. However, owners or operators of affected sources could request an extension of an additional one year to comply with the proposed rule, as allowed under section 112(i)(3)(B) of the CAA and under § 63.6(i)(4)(A), if the additional time is needed to install emission controls. The request for an extension of the compliance date would have to be submitted to the permitting agency no later than 12 months prior to the compliance date. In addition, the owner or operator would have to apply for a revision of the facility's title V permit to

incorporate the conditions of the compliance date extension. The compliance date for new or reconstructed sources would be the date of promulgation of the final rule or the startup date for the source, whichever is later. The compliance date for facilities with no affected sources at the time of promulgation and which later change processes or increase production and trigger applicability of the proposed rule, would be 2 years following the date on which the facility made the process changes or increased production and thereby became subject to the proposed NESHAP.

## 2. Proposed Standards for New, Existing, and Reconstructed Sources

This proposed rule would require new and existing affected furnace to comply with a PM emission limit of 0.2 lb/ton of glass produced or an equivalent metal HAP emission limit of 0.02 lb/ton of glass produced. We selected these emission limits based on GACT for glass manufacturing furnaces, as explained in Section IV.C. of this preamble.

## 3. Initial Testing Requirements

The proposed rule would require an initial one-time performance test on each affected furnace unless the furnace had been tested during the previous 5 years, and the previous test demonstrated compliance with the emission limits in this proposed rule using the same test methods and procedures specified in this proposed rule. The initial performance test is needed to demonstrate that affected sources meet the emission limits.

To demonstrate compliance with the PM emission limits, the proposed rule would require testing using Methods 5 or 17. Method 5 is a standard method for measuring PM and is the test method specified in the Glass NSPS. Method 17 is a standard alternative method for PM where in-stack testing is appropriate. To meet the metal HAP emission limit, plants would be required to test using Method 29, which is the standard method for measuring any metal HAP.

## 4. Monitoring Requirements

Under the proposed rule, the owner or operator of an existing affected glass furnace that is controlled with an ESP would be required to monitor the secondary voltage and secondary electrical current to each field of the ESP continuously and record the results at least once every 8 hours. This proposed rule would require the owner or operator of a new or reconstructed affected furnace equipped with an ESP to install and operate one or more

continuous parameter monitoring systems to continuously measure and record the secondary voltage and electrical current to each field of the ESP. We selected these parameter monitoring requirements because secondary voltage and secondary electrical current are reliable indicators of ESP performance. Either of these parameters dropping below established levels provides an indication that the electrical power to the ESP field in question has decreased and collection efficiency may have decreased accordingly.

The proposed rule would require owners or operators of an existing affected glass furnace that is controlled with a fabric filter to monitor the fabric filter inlet temperature continuously and record the results at least once every 8 hours. We selected this monitoring requirement because it is important to ensure that the exhaust gas temperature does not exceed the maximum allowable temperature for the filter bags. This proposed rule would require the owner or operator of a new or reconstructed affected furnace that is equipped with a fabric filter to install and operate a bag leak detector. Bag leak detectors provide a reliable and cost-effective indicator of tears and other damage to fabric filter bags.

As an alternative to monitoring ESP secondary voltage and electrical current or fabric filter inlet temperature, owners or operators of affected furnaces equipped with either of these control devices would have the option of requesting alternative monitoring, as allowed under § 63.8(f). The alternative monitoring request would have to include a description of the monitoring device or monitoring method that would be used; instrument location; inspection procedures; quality assurance and quality control measures; the parameters that would be monitored; and the frequency with which the operating parameter values would be measured and recorded. The owner or operator of an affected furnace that is equipped with a control device other than an ESP or fabric filter, or that uses other methods to reduce emissions, would be required to submit a request for alternative monitoring, as described in § 63.8(f).

## 5. Control Device Inspections

Under this proposed rule, the owner or operator of an affected furnace would be required to conduct initial and periodic inspections of the furnace control device. For fabric filters, the proposed rule would require annual inspections of the ductwork, housing, and fabric filter interior. For ESP, the

proposed rule would require annual inspections of the ductwork, hopper, and housing, and inspections of the ESP interior every 2 years.

## 6. Notification and Recordkeeping Requirements

Under this proposal, owners and operators of all affected glass manufacturing plants that operate at least one furnace that produces at least 45 Mg/yr (50 tpy) of glass using any of the glass manufacturing metal HAP as raw materials would be required to submit an Initial Notification, as required under § 63.9(b). Any facility with an affected source would also have to submit a Notification of Compliance Status, as specified in § 63.9(h).

Owners and operators of glass manufacturing facilities would be required to keep records of all notifications, as well as supporting documentation for the notifications. In addition, they would be required to keep records of performance tests; parameter monitoring data; monitoring system audits and evaluations; operation and maintenance of control devices and monitoring systems; control device inspections; and glass manufacturing batch formulation and production.

We selected the requirement for submitting Initial Notifications and Notifications of Compliance Status under this proposed rule because these requirements are specified in the part 63 General Provisions (subpart A). The specific recordkeeping requirements were selected because they are consistent with the part 63 General Provisions and are needed to document compliance with the requirements of this proposed rule.

## V. Proposed Area Source NESHAP for Secondary Nonferrous Metals Processing

### A. What area source category is affected by the proposed rule?

Secondary nonferrous metals processing facilities are facilities that use furnaces to melt post-consumer nonferrous metal scrap to make products including bars, ingots, blocks, and metal powders. The Secondary Nonferrous Metals Processing area source category consists of brass and bronze ingot makers, secondary magnesium processors, and secondary zinc processors. This area source category was listed pursuant to the Urban Air Toxics Strategy (67 FR 43112, June 26, 2002) due to the emissions of the urban HAP arsenic, chromium, lead, manganese, and nickel, all of which are metal HAP.

In May 2006, we sent an ICR to 98 secondary nonferrous metal processing facilities identified by TRI, NEI and Internet searches, as well as contact with trade associations. Of the 98 facilities receiving the ICR, the ICR was determined to be applicable to 10 facilities. Therefore there are 10 facilities in this area source category. These facilities include brass and bronze ingot makers, secondary magnesium processors, and secondary zinc processors. Reasons for why the ICR was not applicable to many facilities that received the initial ICR mailing included: (1) The facilities were no longer operating, (2) the facilities were included in another secondary nonferrous category such as secondary lead, secondary aluminum, or secondary copper, (3) the facilities reported no emissions of the urban HAP arsenic, chromium, lead, manganese, or nickel, (4) the facilities processed ferrous material, or (5) the facilities performed no urban HAP-emitting processing operations (e.g., scrap wholesalers).

*B. What are the production processes and emissions points at facilities that process secondary nonferrous metals?*

Basic production processes at secondary nonferrous metals processing facilities are: (1) Material handling and pretreatment, which may include crushing and screening operations, (2) metal charging and melting, (3) metal pouring and cooling, (4) removal of cooled metal from molds, and (5) finishing.

Brass and bronze ingot makers include facilities where secondary copper scrap (e.g., number 1 copper scrap) is used to supplement copper alloy scrap that is remelted and poured into ingots. Furnaces used in secondary brass and bronze ingot making include natural gas-fired rotary kilns and electric induction furnaces.

Furnaces used in brass and bronze ingot making emit PM containing metals. The PM emissions are totally dependent upon the incoming scrap metal which may contain the following urban HAP: lead and smaller amounts of cadmium, nickel, and manganese. In some brass and bronze ingot making processes, exhaust gases are drawn through a quench chamber to cool the gases prior to entering the baghouses to prevent the gases from damaging or destroying the bag filters.

Furnaces in secondary magnesium processing emit PM which may contain the urban HAP manganese. Furnaces used in secondary magnesium processing include natural gas-fired crucibles and electric induction furnaces. One secondary magnesium

processor is currently in operation in the U.S. and that facility is equipped with a baghouse on the furnace exhaust.

Secondary zinc processors also emit PM that may contain lead during crushing and screening operations and melting operations. Furnaces used in secondary zinc processing include natural gas-fired kettle, crucible, and retort furnaces and electric induction furnaces.

Furnace distillation with oxidation produces zinc oxide dust. Distillation involves vaporization of zinc at temperatures from 982 to 1249 °C (1800 to 2280 °F). The zinc vapor discharges directly into an air stream leading to a refractory-lined combustion chamber. Excess air completes the oxidation and cools the zinc oxide dust which is then collected in a fabric filter as the final product. Because the zinc oxide dust is the product, well-performing fabric filters are used to optimize product recovery.

According to the information we received, emissions from furnace operations at the secondary nonferrous metals processing facilities and secondary zinc crushing and screening operations are all currently controlled by fabric filters or baghouses, and the collection efficiency of these fabric filters or baghouses during normal operations all exceed 99 percent.

1. Selection of Affected Source

Affected source means the collection of equipment and processes in the source category or subcategory to which the subpart applies. The affected source may be the same collection of equipment and processes as the source category or it may be a subset of the source category. For each rule, we must decide which individual pieces of equipment and processes warrant standards in the context of the CAA section 112 requirements and the industry operating practices.

We are proposing to designate as the affected source in this proposed area source NESHAP all secondary nonferrous metal HAP-emitting operations at brass and ingot making, secondary magnesium processing, and secondary zinc processing facilities. Specifically, based on data from ICR responses, we are designating as the affected source all crushing or screening operations at secondary zinc processing facilities and furnace melting operations at all secondary nonferrous metal processing facilities. This proposed rule includes requirements for the control of emissions from all crushing or screening operations at secondary zinc processing facilities and furnace melting operations

at all secondary nonferrous metal processing facilities.

2. Selection of Pollutants

For this proposed rule, we decided that it was impractical to establish individual standards for each specific secondary nonferrous metal HAP that could be present in the various processes (e.g., separate standards arsenic, chromium, lead, manganese, and nickel). Establishing separate standards for each individual metal HAP would impose costly and significantly more complex compliance and monitoring requirements.

All of the urban HAP emitted by sources in this area source category are metal HAP. When released, each of these secondary nonferrous metal HAP compounds behaves as PM. Accordingly, standards requiring good control of PM (e.g., requiring a baghouse) will also effectively control the secondary nonferrous metal HAP emissions from sources in this area source category. Based on these considerations, we are proposing standards for Secondary Nonferrous Metals Processing based on control of total PM as a surrogate pollutant for the individual secondary nonferrous metal HAP.

A sufficient correlation exists between PM and these secondary nonferrous metal HAP to rely on PM as a surrogate for both the presence of the HAP and for their control. When released, each of the secondary nonferrous metal HAP compounds behaves as PM. The control technologies used for the control of PM emissions achieve comparable levels of performance on the individual secondary nonferrous metal HAP.

Further, as previously mentioned, the amount of secondary nonferrous metal HAP emissions from brass and bronze ingot making, secondary magnesium processing, and secondary zinc processing can vary depending on the HAP content in the incoming scrap metals. Because of the inherent variability and unpredictability of the HAP compositions and amounts in incoming scrap material, it is difficult to establish individual numerical emissions for each secondary nonferrous metal HAP.

*C. How was GACT determined?*

All of the facilities in this source category have good operational controls in-place and most incoming materials contain small quantities of secondary nonferrous metal HAP. We evaluated the control technologies and management practices that reduce HAP emissions that are generally available for the secondary nonferrous metals

processing area source category. We also considered costs and economic impacts in determining GACT. We believe the consideration of costs and economic impacts is especially important for the well-controlled secondary nonferrous metals processing area sources because, given current well-controlled levels, requiring an additional level of control would result in only marginal reductions in emissions at very high costs for modest incremental improvement in control for this area source category. We explain below in detail our proposed GACT determinations.

#### 1. GACT for Existing Sources

In identifying GACT for existing affected sources in the Secondary Nonferrous Metals Processing area source category, we considered the available data on the 10 existing facilities. In their ICR responses, these facilities reported using baghouses on crushing or screening operations at secondary zinc facilities and on furnace melting operations at all facilities and that such baghouses performed at a PM collection efficiency of at least 99 percent or achieved an outlet concentration of at least 0.050 grams per dry standard cubic meter (0.022 gr/dscf) where collection efficiency was not reported.

We are proposing using a baghouse or fabric filter that achieves a PM control efficiency of at least 99 percent as GACT for existing sources because we determined that this level of control is generally available, is cost effective, and is effective for controlling emissions of PM and secondary nonferrous metal HAP.

#### 2. GACT for New Sources

In identifying GACT for new affected sources in the Secondary Nonferrous Metals Processing area source category, we considered the available data on the 10 existing facilities. The best performing facilities reported that each baghouse used at their facilities performed at a PM collection efficiency of at least 99.5 percent.

We contacted baghouse manufacturers to gather information on design parameters and performance for new baghouse installations in the secondary nonferrous metals processing industry. Furthermore, we also considered the performance of baghouses at similar sources (e.g., melting furnaces used in other industries).

Based on available data on the 10 existing facilities, contact with baghouse manufacturers, and consideration of baghouse performance at similar sources, we are proposing using a

baghouse or fabric filter that achieves a PM control efficiency of at least 99.5 percent as GACT for new affected sources.

#### D. What are the proposed requirements for area sources?

##### 1. Applicability and Compliance Dates

The proposed standards would apply to any new or existing affected source at an area source secondary nonferrous metals processing facility. The affected source includes all crushing or screening operations at a secondary zinc processing facility and all furnace melting operations located at a secondary nonferrous metals processing facility.

The owner or operator of an existing affected source would have to comply with the standards by the date of promulgation of the final rule. The owner or operator of a new affected source would be required to comply with the standards by the date of promulgation of the final rule, or upon initial startup, whichever is later.

##### 2. Proposed Standards

The proposed standards would require the owner or operator of an existing affected source to route the emissions from the affected source through a fabric filter or baghouse that achieves a control efficiency of at least 99.0 percent.

The proposed standards would require the owner or operator of a new affected source to route the emissions from the affected source through a fabric filter or baghouse that achieves a control efficiency of at least 99.5 percent.

##### 3. Proposed Compliance Requirements

*Performance test requirements.* The owner or operator of any existing or new affected source would be required to conduct a one-time initial performance test on the affected source. Existing affected sources that were tested within the past 5 years of the compliance date would be exempt from this one-time test if the test were conducted using the same procedures specified in the proposed standards and either no process changes had been made since the test, or the owner or operator must demonstrate that the results of the performance test, with or without adjustments, reliably demonstrated compliance despite process changes.

Existing and new affected sources would have to be tested using Methods 5 or 17. Method 5 is a standard method for measuring PM and Method 17 is a standard alternative method for PM where in-stack testing is appropriate.

*Initial compliance demonstration requirements.* The owner or operator of

any existing or new affected source would be required to include initial compliance certifications for the proposed standard in their Notification of Compliance Status.

The owner or operator of each existing and new affected source would be required to conduct an initial inspection of each baghouse. The owner or operator would be required to visually inspect the system ductwork and baghouse unit for leaks and inspect the inside of each baghouse for structural integrity and fabric filter condition. The owner or operator would be required to record the results of the inspection and any maintenance action taken.

For each installed baghouse which has been operated within 60 days of the compliance date, the owner or operator would be required to conduct the initial inspection no later than 60 days after the applicable compliance date. For an installed baghouse which has not been operated within 60 days of the compliance date, the owner or operator would be required to conduct an initial inspection prior to startup of the baghouse.

An initial inspection of the internal components of a baghouse is not required if an inspection has been performed within the past 12 months.

*Monitoring requirements.* For existing affected sources, the owner or operator would be required to conduct either daily EPA Method 22 VE tests or weekly visual inspections of the baghouse system ductwork for leaks, as well as yearly inspections of the interior of the baghouse to determine its structural integrity and to determine the condition of the fabric filter. These monitoring requirements would ensure that the baghouse is kept in a satisfactory state of maintenance and repair and continues to operate efficiently.

For new affected sources, the owner or operator would be required to operate and maintain a bag leak detection system for each baghouse used to comply with the proposed standards. We decided to require bag leak detection systems because these systems can be incorporated into the design and operation of new sources without retrofitting, as would be the case if they were to be incorporate into existing sources. Bag leak detection systems are typical requirements in our regulations of new sources that are of the size and complexity as secondary nonferrous metals processing facilities.

The proposed standards would require the owner or operator to keep records of the date, place, and time of the monitoring; the person conducting the monitoring; the monitoring

technique or method; the operating conditions during monitoring; and the monitoring results.

*Notification and recordkeeping requirements.* We are proposing that affected sources submit Initial Notifications and Notifications of Compliance Status because they are needed to identify the affected sources subject to the proposed standards and to confirm the compliance status of the sources. To ensure that facilities have sufficient time to submit the notifications once the rule is promulgated, we are proposing that facilities submit the notifications no later than 120 days after the compliance date for this rule. The submittal date for the notifications is based on the requirement for submitting Initial Notifications specified in the part 63 General Provisions.

We are soliciting information on any control technologies or management practices used to limit emissions of PM or metal HAP from secondary nonferrous metals processing area sources and any cost information associated with such control approaches. We also request comment on GACT and the proposed standards.

#### **VI. Proposed Exemption of Certain Area Source Categories From Title V Permitting Requirements**

We are proposing exemptions from title V permitting requirements for affected facilities in the clay ceramics and secondary nonferrous metals processing area source categories for the reasons described below. Glass manufacturers that would be subject to this proposed rule are already subject to title V requirements because they are major sources of PM, NO<sub>x</sub>, or both. Therefore, we are not proposing to exempt the glass manufacturing area source category from title V.

Section 502(a) of the CAA provides that the Administrator may exempt an area source category from title V if he determines that compliance with title V requirements is “impracticable, infeasible, or unnecessarily burdensome” on an area source category. See CAA section 502(a). In December 2005, in a national rulemaking, EPA interpreted the term “unnecessarily burdensome” in CAA section 502 and developed a four-factor balancing test for determining whether title V is unnecessarily burdensome for a particular area source category, such that an exemption from title V is appropriate. See 70 FR 75320, December 19, 2005 (“Exemption Rule”).

The four factors that EPA identified in the Exemption Rule for determining whether title V is “unnecessarily

burdensome” on a particular area source category include: (1) Whether title V would result in significant improvements to the compliance requirements, including monitoring, recordkeeping, and reporting, that are proposed for an area source category (70 FR 75323); (2) whether title V permitting would impose significant burdens on the area source category and whether the burdens would be aggravated by any difficulty the sources may have in obtaining assistance from permitting agencies (70 FR 75324); (3) whether the costs of title V permitting for the area source category would be justified, taking into consideration any potential gains in compliance likely to occur for such sources (70 FR 75325); and (4) whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP for the area source category, without relying on title V permits (70 FR 75326).

In discussing the above factors in the Exemption Rule, we explained that we considered on “a case-by-case basis the extent to which one or more of the four factors supported title V exemptions for a given source category, and then we assessed whether considered together those factors demonstrated that compliance with title V requirements would be ‘unnecessarily burdensome’ on the category, consistent with section 502(a) of the Act.” See 70 FR 75323. Thus, in the Exemption Rule, we explained that not all of the four factors must weigh in favor of exemption for EPA to determine that title V is unnecessarily burdensome for a particular area source category. Instead, the factors are to be considered in combination, and EPA determines whether the factors, taken together, support an exemption from title V for a particular source category.

We examined the four factors for both of the area source categories that we are proposing an exemption. As explained below, after evaluating the relevant factors, we concluded that the requirements of title V would be unnecessarily burdensome on the area source categories for which we are proposing an exemption from title V.

In the Exemption Rule, in addition to determining whether compliance with title V requirements would be unnecessarily burdensome on an area source category, we considered, consistent with the guidance provided by the legislative history of section 502(a), whether exempting the area source category would adversely affect public health, welfare or the environment. See 70 FR 15254–15255, March 25, 2005. As discussed below in

sections VI.A and VI.B of this preamble, we have determined that the proposed exemptions from title V would not adversely affect public health, welfare and the environment.

#### *A. Clay Ceramics Manufacturing*

We compared the title V monitoring, recordkeeping, and reporting requirements (factor one) to the requirements in the proposed NESHAP for the Clay Ceramics Manufacturing area source category. EPA determined that the management practices currently used at most facilities is GACT, and the proposed rule requires recordkeeping that serves as monitoring and deviation reporting to assure compliance with the NESHAP. The monitoring component of the first factor favors title V exemption because this proposed standard provides monitoring that assures compliance with the requirements of the proposed rule. For atomized glaze spray operations, the proposed NESHAP requires the use of PM control systems (e.g., water-wash system or wet scrubber) or management practices (e.g., HVLP spray equipment); and periodic visual APCD inspections at existing sources; daily VE tests; or an EPA-approved alternate monitoring program. For kilns that fire glazed ceramic ware, the proposed NESHAP requires management practices (i.e., kiln fuel and firing temperature) and a daily peak firing temperature check. For those compliance options involving management practices, monitoring other than recordkeeping is not practical or appropriate. Records are required to assure that the management practices are followed, including records of the type of air pollution control used, the types and quantities of wet glazes used, the type of fuel used in the kilns, and the kiln peak firing temperature.

As part of the first factor, we have considered the extent to which title V could potentially enhance compliance for area sources covered by this proposed rule through recordkeeping or reporting requirements. We have considered the various title V recordkeeping and reporting requirements, including requirements for a 6-month monitoring report, deviation reports, and an annual certification in 40 CFR 70.6 and 71.6. For any affected clay ceramics manufacturing area source facility, the proposed NESHAP requires an initial notification and a notification of compliance status. The proposed clay ceramics manufacturing NESHAP also requires affected facilities to maintain records showing compliance with the required equipment standard and management practices. The information

required in the notifications and records is similar to the information that must be provided in the deviation reports required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3). We acknowledge that title V might impose additional compliance requirements on this category, but we have determined that the monitoring, recordkeeping and reporting requirements of the proposed NESHAP for clay ceramics manufacturing are sufficient to assure compliance with the provisions of the NESHAP, and title V would not significantly improve those compliance requirements.

For the second factor, we determine whether title V permitting would impose a significant burden on the area sources in the category and whether that burden would be aggravated by any difficulty the source may have in obtaining assistance from the permitting agency. Subjecting any source to title V permitting imposes certain burdens and costs that do not exist outside of the title V program. EPA estimated that the average cost of obtaining and complying with a title V permit was \$38,500 per source for a 5-year permit period, including fees. See Information Collection Request for Part 70 Operating Permit Regulations, January 2000, EPA ICR Number 1587.05. EPA does not have specific estimates for the burdens and costs of permitting clay ceramics manufacturing area sources; however, there are certain activities associated with the part 70 and 71 rules. These activities are mandatory and impose burdens on the facility. They include reading and understanding permit program guidance and regulations; obtaining and understanding permit application forms; answering follow-up questions from permitting authorities after the application is submitted; reviewing and understanding the permit; collecting records; preparing and submitting monitoring reports on a 6-month or more frequent basis; preparing and submitting prompt deviation reports, as defined by the State, which may include a combination of written, verbal, and other communications methods; collecting information, preparing, and submitting the annual compliance certification; preparing applications for permit revisions every 5 years; and, as needed, preparing and submitting applications for permit revisions. In addition, although not required by the permit rules, many sources obtain the contractual services of consultants to help them understand and meet the permitting program's requirements. The ICR for part 70 provides additional

information on the overall burdens and costs, as well as the relative burdens of each activity described here. Also, for a more comprehensive list of requirements imposed on part 70 sources (hence, burden on sources), see the requirements of 40 CFR 70.3, 70.5, 70.6, and 70.7.

In assessing the second factor for clay ceramics manufacturing facilities, we found that 34 of the 51 plants affected by the proposed rule are small businesses, most with only 100 or fewer employees. These small sources lack the technical resources needed to comprehend and comply with permitting requirements and the financial resources needed to hire the necessary staff or outside consultants. As discussed above, title V permitting would impose significant costs on these area sources, and, accordingly, we conclude that title V is a significant burden for sources in this category. Most are small businesses with limited resources, and under title V they would be subject to numerous mandatory activities with which they would have difficulty complying, whether they were issued a standard or a general permit. Furthermore, given the number of sources in the category and the relatively small size of many of those sources, it would likely be difficult for them to obtain assistance from the permitting authority. Thus, we find that factor two strongly supports title V exemption for clay ceramics manufacturing facilities.

The third factor, which is closely related to the second factor, is whether the costs of title V permitting for these area sources would be justified, taking into consideration any potential gains in compliance likely to occur for such sources. We explained above under the second factor that the costs of compliance with title V would impose a significant burden on most of the 51 clay ceramics manufacturing facilities affected by the proposed rule. We also concluded in considering the first factor that, while title V might impose additional requirements, the monitoring, recordkeeping and reporting requirements in the proposed NESHAP assure compliance with the equipment standard and management practices imposed in the NESHAP. In addition, below in our consideration of the fourth factor, we find that there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. Because the costs of compliance with title V are so high, and the potential for gains in compliance is low, title V permitting is not justified for this source category. Accordingly, the third factor supports

title V exemptions for clay ceramics manufacturing area sources.

The fourth factor we considered in determining if title V is unnecessarily burdensome is whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP without relying on title V permits. There are State programs in place to enforce this area source NESHAP, and we believe that the State programs are sufficient to assure compliance with this NESHAP. We also noted that EPA retains authority to enforce this NESHAP anytime under CAA sections 112, 113 and 114. We further noted that small business assistance programs required by CAA section 507 may be used to assist area sources that have been exempted from title V permitting. Also, States and EPA often conduct voluntary compliance assistance, outreach, and education programs (compliance assistance programs), which are not required by statute. We determined that these additional programs will supplement and enhance the success of compliance with this area source NESHAP. We believe that the statutory requirements for implementation and enforcement of this NESHAP by the delegated States and EPA and the additional assistance programs described above together are sufficient to assure compliance with this area source NESHAP without title V permits.

In applying the fourth factor in the Exemption Rule, where EPA had deferred action on the title V exemption for several years, we had enforcement data available to demonstrate that States were not only enforcing the provisions of the area source NESHAP that we exempted, but that the States were also providing compliance assistance to assure that the area sources were in the best position to comply with the NESHAP. See 70 FR 75325–75326. In proposing this rule, we do not have similar data available on the specific enforcement as in the Exemption rule, but we have no reason to think that States will be less diligent in enforcing this NESHAP. See 70 FR 75326. In fact, States must have adequate programs to enforce the section 112 regulations and provide assurances that they will enforce all NESHAP before EPA will delegate the program. See 40 CFR part 63, subpart E.

In light of all of the above, we conclude that there are implementation and enforcement programs in place that are sufficient to assure compliance with the Clay Ceramics Manufacturing NESHAP without relying on title V permitting.

Balancing the four factors for this area source category strongly supports the proposed finding that title V is unnecessarily burdensome. While title V might add additional compliance requirements if imposed, we conclude that there would not be significant improvements to the compliance requirements in the NESHAP because the requirements in this proposed rule are specifically designed to assure compliance with the standards and management practices imposed on this area source category. We also conclude that the costs of compliance with title V, in conjunction with the likely difficulty this number of small sources would have obtaining assistance from the permitting authority, would impose a significant burden on the sources. We determined that the high relative costs would not be justified given that there is likely to be little or no potential gain in compliance if title V were required. And, finally, there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. Thus, we conclude that title V permitting is "unnecessarily burdensome" for the Clay Ceramics Manufacturing area source category.

In addition to evaluating whether compliance with title V requirements is "unnecessarily burdensome", EPA also considered, consistent with guidance provided by the legislative history of section 502(a), whether exempting the Clay Ceramics Manufacturing area source category from title V requirements would adversely affect public health, welfare, or the environment. Exemption of the Clay Ceramics Manufacturing area source category from title V requirements would not adversely affect public health, welfare, or the environment because the level of control would remain the same if a permit were required. The title V permit program does not impose new substantive air quality control requirements on sources, but instead requires that certain procedural measures be followed, particularly with respect to determining compliance with applicable requirements. As stated in our consideration of factor one for this category, title V would not lead to significant improvements in the compliance requirements applicable to existing or new area sources.

Furthermore, one of the primary purposes of the title V permitting program is to clarify, in a single document, the various and sometimes complex regulations that apply to sources in order to improve understanding of these requirements and to help sources achieve compliance

with the requirements. In this case, however, placing all requirements for the sources in a title V permit would do little to clarify the requirements applicable to the sources or assist them in compliance with those requirements because of the simplicity of the sources and the NESHAP, and the fact that these sources are not subject to other NESHAP. We have no reason to think that new sources would be substantially different from the existing sources. In addition, we explained in the Exemption Rule that requiring permits for the large number of area sources could, at least in the first few years of implementation, potentially adversely affect public health, welfare, or the environment by shifting State agency resources away from assuring compliance for major sources with existing permits to issuing new permits for these area sources, potentially reducing overall air program effectiveness. Based on the above analysis, we conclude that title V exemptions for the clay ceramics manufacturing area sources will not adversely affect public health, welfare, or the environment for all of the reasons explained above.

For the foregoing reasons, we are proposing to exempt the Clay Ceramics Manufacturing area source category from title V permitting requirements.

#### *B. Secondary Nonferrous Metal Processing*

We compared the title V monitoring, recordkeeping, and reporting requirements (factor one) to such requirements in the NESHAP for the Secondary Nonferrous Metal Processing area source category. The proposed rule requires that the affected sources conduct weekly monitoring of the required control device (i.e., baghouse or fabric filter) for existing sources and continuous monitoring of the required control device for new sources. As discussed above, we believe that these monitoring requirements are adequate to assure compliance with the control requirements specified in the proposed NESHAP. The monitoring component of the first factor favors title V exemption because this proposed standard provides monitoring that assures compliance with the requirements of the proposed rule.

We also considered the extent to which title V could potentially enhance compliance for area sources covered by this NESHAP through recordkeeping or reporting requirements. For any affected secondary nonferrous metal processing area source facility, the proposed NESHAP requires an initial notification and a compliance status report, which

would include certifications by responsible officials that the facilities are in compliance and will continue to comply with the NESHAP. In addition, the affected facilities must maintain records showing compliance with the required monitoring. The required records are similar to the information that must be provided in the deviation reports required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3). We believe that these requirements are adequate to assure compliance with the provisions of the NESHAP.

We acknowledge that title V includes some reporting requirements that are not in the proposed NESHAP, including requirements for a 6-month monitoring report, deviation reports, and an annual certification in 40 CFR 70.6 and 71.6. However, as described above, we have determined that the monitoring, recordkeeping and reporting requirements under the proposed NESHAP are sufficient to assure compliance with the provisions of the NESHAP. Therefore, we do not believe that these additional title V reporting requirements would result in significant improvements to the compliance requirements.

Under the second factor, we determined whether title V permitting would impose a significant burden on the area sources in the category and whether that burden would be aggravated by any difficulty the source may have in obtaining assistance from the permitting agency. Subjecting any source to title V permitting imposes certain burdens and costs that do not exist outside of the title V program. EPA estimated that the average cost of obtaining and complying with a title V permit was \$38,500 per source for a 5-year permit period, including fees. (See Information Collection Request for Part 70 Operating Permit Regulations, January 2000, EPA ICR Number 1587.05.) EPA does not have specific estimates for the burdens and costs of permitting secondary nonferrous metal processing area sources; however, there are certain source activities associated with the part 70 and 71 rules. These activities are mandatory and impose burdens on the source. They include reading and understanding permit program guidance and regulations; obtaining and understanding permit application forms; answering follow-up questions from permitting authorities after the application is submitted; reviewing and understanding the permit; collecting records; preparing and submitting monitoring reports on a 6-month or more frequent basis; preparing and submitting prompt deviation reports, as defined by the

State, which may include a combination of written, verbal, and other communications methods; collecting information, preparing, and submitting the annual compliance certification; preparing applications for permit revisions every 5 years; and, as needed, preparing and submitting applications for permit revisions. In addition, although not required by the permit rules, many sources obtain the contractual services of professional scientists and engineers (consultants) to help them understand and meet the permitting program's requirements. The ICR for part 70 provides additional information on the overall burdens and costs, as well as the relative burdens of each activity described here. Also, for a more comprehensive list of requirements imposed on part 70 sources (hence, burden on sources), see the requirements of 40 CFR 70.3, 70.5, 70.6, and 70.7.

In assessing the second factor for secondary nonferrous metal processing facilities, we found that 6 of the 10 plants are small businesses, most with only a few employees. These small sources lack the technical resources needed to comply with permitting requirements and the financial resources needed to hire the necessary staff or outside consultants. As discussed above, title V permitting would impose significant economic and non-economic costs on these area sources, and, accordingly, we conclude that title V is a significant burden for sources in this category. In addition, many of the sources in this area source category are small businesses. Under title V, they would be subject to numerous mandatory activities, and because of limited resources, they would have difficulty complying, whether they were issued a standard or a general permit. Thus, we find that factor two supports title V exemption for secondary nonferrous metal processing facilities.

The third factor, which is closely related to the second factor, is whether the costs of title V permitting for these area sources would be justified, taking into consideration any potential gains in compliance likely to occur for such sources. We explained above under the second factor that the economic and non-economic costs of compliance with title V would impose a significant burden on many secondary nonferrous metal processing facilities. We also concluded in considering the first factor that the monitoring and recordkeeping requirements in the NESHAP are adequate to assure compliance with the management practices proposed in the NESHAP and that the additional title V

compliance requirements would not significantly improve compliance with this NESHAP. In addition, in our consideration of the fourth factor as discussed below, we find that there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. Because the costs, both economic and non-economic, of compliance with title V are so high, and the potential for gains in compliance is low, title V permitting is not justified for this source category. Accordingly, the third factor supports title V exemptions for secondary nonferrous metal processing area sources.

The fourth factor we considered in determining whether title V permitting for the Secondary Nonferrous Metals Processing area source category is unnecessarily burdensome is whether there are implementation and enforcement programs in place that are sufficient to assure compliance with this NESHAP without relying on title V permits. There are State programs in place to enforce this area source NESHAP, and we believe that these State programs are sufficient to assure compliance with this NESHAP. Furthermore, EPA retains authority to enforce this NESHAP anytime under CAA sections 112, 113 and 114. In addition to the State programs and EPA's authorities to implement and enforce this NESHAP, small business assistance programs required by CAA section 507 may be used to assist area sources that have been exempted from title V permitting. Also, States and EPA often conduct voluntary compliance assistance, outreach, and education programs (compliance assistance programs), which are not required by statute. We believe that the statutory requirements for implementation and enforcement of this NESHAP by the delegated States and EPA and the additional assistance programs described above together are sufficient to assure compliance with this area source NESHAP without title V permits.

Furthermore, in applying the fourth factor in the Exemption Rule, where EPA had deferred action on the title V exemption for several years, we had enforcement data demonstrating that States were not only enforcing the provisions of those area source NESHAP, but that the States were also providing compliance assistance to assure that the area sources were in the best position to comply with the NESHAP. See 70 FR 75325–75326. Although we do not have similar data in this case because the Secondary Nonferrous Metals Processing area source NESHAP has yet to be

promulgated and enforced, we have no reason to think that States will be less diligent in enforcing NESHAP.

In light of all of the above, we conclude that there are implementation and enforcement programs in place that are sufficient to assure compliance with the Secondary Nonferrous Metal Processing NESHAP without relying on title V permitting.

Based on our assessment of the four factors as described above, we find that, when considered together, the four factors demonstrate that compliance with title V would be unnecessarily burdensome for sources in the Secondary Nonferrous Metals Processing area source category. While title V might add additional compliance requirements, we believe that there would not be significant improvements to compliance with the NESHAP because the requirements in this proposed rule assure compliance with the standards. Furthermore, there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. On the other hand, the economic and non-economic costs of compliance with title V, would impose a significant burden on the sources. We believe that the high relative costs would not be justified given that there is likely to be little or no potential gain in compliance if title V were required. Based on these considerations, we conclude that title V permitting is “unnecessarily burdensome” for the Secondary Nonferrous Metal Processing area source category.

In addition to evaluating whether compliance with title V requirements is “unnecessarily burdensome”, EPA considered, consistent with guidance provided by the legislative history of section 502(a), whether exempting the Secondary Nonferrous Metal Processing area source category from title V requirements would adversely affect public health, welfare, or the environment. Exemption of the Secondary Nonferrous Metal Processing area source category from title V requirements would not adversely affect public health, welfare, or the environment because the level of control would remain the same even if a permit were required. The title V permit program does not impose new substantive air quality control requirements on sources, but instead requires that certain procedural measures be followed, particularly with respect to determining compliance with applicable requirements. As stated in our consideration of factor one for this category, title V would not lead to significant improvements in the



compliance requirements applicable to existing or new area sources.

Furthermore, one of the primary purposes of the title V permitting program is to clarify, in a single document, the various and sometimes complex regulations that apply to sources in order to improve understanding of these requirements and to help sources to achieve compliance with the requirements. In this case, however, placing all requirements for the sources in a title V permit would do little to clarify the requirements applicable to the sources or assist them in compliance with those requirements because of the simplicity of the sources and the NESHAP, and the fact that these sources are not subject to other NESHAP or to other requirements under the CAA. We have no reason to think that new sources would be substantially different from the existing sources. In addition, we explained in the Exemption Rule that requiring permits could, at least in the first few years of implementation, potentially adversely affect public health, welfare, or the environment by shifting State agency resources away from assuring compliance for major sources with existing permits to issuing new permits for these area sources, potentially reducing overall air program effectiveness. We therefore conclude that title V exemptions for the secondary nonferrous metal processing area sources will not adversely affect public health, welfare, or the environment for all of the reasons explained above.

For the foregoing reasons, we are proposing to exempt the Secondary Nonferrous Metal Processing area source category from title V permitting requirements.

## VII. What are the impacts of the proposed standards for area sources?

### A. Glass Manufacturing

#### 1. Air Quality Impacts

For the three sources that would be required to install emission controls to meet the emission limits specified in this proposed rule, we estimated nationwide emissions of the glass manufacturing metal HAP to be 26.2 Mg/yr (28.9 tpy). We estimate that the rule as proposed would reduce nationwide emissions of the glass manufacturing metal HAP by about 25.6 Mg/yr (28.2 tpy). This proposed rule would also reduce emissions of PM by 377 Mg/yr (415 tpy). These estimates are based on the assumption that an ESP would be installed on one pressed and blown glass furnace, and that fabric

filters would be installed on two pressed and blown glass furnaces.

We project that, during the first 3 years of the proposed standard, nine new furnaces would be constructed and that all nine furnaces would be in the container glass sector. Because none of these new furnaces are expected to use any of the glass manufacturing metal HAP as raw materials, we project that none of the nine new furnaces would be affected by this proposed rule. Therefore, we estimate that this proposed rule would have no air quality impacts on new sources.

Indirect or secondary air impacts of this rule as proposed would result from the increased electricity usage associated with the operation of control devices. Assuming that plants would purchase electricity from a power plant, we estimate that the standards as proposed would increase secondary emissions of criteria pollutants, including PM, sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and carbon monoxide (CO) from power plants. For three existing sources that would be required to install emission controls, the proposed rule would increase secondary PM emissions by 0.28 Mg/yr (0.31 tpy); secondary SO<sub>2</sub> emissions by about 11.1 Mg/yr (12.2 tpy); secondary NO<sub>x</sub> emissions by about 5.5 Mg/yr (6.1 tpy); and secondary CO emissions by about 0.18 Mg/yr (0.20 tpy).

For the estimated nine new sources within the Glass Manufacturing industry over the next 3 years, we estimate no secondary air impacts because we project that none of the new sources would be affected sources under this proposed rule.

#### 2. Water and Solid Waste Impacts

To comply with the rule as proposed, we expect that affected facilities would control emissions by installing and operating ESP or fabric filters, neither of which generates wastewater. Therefore, we project that this rule as proposed would have no water impacts. Glass manufacturers typically purchase highly refined and purified raw materials, and they usually recycle internal captured baghouse and ESP fines into the raw material to be fed back into the furnace. Therefore, we expect the solid waste impacts to be far less than if facilities were to dispose of their ESP and baghouse fines. We estimate that the proposed rule would generate 37.7 Mg/yr (41.6 tpy) of solid waste from existing sources. These estimates are based on the assumption that an ESP would be installed on one pressed and blown glass furnace, and that fabric filters would be installed on two pressed and blown glass furnaces. For new sources,

we estimate that this proposed rule would have no impacts on solid waste generation.

#### 3. Energy Impacts

Energy impacts consist of the electricity and fuel needed to operate control devices and other equipment that would be required under the proposed rule. We assume that affected facilities would comply with the rule as proposed by installing and operating either ESP or fabric filters which require electricity to operate. Specifically, we assumed that an ESP would be installed on one pressed and blown glass furnace, and that fabric filters would be installed on two pressed and blown glass furnaces. Under this scenario, we project that this rule as proposed would increase overall energy demand (i.e., electricity demand) for existing sources by about 1,160 megawatt-hours per year, or 7.1 thousand gigajoules per year (6.7 billion British thermal units per year). We estimate that none of the nine new sources projected to go into operation during the first 3 years of the standard would be affected by this proposed rule. Therefore, we are not expecting any energy impacts for new sources.

#### 4. Cost Impacts

The estimated total capital costs of this proposed rule for existing sources are \$1.42 million. These capital costs include the costs to purchase and install ESP or fabric filters on the three affected furnaces that are not currently controlled. The estimated annualized cost of the proposed rule for existing sources would be \$491,000 per year. The annualized costs account for the annualized capital costs of the control and monitoring equipment, operation and maintenance expenses, performance testing, and recordkeeping costs for the three existing facilities within the source category that would be required to install new emission controls. The other affected facilities would incur costs only for submitting the notifications and for annual control device inspections because those facilities already meet the testing, monitoring, and recordkeeping requirements that would be required under the proposed rule.

We estimate that none of the nine new sources projected to go into operation during the first 3 years of the standard would be affected sources under this proposed rule. Therefore, we estimate no cost impacts for new sources.

#### 5. Economic Impacts

Both the magnitude of control costs needed to comply with the proposed rule and the distribution of these costs

among affected facilities can have an impact in determining how the market would change in response to the rule. Total annualized costs for this proposed rule are estimated to be approximately \$0.48 million. Only three facilities are estimated to require additional capital costs because of the proposed rule.

We obtained revenue data for two of the three companies that operate facilities that would be required to install emission controls under this proposed rule. Based on those data, cost-to-sales estimates for those two affected facilities would be 0.66 percent and 1.0 percent, respectively. Revenue data were not available for the other facility that would be affected by the proposed rule, so the national average value of shipments per worker from the 2002 Census of Manufacturers was used along with the average number of workers per facility to estimate revenues. The resulting costs for this and the other two facilities are relatively small and are not expected to result in a significant market impact whether they are passed on to the purchaser or absorbed by the company.

#### *B. Clay Ceramics Manufacturing*

Unlike the glass manufacturing industry, which still has some uncontrolled sources of urban HAP, sources in the clay ceramics manufacturing source category have made significant emission reductions through process changes and installation of control equipment. Affected sources are well-controlled and our proposed GACT determination reflects such controls. We estimate that the only impact to affected sources is the labor burden associated with the proposed reporting and recordkeeping requirements. The cost associated with recordkeeping and the one-time reporting requirements is estimated to be \$974 per facility.

#### *C. Secondary Nonferrous Metals Processing*

Similar to the clay ceramics manufacturing industry, all of the affected sources in the secondary nonferrous metal processing category have installed control equipment on their furnace melting operations and are well-controlled. Affected sources are well-controlled and our proposed GACT determinations reflect such controls. We estimate that the only impact associated with the proposed rule is the reporting and recordkeeping requirements. The cost associated with recordkeeping and the one-time reporting requirements is estimated to be \$390 per facility.

### **VIII. Statutory and Executive Order Reviews**

#### *A. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a "significant regulatory action" because it may raise novel legal or policy issues. Accordingly, EPA submitted this action to OMB for review under Executive Order 12866, and any changes made in response to OMB recommendations have been documented in the docket for this action.

#### *B. Paperwork Reduction Act*

The information collection requirements in the proposed NESHAP for Clay Ceramics Manufacturing Area Sources, Glass Manufacturing Area Sources, and Secondary Nonferrous Metals Processing Area Sources have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR No. 2274.01.

The recordkeeping and reporting requirements in the proposed rule is based on the information collection requirements in the part 63 General Provisions (40 CFR part 63, subpart A). These recordkeeping and reporting requirements are mandatory pursuant to section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the information collection requirements for which a claim of confidentiality is made is safeguarded according to EPA's implementing regulations at 40 CFR part 2, subpart B.

The proposed NESHAP for Clay Ceramics Manufacturing area sources requires applicable one-time notifications required by the NESHAP General Provisions. Plant owners or operators would be required to include compliance certifications for the management practices in their Notifications of Compliance Status. The affected facilities are expected to already have the required control and monitoring equipment in place and already conduct the required monitoring and recordkeeping activities.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 196 labor hours per year at a cost of approximately \$16,600 for 17 existing clay ceramics manufacturing area sources (51 existing sources averaged over 3 years). No capital/startup costs or operation and maintenance costs are associated with the proposed information collection requirements. No costs or burden hours are estimated for

new clay ceramics manufacturing area sources because no new area sources are projected for the next 3 years.

The proposed NESHAP for Glass Manufacturing also would require applicable one-time notifications required by the NESHAP General Provisions, monitoring of control device parameters, and recordkeeping. The annual burden for this collection of information averaged over the first 3 years of this ICR is estimated to total 190 labor hours per year at a cost of \$16,130 for the 21 glass manufacturing area source facilities that would be subject to this proposed rule. This burden estimate includes time for acquisition, installation, and use of monitoring technology and systems, one-time notifications, and recordkeeping. Total capital/startup costs associated with the monitoring requirements (e.g., costs for hiring performance test contractors and purchase of monitoring and file storage equipment) over the 3-year period of the ICR are estimated at \$15,990, with operation and maintenance costs of \$9,850/yr. No costs or burden estimates are estimated for new sources because no new sources are project for the next 3 years.

The proposed NESHAP for Secondary Nonferrous Metals Processing area sources requires one-time notifications required by the NESHAP General Provisions. Plant owners or operators would be required to conduct performance tests and include compliance certifications for the percent PM reduction achieved by the required control device in their Notifications of Compliance Status. The affected facilities are expected to already have the required control and monitoring equipment in place and already conduct the required monitoring and recordkeeping activities.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 15 labor hours per year at a cost of approximately \$1,300 for 3 existing secondary nonferrous metals processing area sources (10 existing sources averaged over 3 years). No capital/startup costs or operation and maintenance costs are associated with the proposed information collection requirements. No costs or burden hours are estimated for new secondary nonferrous metals processing area sources because no new area sources are projected for the next 3 years.

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.

To comment on EPA's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this action, which includes this ICR, under Docket ID numbers EPA-HQ-OAR-2006-0424 (for Clay Ceramics Manufacturing), EPA-HQ-OAR-2006-0360 (for Glass Manufacturing), and EPA-HQ-OAR-2006-0940 (for Secondary Nonferrous Metals Processing). Submit any comments related to the ICR for the proposed rule to EPA and OMB. See the **ADDRESSES** section at the beginning of this preamble for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Because OMB is required to make a decision concerning the ICR between 30 and 60 days after September 20, 2007, a comment to OMB is best assured of having its full effect if OMB receives it by October 22, 2007. The final rules will respond to any OMB or public comments on the information collection requirements contained in the proposal.

#### C. 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 would 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 the proposed area source NESHAP on small entities, small entity is defined as: (1) A small business whose parent company meets the Small Business Administration size standards for small businesses found at 13 CFR 121.201 (less than 500 to 750 employees for Clay Ceramics Manufacturing, less than 750 to 1,000 employees for Glass Manufacturing, and less than 750 employees for Secondary Nonferrous Metals Processing, depending on the size definition for the affected NAICS code); (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.

Based on our estimates, EPA does not expect any new clay ceramic or secondary nonferrous metal processing sources to be constructed in the foreseeable future and so therefore did not estimate the impacts for new clay ceramics manufacturing or secondary nonferrous metal processing sources. After considering the economic impacts of today's proposed rules on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. There would be no significant impacts on new or existing clay ceramics manufacturing facilities or secondary nonferrous metals processing facilities because these proposed rules do not create any new requirements or burdens other than minimal notification requirements. The minimal notification requirements consist of reading the rule and providing two initial notifications to EPA: One notifying EPA that the facility is subject to the rule and one notifying EPA that the facility is in compliance with the rule. These notifications may be submitted together. We estimate the cost of these one time notification requirements to be \$974 for each clay ceramics manufacturing facility and \$390 for each secondary nonferrous metals processing facility. These costs were estimated based on the costs of technical, management, and clerical support salaries. We also estimate that 34 clay ceramics facilities and 6 secondary nonferrous metals processing facilities are owned and operated by small businesses. These notification costs would be less than 0.25 percent for any of these small businesses.

Twenty one glass manufacturing facilities are estimated to require additional costs because of the proposed rule. None of these facilities are small businesses. Therefore, there is no significant impact on a substantial number of small entities.

We continue to be interested in the potential impacts of the proposed action on small entities and welcome comments on issues related to such impacts.

#### D. Unfunded Mandates Reform Act

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, 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 to 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 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 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 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.

EPA has determined that the proposed rules do not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or to the private sector in any 1 year.

Thus, the proposed rules are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the proposed rules do not significantly or uniquely affect small governments. The proposed rules contain no requirements that apply to such governments, impose no obligations upon them, and would not result in expenditures by them of \$100 million or more in any 1 year or any disproportionate impacts on them. Therefore, the proposed rules are not subject to section 203 of the UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to assure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” are 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 rules do not have federalism implications. They would 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. The proposed rules impose requirements on owners and operators of specified area sources and not State and local governments. Thus, Executive Order 13132 does not apply to the proposed rules.

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 these proposed rules from State and local officials.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175 (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to assure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” The proposed rules do not have tribal implications, as specified in Executive Order 13175. They would 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. The proposed rules impose requirements on owners and operators of specified area sources and not tribal governments. Thus, Executive Order 13175 does not apply to the proposed rules. EPA specifically solicits additional comments on the proposed rules from tribal officials.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045: “Protection of Children from Environmental Health Risks and Safety Risks” (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, 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 EPA.

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 rules are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks.

#### *H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

The glass manufacturing rule is not a “significant energy action” as defined in Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this proposed rule is not likely to have any significant adverse energy effects. Existing energy requirements for this industry would not be significantly impacted by the additional pollution controls or other equipment that may be required by this proposed rule.

The clay ceramics manufacturing and the secondary nonferrous metals processing proposed rules are not “significant energy actions” as defined

in Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that these proposed rules are not likely to have any adverse energy effects. The energy requirements for these industries would remain at existing levels. No additional pollution controls or other equipment that would consume energy are required by these proposed rules.

#### *I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113, 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when EPA does not use available and applicable VCS.

The proposed rule as it applies to glass manufacturing involves technical standards. EPA cites the following standards: EPA Methods 1, 1A, 2, 2A, 2C, 2F, 2G, 3, 3A, 3B, 4, 5, 17, and 22 in 40 CFR part 60, appendix A.

Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 1A, 2A, 2F, 2G, and 22. The search and review results are in the dockets for the proposed rules.

The search identified one VCS as an acceptable alternative to EPA methods. The standard ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses,” is cited in the proposed rule for glass manufacturing area sources for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of the exhaust gas. This part of ASME PTC 19.10–1981 is an acceptable alternative to EPA Method 3B.

The search for emissions measurement procedures identified 14 other VCS. EPA determined that these 14 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the Glass Manufacturing proposed rule were impractical alternatives to EPA test methods for the purposes of the rule. Therefore, EPA does not intend to adopt these standards for this purpose. The reasons for the determinations for the 14

methods are included in the docket for the Glass Manufacturing proposed rule.

Sections 63.11440 and 63.11452 list the test methods included in the proposed rule. For the methods required or referenced by the proposed rule, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures under §§ 63.7(f) and 63.8(f) of subpart A of the General Provisions. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that these proposed rules will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because they increase the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. These proposed rules establish national standards for each area source category. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

**List of Subjects in 40 CFR Part 63**

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

Dated: September 12, 2007.

**Stephen L. Johnson,**  
*Administrator.*

For the 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 A—[AMENDED]**

2. Section 63.14 is amended by revising paragraph (i)(1) to read as follows:

**§ 63.14 Incorporations by reference.**

\* \* \* \* \*

(i) \* \* \*

(1) ANSI/ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus],” IBR approved for §§ 63.309(k)(1)(iii), 63.865(b), 63.3166(a)(3), 63.3360(e)(1)(iii), 63.3545(a)(3), 63.3555(a)(3), 63.4166(a)(3), 63.4362(a)(3), 63.4766(a)(3), 63.4965(a)(3), 63.5160(d)(1)(iii), 63.9307(c)(2), 63.9323(a)(3), 63.11148(e)(3)(iii), 63.11155(e)(3), 63.11162(f)(3)(iii) and (f)(4), 63.11163(g)(1)(iii) and (g)(2), 63.11410(j)(1)(iii), Table 5 of subpart DDDDD of this part, 63.11452(b)(12), and 63.11466(c)(1)(iii).

\* \* \* \* \*

3. Part 63 is amended by adding subpart RRRRRR to read as follows:

**Subpart RRRRRR—National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources**

**Applicability and Compliance Dates**

Sec.

63.11435 Am I subject to this subpart?

63.11436 What parts of my plant does this subpart cover?

63.11437 What are my compliance dates?

**Standards, Compliance, and Monitoring Requirements**

63.11438 What are the standards for new and existing sources?

63.11439 What are the initial compliance demonstration requirements for new and existing sources?

63.11440 What are the monitoring requirements for new and existing sources?

63.11441 What are the notification requirements?

63.11442 What are the recordkeeping requirements?

**Other Requirements and Information**

63.11443 What General Provisions apply to this subpart?

63.11444 What definitions apply to this subpart?

63.11445 Who implements and enforces this subpart?

63.11446—63.11447 [Reserved]

**Tables to Subpart RRRRRR of Part 63**

Table 1 to Subpart RRRRRR of Part 63—Applicability of General Provisions to Subpart RRRRRR

**Subpart RRRRRR—National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing Area Sources**

**Applicability and Compliance Dates**

**§ 63.11435 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate a clay ceramics manufacturing facility (as defined in § 63.11444), with an atomized glaze spray booth or kiln that fires glazed ceramic ware, that processes more than 45 megagrams per year (Mg/yr) (50 tons per year (tpy)) wet clay and is an area source of hazardous air pollutant (HAP) emissions.

(b) If you are an owner or operator of an area source subject to this subpart, you are exempt from the obligation to obtain a permit under 40 CFR part 70 or 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart applicable to area sources.

**63.11436 What parts of my plant does this subpart cover?**

(a) This subpart applies to any existing, new, or reconstructed affected source located at a clay ceramics manufacturing facility.

(b) The affected source includes all atomized glaze spray booths and kilns that fire glazed ceramic ware located at a clay ceramics manufacturing facility.

(c) An affected source is existing if you commenced construction or reconstruction of the affected source before September 20, 2007.

(d) An affected source is new if you commenced construction or reconstruction of the affected source on or after September 20, 2007.

**§ 63.11437 What are my compliance dates?**

(a) If you have an existing affected source, you must comply with the standards no later than the date of publication of the final rule in the **Federal Register**.

(b) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (b)(1) and (2) of this section.

(1) If you start up your affected source on or before the date of publication of the final rule in the **Federal Register**, you must comply with this subpart no later than the date of publication of the final rule in the **Federal Register**.

(2) If you start up your affected source after the date of publication of the final rule in the **Federal Register**, you must comply with this subpart upon initial startup of your affected source.

### Standards, Compliance, and Monitoring Requirements

#### § 63.11438 What are the standards for new and existing sources?

(a) For each kiln that fires glazed ceramic ware, you must maintain the peak temperature below 1540 °C (2800 °F) and comply with one of the management practices in paragraphs (a)(1) and (2) of this section:

(1) Use natural gas, or equivalent clean-burning fuel, as the kiln fuel; or

(2) Use an electric-powered kiln.

(b) You must maintain annual wet glaze usage records for your facility.

(c) For each atomized glaze spray booth located at a clay ceramics manufacturing facility that uses more than 227 Mg/yr (250 tpy) of wet glaze(s), you must comply with the equipment standard requirements in paragraph (c)(1) of this section or the management practice in paragraph (c)(2) of this section.

(1) Route the emissions from the atomized glaze spray booth through an APCD, as defined in § 63.11444.

(i) Operate and maintain the APCD in accordance with the equipment manufacturer's specifications;

(ii) Monitor the APCD according to the applicable requirements in § 63.11440.

(2) Alternatively, use wet glazes containing less than 0.1 (weight) percent clay ceramics metal HAP.

(d) For each atomized glaze spray booth located at a clay ceramics manufacturing facility that uses 227 Mg/yr (250 tpy) or less of wet glaze(s), you must comply with one of the management practices in paragraphs (d)(1) and (2) of this section.

(1) Employ waste minimization practices, as defined in § 63.11444; or

(2) Alternatively, comply with the equipment standard requirements described in paragraph (c)(1) of this section or the management practice described in paragraph (c)(2) of this section.

(e) Surface applications (e.g., wet glazes) containing less than 0.1 (weight) percent clay ceramics metal HAP do not have to be considered in determination of the 227 Mg/yr (250 tpy) threshold for wet glaze usage.

#### § 63.11439 What are the initial compliance demonstration requirements for new and existing sources?

(a) You must demonstrate initial compliance with the applicable management practices in § 63.11438 by submitting a Notification of Compliance Status. For any wet spray glaze operations controlled with an APCD, you must conduct an initial inspection of the control equipment as described in § 63.11440(b)(1) within 60 days of the compliance date and include the results of the inspection in the Notification of Compliance Status.

(b) You must demonstrate initial compliance with the applicable management practices in § 63.11438 by submitting the Notification of Compliance Status within 120 calendar days after the applicable compliance date specified in § 63.11437.

#### § 63.11440 What are the monitoring requirements for new and existing sources?

(a) For each kiln firing glazed ceramic ware, you must conduct a daily check of the peak firing temperature. If the peak temperature exceeds 1540 °C (2800 °F), you must take corrective action according to your standard operating procedures.

(b) For each existing, new, or reconstructed affected source with an atomized glaze spray booth equipped with an APCD, you must demonstrate compliance by conducting the monitoring activities in paragraphs (b)(1) through (3) of this section:

(1) *Initial control device inspection.* You must conduct an initial inspection of each particulate matter (PM) control device according to the requirements in paragraphs (b)(1)(i) or (ii) of this section. You must conduct each inspection no later than 60 days after your applicable compliance date for each installed control device which has been operated within 60 days of the compliance date. For an installed control device which has not been operated within 60 days of the compliance date, you must conduct an initial inspection prior to startup of the control device.

(i) For each wet control system, you must verify the presence of water flow to the control equipment. You must also visually inspect the system ductwork and control equipment for leaks and inspect the interior of the control equipment (if applicable) for structural integrity and the condition of the control system. An initial inspection of the internal components of a wet control system is not required if an inspection has been performed within the past 12 months.

(ii) For each baghouse, you must visually inspect the system ductwork

and baghouse unit for leaks. You must also inspect the inside of each baghouse for structural integrity and fabric filter condition. You must record the results of the inspection and any maintenance action in the logbook required in paragraph (d) of this section. An initial inspection of the internal components of a baghouse is not required if an inspection has been performed within the past 12 months.

(2) *Periodic inspections/maintenance.* Following the initial inspections, you must perform periodic inspections and maintenance of each PM control device according to the requirements in paragraphs (b)(2)(i) or (ii) of this section.

(i) You must inspect and maintain each wet control system according to the requirements in paragraphs (b)(2)(i)(A) through (C) of this section.

(A) You must conduct a daily inspection to verify the presence of water flow to the wet control system.

(B) You must conduct weekly visual inspections of the system ductwork and control equipment for leaks.

(C) You must conduct inspections of the interior of the wet control system (if applicable) to determine the structural integrity and condition of the control equipment every 12 months.

(ii) You must inspect and maintain each baghouse according to the requirements in paragraphs (b)(2)(ii)(A) and (B) of this section.

(A) You must conduct weekly visual inspections of the system ductwork for leaks.

(B) You must conduct inspections of the interior of the baghouse for structural integrity and to determine the condition of the fabric filter every 12 months.

(3) As an alternative to the monitoring activities in paragraph (b)(2) of this section, you may demonstrate compliance by:

(i) Conducting a daily 30-minute visible emissions (VE) test (i.e., no visible emissions) using EPA Method 22 (40 CFR part 60, appendix A-7); or

(ii) Using an approved alternative monitoring technique under § 63.8(f).

(c) If the results of the visual inspection, VE test, or alternative monitoring technique conducted under paragraph (b) of this section indicate an exceedance, you must take corrective action according to the equipment manufacturer's specifications or instructions.

(d) You must maintain records of your monitoring activities described in paragraphs (a) through (c) of this section. You may use your existing operating permit documentation to meet the monitoring requirements if it includes, but is not limited to, the

monitoring records listed in paragraphs (d)(1) through (5) of this section related to any kiln peak temperature checks, visual inspections, VE tests, or alternative monitoring:

- (1) The date, place, and time;
- (2) Person conducting the activity;
- (3) Technique or method used;
- (4) Operating conditions during the activity; and
- (5) Results.

**§ 63.11441 What are the notification requirements?**

(a) You must submit an Initial Notification required by § 63.9(a)(2) no later than 120 calendar days after the applicable compliance date specified in § 63.11437. The Initial Notification must include the information specified in paragraphs (a)(1) through (4) of this section and may be combined with the Notification of Compliance Status required in paragraph (b) of this section.

- (1) The name and address of the owner or operator;
- (2) The address (i.e., physical location) of the affected source; and
- (3) An identification of the relevant standard, or other requirement, that is the basis of the notification and source's compliance date.

(b) You must submit a Notification of Compliance Status required by § 63.9(h) no later than 120 calendar days after the applicable compliance date specified in § 63.11437. In addition to the information required in § 63.9(h)(2), your notification(s) must include each compliance certification in paragraphs (b)(1) through (3) of this section that applies to you and may be combined with the Initial Notification required in paragraph (a) of this section.

(1) For each kiln firing glazed ceramic ware, you must certify that you are maintaining the peak temperature below 1540°C (2800°F) and complying with one of the management practices in paragraphs (b)(2)(i) and (ii) of this section:

- (i) Using natural gas, or equivalent clean-burning fuel, as the kiln fuel; or
- (ii) Using an electric-powered kiln.

(2) For atomized glaze spray booths, you must certify that your facility's annual wet glaze usage is above or below 227 Mg/yr (250 tpy).

(3) For atomized glaze spray booths located at a clay ceramics manufacturing facility that uses more than 227 Mg/yr (250 tpy) of wet glaze(s), you must certify that:

- (i) You are operating and maintaining an APCD in accordance with the equipment manufacturer's specifications, and you have conducted an initial control device inspection for each wet control system and baghouse

associated with wet spray glaze operations; or

(ii) Alternatively, you are using wet glazes containing less than 0.1 (weight) percent clay ceramics metal HAP.

(4) For atomized glaze spray booths located at a clay ceramics manufacturing facility that uses 227 Mg/yr (250 tpy) or less of wet glaze(s), you must certify that:

- (i) You are employing waste minimization practices, as defined in § 63.11444; or
- (ii) You are complying with the requirements in § 63.11441(b)(3)(i) or (ii).

**§ 63.11442 What are the recordkeeping requirements?**

(a) You must keep the records specified in paragraphs (a)(1) and (2) of this section.

(1) A copy of each notification that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) Records of all required measurements needed to document compliance with management practices as required in § 63.10(b)(2)(vii), including records of monitoring and inspection data required by §§ 63.11440.

(b) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(c) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(d) You must keep each record onsite for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

**Other Requirements and Information**

**§ 63.11443 What General Provisions apply to this subpart?**

Table 1 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.16 apply to you.

**§ 63.11444 What definitions apply to this subpart?**

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

*Air pollution control device (APCD)* means any equipment that reduces the quantity of a pollutant that is emitted to the air. Examples of APCD currently used on glaze spray booths include, but

are not limited to, wet scrubbers, fabric filters, water curtains, and water-wash systems.

*Atomization* means the conversion of a liquid into a spray or mist (i.e., collection of drops), often by passing the liquid through a nozzle.

*Clay ceramics manufacturing facility* means a plant site that manufactures pressed tile, sanitaryware, dinnerware, or pottery. For the purposes of this area source rule, the following types of facilities are not part of the regulated category: artisan potters, art studios, school and university ceramic arts programs, and any facility that uses less than 45 Mg/yr (50 tpy) of wet clay.

*Clay ceramics metal HAP* means an oxide or other compound of chromium, lead, manganese, or nickel, which were listed for Clay Ceramics Manufacturing in the Revised Area Source Category List (67 FR 70428, November 22, 2002).

*Glaze* means a coating of colored, opaque, or transparent material applied to ceramic products before firing.

*Glaze spray booth* means a type of equipment used for spraying glaze on ceramic products.

*High-volume, low-pressure (HVLP) spray equipment* means a type of air atomized spray equipment that operates at low atomizing air pressure (0.1 to 10 pounds per square inch (psi) at the air nozzle) and uses 15 to 30 cubic feet per minute (cfm) of air to minimize the amount of overspray and bounce back.

*Kiln* means equipment used for the initial curing or firing of glaze on ceramic ware. A kiln may operate continuously or by batch.

*Nonatomizing glaze application technique* means the application of glaze in the form of a liquid stream without atomization. Such techniques include, but are not limited to, dipping, centrifugal disc, waterfall, flow coaters, curtain coaters, silk-screening, and any direct application by roller, brush, pad, or other means facilitating direct transfer of glaze.

*Plant site* means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof.

*Waste minimization practices* mean those routine procedures employed to minimize material losses and prevent unnecessary waste generation, for example, minimizing glaze overspray emissions using HVLP spray equipment (defined in this section) or similar spray equipment; minimizing HAP emissions during cleanup of spray glazing

equipment; operating and maintaining spray glazing equipment according to manufacturer's instructions; and minimizing spills through careful handling of HAP-containing glaze materials.

*Water curtain* means an APCD that draws the exhaust stream through a continuous curtain of moving water to scrub out suspended particulate. Also called a drip curtain or waterfall.

*Water-wash system* means an APCD that uses a series of baffles to redirect the upward exhaust stream through a water wash chamber with downward water flow to scrub out suspended particulate.

**§ 63.11445 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to

your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the applicability requirements in §§ 63.11435 and 63.11436, the compliance date requirements in

§ 63.11437, and the management practices in § 63.11438.

(2) Approval of a major change to a test method under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

**§§ 63.11446–63.11447 [Reserved]**

**Tables to Subpart RRRRRR of Part 63**

As stated in § 63.11443, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) shown in the following table:

**TABLE 1 TO SUBPART RRRRRR OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART RRRRRR**

| Citation   | Subject   |
|--|---|
| 63.1(a)(1)–(a)(4), (a)(6), (a)(10)–(a)(12), (b)(1), (b)(3), (c)(1), (c)(2) <sup>1</sup> , (c)(5), (e). | Applicability.  |
| 63.2   | Definitions.  |
| 63.3   | Units and Abbreviations.                                |
| 63.4   | Prohibited Activities and Circumvention.                |
| 63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)(1), (f), (g), (i), (j) ...                 | Compliance with Standards and Maintenance Requirements. |
| 63.8(a)(1), (a)(2), (b), (c)(1)(i)–(c)(1)(ii), (c)(2), (c)(3), (f) ...                                 | Monitoring Requirements.                                |
| 63.9(a), (b)(1), (b)(2), (b)(5), (c), (d), (h)(1)–(h)(3), (h)(5), (h)(6), (i), (j) ..                  | Notification Requirements.                              |
| 63.10(a), (b)(1), (b)(2)(vii), (b)(2)(xiv), (b)(3), (c), (c)(1), (f) ...                               | Recordkeeping and Reporting Requirements.               |
| 63.12  | State Authority and Delegations.                        |
| 63.13  | Addresses.  |
| 63.14  | Incorporations by Reference.                            |
| 63.15  | Availability of Information and Confidentiality.        |
| 63.16  | Performance Track Provisions.                           |

<sup>1</sup> Section 63.11435(b) of this subpart exempts area sources from the obligation to obtain title V operating permits.

4. Part 63 is amended by adding subpart SSSSSS to read as follows:

**Subpart SSSSSS—National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources**

**Applicability and Compliance Dates**

- Sec.
- 63.11448 Am I subject to this subpart?
- 63.11449 What parts of my plant does this subpart cover?
- 63.11450 What are my compliance dates?

**Standards, Compliance, and Monitoring Requirements**

- 63.11451 What are the standards for new and existing sources?
- 63.11452 What are the performance test requirements for new and existing sources?
- 63.11453 What are the initial compliance demonstration requirements for new and existing sources?
- 63.11454 What are the monitoring requirements for new and existing sources?

63.11455 What are the continuous compliance requirements for new and existing sources?

**Notifications and Records**

- 63.11456 What are the notification requirements?
- 63.11457 What are the recordkeeping requirements?

**Other Requirements and Information**

- 63.11458 What General Provisions apply to this subpart?
- 63.11459 What definitions apply to this subpart?
- 63.11460 Who implements and enforces this subpart?
- 63.11461 [Reserved]

**Tables to Subpart SSSSSS of Part 63**

- Table 1 to Subpart SSSSSS of Part 63—Emission Limits
- Table 2 to Subpart SSSSSS of Part 63—Applicability of General Provisions to Subpart SSSSSS

**Subpart SSSSSS—National Emission Standards for Hazardous Air Pollutants for Glass Manufacturing Area Sources**

**Applicability and Compliance Dates**

**§ 63.11448 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate a glass manufacturing facility that is an area source of hazardous air pollutant (HAP) emissions and meets the criteria specified in paragraphs (a)(1) through (3) of this section.

(1) A glass manufacturing facility is a plant site that manufactures flat glass, glass containers, or pressed and blown glass by melting a mixture of raw materials, as defined in § 63.11459, to produce molten glass and forming the molten glass into sheets, containers, or other shapes.

(2) An area source of HAP emissions is any stationary source or group of



stationary sources within a contiguous area under common control that does not have the potential to emit any single HAP at a rate of 9.07 megagrams per year (Mg/yr) (10 tons per year (tpy)) or more and any combination of HAP at a rate of 22.68 Mg/yr (25 tpy) or more.

(3) Your glass manufacturing facility produces glass that contains compounds of one or more glass manufacturing metal HAP, as defined in § 63.11459, as raw materials in a glass manufacturing batch formulation.

(b) [Reserved]

**§ 63.11449 What parts of my plant does this subpart cover?**

(a) This subpart applies to each existing, new, or reconstructed affected glass melting furnace that is located at a glass manufacturing facility and satisfies the requirements specified in paragraphs (a)(1) and (2) of this section.

(1) The furnace is charged with compounds of one or more glass manufacturing metal HAP as raw materials.

(2) The furnace is used to produce glass at a rate of at least 45 Mg/yr (50 tpy).

(b) An affected source is an existing source if you commenced construction or reconstruction of the affected source before September 20, 2007.

(c) An affected source is a new (or reconstructed) source if you commenced construction (or reconstruction) of the affected source on or after September 20, 2007.

**§ 63.11450 What are my compliance dates?**

(a) If you have an existing affected source, you must comply with the applicable emission limits specified in § 63.11451 of this subpart no later than 2 years after the date of publication of the final rule in the **Federal Register**. As specified in section 112(i)(3)(B) of the Clean Air Act and in § 63.6(i)(4)(i)(A), you may request that the Administrator or delegated authority grant an extension allowing up to 1 additional year to comply with the applicable emission limits if such additional period is necessary for the installation of emission controls.

(b) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (b)(1) and (2) of this section.

(1) If you start up your affected source on or before the date of publication of the final rule in the **Federal Register**, you must comply with the applicable emission limits specified in § 63.11451 of this subpart no later than the date of publication of the final rule in the **Federal Register**.

(2) If you start up your affected source after the date of publication of the final rule in the **Federal Register**, you must comply with the applicable emission limits specified in § 63.11451 of this subpart upon initial startup of your affected source.

(c) If you own or operate a furnace that produces glass at an annual rate of less than 45 Mg/yr (50 tpy), and you increase glass production for that furnace to an annual rate of at least 45 Mg/yr (50 tpy), and the furnace is charged with compounds of one or more glass manufacturing metal HAP, you must comply with the applicable emission limits specified in § 63.11451 within 2 years of the date on which you increased the glass production rate for the furnace to at least 45 Mg/yr (50 tpy).

(d) If you own or operate a furnace that produces glass at an annual rate of at least 45 Mg/yr (50 tpy) and is not charged with glass manufacturing metal HAP, and you begin production of a glass product that includes one or more glass manufacturing metal HAP as raw materials, you must comply with the applicable emission limits specified in § 63.11451 within 2 years of the date on which you introduced production of the glass product that contains glass manufacturing metal HAP.

(e) You must meet the notification requirements in § 63.11456 according to the schedule in § 63.11456 and in 40 CFR part 63, subpart A. Some of the notifications must be submitted before you are required to comply with emission limits specified in this subpart.

**Standards, Compliance, and Monitoring Requirements**

**§ 63.11451 What are the standards for new and existing sources?**

If you are an owner or operator of an affected furnace, as defined in § 63.11449(a), you must meet the applicable emission limits specified in Table 1 to this subpart.

**§ 63.11452 What are the performance test requirements for new and existing sources?**

(a) If you own or operate an affected furnace that is subject to an emission limit specified in Table 1 to this subpart, you must conduct a performance test according to paragraphs (a)(1) and (2) and paragraph (b) of this section.

(1) For each affected furnace, you must conduct a performance test within 180 days after your compliance date and report the results in your Notification of Compliance Status, except as specified in paragraph (a)(2) of this section.

(2) You are not required to conduct a performance test on the affected furnace

if you satisfy the conditions described in paragraphs (a)(2)(i) through (iii) of this section.

(i) You conducted a performance test on the affected furnace within the past 5 years of the compliance date using the same test methods and procedures specified in paragraph (b) of this section.

(ii) The performance test demonstrated that the affected furnace met the applicable emission limits specified in Table 1 to this subpart.

(iii) Either no process changes have been made since the test, or you can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance with the applicable emission limit.

(b) You must conduct each performance test according to the requirements in § 63.7 and paragraphs (b)(1) through (20) of this section.

(1) Install and validate all monitoring equipment required by this subpart before conducting the performance test.

(2) Conduct the performance test according to the requirements in § 63.7 and under the conditions specified in this section.

(3) You may not conduct performance tests during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(4) Conduct the test while the source is operating at the maximum production rate.

(5) Conduct at least three separate test runs with a minimum duration of 1 hour for each test run, as specified in § 63.7(e)(3).

(6) Record the test date.

(7) Identify the emission source tested.

(8) Collect and record the emission test data listed in this section for each run of the performance test.

(9) Locate all sampling sites at the outlet of the control device or at the stack prior to any releases to the atmosphere.

(10) Select the locations of sampling ports and the number of traverse points using Method 1 or 1A of 40 CFR part 60, appendix A-1.

(11) Measure the gas velocity and volumetric flow rate using Method 2, 2A, 2C, 2F, or 2G of 40 CFR part 60, appendices A-1 and A-2, during each test run.

(12) Conduct gas molecular weight analysis using Methods 3, 3A, or 3B of 40 CFR part 60, appendix A-2, or ASME PTC 19.10-1981—Part 10, during each test run.

(13) Measure gas moisture content using Method 4 of 40 CFR part 60, appendix A-3, during each test run.

(14) Measure the particulate matter (PM) mass emission rate at the outlet of the control device or at the stack using Method 5 or 17 of 40 CFR part 60, appendices A-3 or A-6, for each test run.

(15) Calculate the PM mass emission rate in the exhaust stream for each test run.

(16) Measure and record the glass production rate (kilograms (tons) per hour of product) for each test run.

(17) To meet the PM emission limit, calculate the production-based PM mass emission rate (g/kg (lbs/ton)) for each test run using Equation 1.

$$MP = \frac{ER}{P} \quad (\text{Equation 1})$$

Where:

MP = production-based PM mass emission rate, grams of PM per kilogram (pounds of PM per ton) of glass produced.

ER = PM mass emission rate measured using Methods 5 or 17 during each performance test run, grams (pounds) per hour.

P = average glass production rate for the performance test, kilograms (tons) of glass produced per hour.

(18) Calculate the 3-hour block average production-based PM mass emission rate as the average of the production-based PM mass emission rates for each test run.

(19) To meet the metal HAP emission limit, calculate the production-based metal HAP mass emission rate (g/kg (lbs/ton)) for each test run using Equation 2.

$$MPM = \frac{ERM}{P} \quad (\text{Equation 2})$$

Where:

MPM = production-based metal HAP mass emission rate, grams of metal HAP per kilogram (pounds of metal HAP per ton) of glass produced.

ERM = Metal HAP mass emission rate measured using Method 29 of 40 CFR part 60, appendix A-8 during each performance test run, grams (pounds) per hour.

P = average glass production rate for the performance test, kilograms (tons) of glass produced per hour.

(20) Calculate the 3-hour block average production-based metal HAP mass emission rate as the average of the production-based metal HAP mass emission rates for each test run.

**§ 63.11453 What are the initial compliance demonstration requirements for new and existing sources?**

(a) If you own or operate an affected source, you must submit a Notification of Compliance Status in accordance with § 63.9(h) and 63.11456(b).

(b) For each existing affected furnace that is subject to the emission limits specified in Table 1 to this subpart, you must demonstrate initial compliance according to the requirements in paragraphs (b)(1) through (4) of this section.

(1) For each fabric filter that is used to meet the emission limits specified in Table 1 to this subpart, you must visually inspect the system ductwork and fabric filter unit for leaks. You must also inspect the inside of each fabric filter for structural integrity and fabric filter condition. You must record the results of the inspection and any maintenance action as required in § 63.11457.

(2) For each electrostatic precipitator (ESP) that is used to meet the emission limits specified in Table 1 to this subpart, you must verify the proper functioning of the electronic controls for corona power and rapper operation, that the corona wires are energized, and that adequate air pressure is present on the rapper manifold. You must also visually inspect the system ductwork and ESP housing unit and hopper for leaks and inspect the interior of the ESP to determine the condition and integrity of corona wires, collection plates, hopper, and air diffuser plates.

(3) You must conduct each inspection specified in paragraphs (b)(1) and (2) of this section no later than 60 days after your applicable compliance date specified in § 63.11450, except as specified in paragraph (b)(3)(i) and (ii) of this section.

(i) An initial inspection of the internal components of a fabric filter is not required if an inspection has been performed within the past 12 months.

(ii) An initial inspection of the internal components of an ESP is not required if an inspection has been performed within the past 24 months.

(4) You must satisfy the applicable requirements for performance tests specified in § 63.11452.

(c) For each new or reconstructed affected furnace that is subject to the emission limits specified in Table 1 to this subpart and is controlled with a fabric filter, you must install, operate, and maintain a bag leak detection system according to paragraphs (c)(1) through (3) of this section.

(1) Each bag leak detection system must meet the specifications and requirements in paragraphs (c)(1)(i) through (viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1 milligram per dry standard cubic meter (0.00044 grains per actual cubic foot) or less.

(ii) The bag leak detection system sensor must provide output of relative PM loadings. The owner or operator shall continuously record the output from the bag leak detection system using electronic or other means (e.g., using a strip chart recorder or a data logger).

(iii) The bag leak detection system must be equipped with an alarm system that will sound when the system detects an increase in relative particulate loading over the alarm set point established according to paragraph (c)(1)(iv) of this section, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(iv) In the initial adjustment of the bag leak detection system, you must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(v) Following initial adjustment, you shall not adjust the averaging period, alarm set point, or alarm delay time without approval from the Administrator or delegated authority except as provided in paragraph (c)(1)(vi) of this section.

(vi) Once per quarter, you may adjust the sensitivity of the bag leak detection system to account for seasonal effects, including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required by paragraph (c)(2) of this section.

(vii) You must install the bag leak detection sensor downstream of the fabric filter.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(2) You must develop and submit to the Administrator or delegated authority for approval a site-specific monitoring plan for each bag leak detection system. You must operate and maintain the bag leak detection system according to the site-specific monitoring plan at all times. Each monitoring plan must describe the items in paragraphs (c)(2)(i) through (vi) of this section.

(i) Installation of the bag leak detection system;

(ii) Initial and periodic adjustment of the bag leak detection system, including how the alarm set-point will be established;

(iii) Operation of the bag leak detection system, including quality assurance procedures;

(iv) How the bag leak detection system will be maintained, including a routine maintenance schedule and spare parts inventory list;

(v) How the bag leak detection system output will be recorded and stored; and

(vi) Corrective action procedures as specified in paragraph (c)(3) of this section. In approving the site-specific monitoring plan, the Administrator or delegated authority may allow owners and operators more than 3 hours to alleviate a specific condition that causes an alarm if the owner or operator identifies in the monitoring plan this specific condition as one that could lead to an alarm, adequately explains why it is not feasible to alleviate this condition within 3 hours of the time the alarm occurs, and demonstrates that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(3) For each bag leak detection system, you must initiate procedures to determine the cause of every alarm within 1 hour of the alarm. Except as provided in paragraph (c)(2)(vi) of this section, you must alleviate the cause of the alarm within 3 hours of the alarm by taking whatever corrective action(s) are necessary. Corrective actions may include, but are not limited to the following:

(i) Inspecting the fabric filter for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in PM emissions;

(ii) Sealing off defective bags or filter media;

(iii) Replacing defective bags or filter media or otherwise repairing the control device;

(iv) Sealing off a defective fabric filter compartment;

(v) Cleaning the bag leak detection system probe or otherwise repairing the bag leak detection system; or

(vi) Shutting down the process producing the PM emissions.

(d) For each new or reconstructed affected furnace that is subject to the emission limits specified in Table 1 to this subpart and is controlled with an ESP, you must install, operate, and maintain according to the manufacturer's specifications, one or more continuous parameter monitoring systems (CPMS) for measuring and recording the secondary voltage and secondary electrical current to each field of the ESP according to paragraphs (d)(1) through (13) of this section.

(1) The CPMS must have an accuracy of 1 percent of the secondary voltage and secondary electrical current, or better.

(2) Your CPMS must be capable of measuring the secondary voltage and secondary electrical current over a range that extends from a value that is at least 20 percent less than the lowest value that you expect your CPMS to measure,

to a value that is at least 20 percent greater than the highest value that you expect your CPMS to measure.

(3) The signal conditioner, wiring, power supply, and data acquisition and recording system of your CPMS must be compatible with the output signal of the sensors used in your CPMS.

(4) The data acquisition and recording system of your CPMS must be able to record values over the entire range specified in paragraph (d)(2) of this section.

(5) The data recording system associated with your CPMS must have a resolution of one-half of the required overall accuracy of your CPMS, as specified in paragraph (d)(1) of this section, or better.

(6) Your CPMS must be equipped with an alarm system that will sound when the system detects a decrease in secondary voltage or secondary electrical current below the alarm set point established according to paragraph (d)(7) of this section, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(7) In the initial adjustment of the CPMS, you must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(8) You must install each sensor of the CPMS in a location that provides representative measurement of the appropriate parameter over all operating conditions, taking into account the manufacturer's guidelines.

(9) You must perform an initial calibration of your CPMS based on the procedures specified in the manufacturer's owner's manual.

(10) Your CPMS must be designed to complete a minimum of one cycle of operation for each successive 15-minute period. To have a valid hour of data, you must have at least three of four equally-spaced data values (or at least 75 percent of the total number of values if you collect more than four data values per hour) for that hour (not including startup, shutdown, malfunction, or out of control periods).

(11) You must record valid data from at least 90 percent of the hours during which the affected source or process operates.

(12) You must record the results of each inspection, calibration, initial validation, and accuracy audit.

(13) At all times, you must maintain your CPMS including, but not limited to, maintaining necessary parts for routine repairs of the CPMS.

(e) For each new or reconstructed affected furnace that is subject to the emission limits specified in Table 1 to this subpart and is controlled a device other than a fabric filter or an ESP, you must prepare and submit a monitoring plan to EPA or the delegated authority for approval. Each plan must contain the information in paragraphs (e)(1) through (5) of this section.

(1) A description of the device;

(2) Test results collected in accordance with § 63.11452 verifying the performance of the device for reducing PM to the levels required by this subpart;

(3) Operation and maintenance plan for the control device (including a preventative maintenance schedule consistent with the manufacturer's instructions for routine and long-term maintenance) and continuous monitoring system;

(4) A list of operating parameters that will be monitored to maintain continuous compliance with the applicable emission limits; and

(5) Operating parameter limits based on monitoring data collected during the performance test.

#### **§ 63.11454 What are the monitoring requirements for new and existing sources?**

(a) For each monitoring system required by this subpart, you must install, calibrate, operate, and maintain the monitoring system according to the manufacturer's specifications and the requirements specified in paragraphs (a)(1) through (6) of this section.

(1) You must install each sensor of your monitoring system in a location that provides representative measurement of the appropriate parameter over all operating conditions, taking into account the manufacturer's guidelines.

(2) You must perform an initial calibration of your monitoring system based on the manufacturer's recommendations.

(3) You must use a monitoring system that is designed to complete a minimum of one cycle of operation for each successive 15-minute period.

(4) For each existing affected furnace, you must record the value of the monitored parameter at least every 8 hours. The value can be recorded electronically or manually.

(5) You must record the results of each inspection, calibration, monitoring system maintenance, and corrective action taken to return the monitoring system to normal operation.

(6) At all times, you must maintain your monitoring system including, but not limited to, maintaining necessary parts for routine repairs of the system.

(b) For each existing furnace that subject to the emission limits specified in Table 1 to this subpart and is controlled with an ESP, you must meet the requirements specified in paragraphs (b)(1) or (2) of this section.

(1) You must monitor the secondary voltage and secondary electrical current to each field of the ESP according to the requirements of this section, or

(2) You must submit a request for alternative monitoring, as described in paragraph (g) of this section.

(c) For each existing furnace that is subject to the emission limits specified in Table 1 to this subpart and is controlled with a fabric filter, you must meet the requirements specified in paragraphs (c)(1) or (2) of this section.

(1) You must monitor the inlet temperature to the fabric filter according to the requirements of this section, or

(2) You must submit a request for alternative monitoring, as described in paragraph (g) of this section.

(d) For each new or reconstructed furnace that is subject to the emission limits specified in Table 1 to this subpart and is controlled with an ESP, you must monitor the voltage and electrical current to each field of the ESP on a continuous basis using one or more CPMS according to the requirements for CPMS specified in § 63.11453(d).

(e) For each new or reconstructed furnace that is subject to the emission limits specified in Table 1 to this subpart and is controlled with a fabric filter, you must install and operate a bag leak detection system according to the requirements for CPMS specified in § 63.11453(c).

(f) For each new, reconstructed, or existing furnace that is subject to the emission limits specified in Table 1 to this subpart and is equipped with a control device other than an ESP or fabric filter, you must meet the requirements in § 63.8(f) and paragraph (f)(1) of this section.

(1) Submit a request for approval of alternative monitoring methods to the Administrator no later than the submittal date for the Notification of Compliance Status, as specified in § 63.11456(b). The request must contain the information specified in paragraphs (f)(1)(i) through (v) of this section.

(i) Description of the alternative add-on air pollution control device (APCD).

(ii) Type of monitoring device or method that will be used, including the sensor type, location, inspection procedures, quality assurance and quality control (QA/QC) measures, and data recording device.

(iii) Operating parameters that will be monitored.

(iv) Frequency that the operating parameter values will be measured and recorded.

(v) Procedures for inspecting the condition and operation of the control device and monitoring system.

(g) If you wish to use a monitoring method other than those specified in paragraphs (b)(1) or (c)(1) of this section, you must meet the requirements in § 63.8(f) and paragraph (g)(1) of this section.

(1) Submit a request for approval of alternative monitoring methods to the Administrator no later than the submittal date for the Notification of Compliance Status, as specified in § 63.11456(b). The request must contain the information specified in paragraphs (g)(1)(i) through (v) of this section.

(i) Type of monitoring device or method that will be used, including the sensor type, location, inspection procedures, QA/QC measures, and data recording device.

(ii) Operating parameters that will be monitored.

(iii) Frequency that the operating parameter values will be measured and recorded.

(v) Procedures for inspecting the condition and operation of the monitoring system.

(vi) Explanation for how the alternative monitoring method will provide assurance that the emission control device is operating properly.

(2) [Reserved]

**§ 63.11455 What are the continuous compliance requirements for new and existing sources?**

(a) You must be in compliance with the applicable emission limits and work practices in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) For each affected furnace that is subject to the emission limits specified in Table 1 to this subpart, you must monitor the performance of the furnace emission control device according to the requirements in §§ 63.6(e)(1) and 63.8(c) and paragraphs (c)(1) through (4) of this section.

(1) For each affected furnace that is controlled with an ESP, you must monitor the parameters specified in § 63.11454(b) in accordance with the requirements of § 63.11454(a) or as specified in your approved alternative monitoring plan.

(2) For each affected furnace that is controlled with a fabric filter, you must

monitor the parameter specified in § 63.11454(c) in accordance with the requirements of § 63.11454(a) or as specified in your approved alternative monitoring plan.

(3) For each affected furnace that is controlled with a device other than a fabric filter or ESP, you must comply with the requirements of your approved alternative monitoring plan, as required in § 63.11454(g).

(4) For each monitoring system that is required under this subpart, you must keep the records specified in § 63.11457.

(d) Following the initial inspections, you must perform periodic inspections and maintenance of each affected furnace control device according to the requirements in paragraphs (d)(1) through (4) of this section.

(1) For each fabric filter, you must conduct inspections at least every 12 months according to paragraphs (d)(1)(i) through (iii) of this section.

(i) You must inspect the ductwork and fabric filter unit for leakage.

(ii) You must inspect the interior of the fabric filter for structural integrity and to determine the condition of the fabric filter.

(iii) If an initial inspection is not required, as specified in § 63.11453(b)(3)(i), the first inspection must not be more than 12 months from the last inspection.

(2) For each ESP, you must conduct inspections according to the requirements in paragraphs (d)(2)(i) through (iii) of this section.

(i) You must conduct visual inspections of the system ductwork, housing unit, and hopper for leaks at least every 12 months.

(ii) You must conduct inspections of the interior of the ESP to determine the condition and integrity of corona wires, collection plates, plate rappers, hopper, and air diffuser plates every 24 months.

(iii) If an initial inspection is not required, as specified in § 63.11453(b)(3)(ii), the first inspection must not be more than 24 months from the last inspection.

(3) You must record the results of each periodic inspection specified in this section in a logbook (written or electronic format), as specified in § 63.11457.

(4) If the results of a required inspection indicate a problem with the operation of the emission control system, you must take immediate corrective action to return the control device to normal operation according to the equipment manufacturer's specifications or instructions.

## Notifications and Records

### § 63.11456 What are the notification requirements?

(a) If you own or operate an affected furnace, as defined in § 63.11449(a), you must submit an Initial Notification in accordance with § 63.9(b) and paragraphs (a)(1) through (3) of this section by the dates specified.

(1) As specified in § 63.9(b)(2) and (3), if you start up your affected source before the date of publication of the final rule in the **Federal Register**, you must submit an Initial Notification not later than 120 calendar days after the date of publication of the final rule in the **Federal Register**.

(2) The Initial Notification must include the information specified in § 63.9(b)(2)(i) to (iv).

(3) As specified in § 63.9(b)(3), if you start up your new or reconstructed affected source on or after the date of publication of the final rule in the **Federal Register**, you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart.

(b) You must submit a Notification of Compliance Status in accordance with § 63.9(h) and the requirements in paragraphs (b)(1) and (2) of this section.

(1) If you own or operate an affected furnace and are required to conduct a performance test, you must submit a Notification of Compliance Status, including the performance test results, before the close of business on the 60th calendar day following the completion of the performance test, according to § 60.8 or § 63.10(d)(2).

(2) If you own or operate an affected furnace and satisfy the conditions specified in § 63.11452(a)(2) and are not required to conduct a performance test, you submit a Notification of Compliance Status, including the results of the previous performance test, before the close of business on the compliance date specified in § 63.11450, according to § 63.10(d)(2).

### § 63.11457 What are the recordkeeping requirements?

(a) You must keep the records specified in paragraphs (a)(1) through (9) of this section.

(1) A copy of any Initial Notification and Notification of Compliance Status that you submitted and all documentation supporting those notifications, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) The records specified in § 63.10(b)(2) and (c)(1) through (13).

(4) The records required to show continuous compliance with each emission limit that applies to you, as specified in § 63.11455.

(5) For each affected source, records of production rate on a process throughput basis (either feed rate to the process unit or discharge rate from the process unit).

(i) The production data must include the amount (weight or weight percent) of each ingredient in the batch formulation, including all glass manufacturing metal HAP compounds.

(ii) [Reserved]

(6) Records of maintenance activities and inspections performed on control devices as specified in §§ 63.11453(b) and 63.11455(d), according to paragraphs (a)(6)(i) through (v) of this section.

(i) The date, place, and time of inspections of control device ductwork, interior, and operation.

(ii) Person conducting the inspection.

(iii) Technique or method used to conduct the inspection.

(iv) Control device operating conditions during the time of the inspection.

(v) Results of the inspection and description of any corrective action taken.

(7) Records of all required monitoring data and supporting information including all calibration and maintenance records.

(8) For each bag leak detection system, the records specified in paragraphs (a)(8)(i) through (iii) of this section.

(i) Records of the bag leak detection system output;

(ii) Records of bag leak detection system adjustments, including the date and time of the adjustment, the initial bag leak detection system settings, and the final bag leak detection system settings; and

(iii) The date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the actions taken, the date and time the cause of the alarm was alleviated, and whether the alarm was alleviated within 3 hours of the alarm.

(9) Records of any approved alternative monitoring method(s) or test procedure(s).

(b) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(c) You must record the results of each inspection and maintenance action in a logbook (written or electronic format). You must keep the logbook

onsite and make the logbook available to the permitting authority upon request.

(d) As specified in § 63.10(b)(1), you must keep each record for a minimum of 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

You must keep each record onsite for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

## Other Requirements and Information

### § 63.11458 What General Provisions apply to this subpart?

You must satisfy the requirements of the General Provisions in 40 CFR part 63, subpart A, as specified in Table 2 to this subpart.

### § 63.11459 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

*Air pollution control device (APCD)* means any equipment that reduces the quantity of a pollutant that is emitted to the air.

*Cullet* means recycled glass that is mixed with raw materials and charged to a glass melting furnace to produce glass.

*Electrostatic precipitator (ESP)* means an APCD that removes PM from an exhaust gas stream by applying an electrical charge to particles in the gas stream and collecting the charged particles on plates carrying the opposite electrical charge.

*Fabric filter* means an APCD used to capture PM by filtering a gas stream through filter media.

*Glass manufacturing metal HAP* means an oxide or other compound of any of the following metals included in the list of urban HAP for the Integrated Urban Air Toxics Strategy and for which Glass Manufacturing was listed as an area source category: arsenic, cadmium, chromium, lead, manganese, and nickel.

*Glass melting furnace* means a unit comprising a refractory-lined vessel in which raw materials are charged, melted at high temperature, refined, and conditioned to produce molten glass. The unit includes foundations, superstructure and retaining walls, raw material charging system, heat exchangers, melter cooling system, exhaust system, refractory brick work, fuel supply and electrical boosting equipment, integral control systems and instrumentation, and appendages for conditioning and transferring molten glass to forming apparatuses.

*Particulate matter (PM)* means, for purposes of this subpart, emissions of PM that serve as a measure of total particulate emissions, as measured by Methods 5 or 17 (40 CFR part 60, appendices A–3 and A–6), and as a surrogate for glass manufacturing metal HAP compounds contained in the PM including, but not limited to, arsenic, cadmium, chromium, lead, manganese, and nickel.

*Plant site* means all contiguous or adjoining property that is under common control, including properties that are separated only by a road or other public right-of-way. Common control includes properties that are owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof.

*Raw material* means minerals, such as silica sand, limestone, and dolomite; inorganic chemical compounds, such as soda ash (sodium carbonate), salt cake (sodium sulfate), and potash (potassium carbonate); metal oxides and other metal-based compounds, such as lead oxide, chromium oxide, and sodium

antimonate; metal ores, such as chromite and pyrolusite; and other substances that are intentionally added to a glass manufacturing batch and melted in a glass melting furnace to produce glass. Metals that are naturally-occurring trace constituents or contaminants of other substances are not considered to be raw materials.

**§ 63.11460 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by us, the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this

section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (3) of this section.

(1) Approval of alternatives to the applicability requirements in §§ 63.11448 and 63.11449, the compliance date requirements in § 63.11450, and the emission limits specified in § 63.11451.

(2) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(3) Approval of major alternatives to recordkeeping under § 63.10(f) and as defined in § 63.90.

**§ 63.11461 [Reserved]**

**Tables to Subpart SSSSSS of Part 63**

As required in § 63.11451, you must comply with each emission limit that applies to you according to the following table:

TABLE 1 TO SUBPART SSSSSS OF PART 63.—EMISSION LIMITS

| For each . . .   | You must meet the following emission limits . . .  |
|--|--|
| 1. New or existing glass melting furnace that produces glass at an annual rate of at least 45 Mg/yr (50 tpy) AND is charged with compounds of arsenic, cadmium, chromium, manganese, lead, or nickel as raw materials. | a. The 3-hour block average production-based PM mass emission rate must not exceed 0.2 pounds per ton (lb/ton) of glass produced; OR<br>b. The 3-hour block average production-based metal HAP mass emission rate must not exceed 0.02 lb/ton of glass produced. |

As stated in § 63.11458, you must comply with the requirements of the NESHAP General Provisions (40 CFR

part 63, subpart A), as shown in the following table:

TABLE 2 TO SUBPART SSSSSS OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART SSSSSS

| Citation  | Subject   |
|---|---|
| § 63.1(a), (b), (c)(1), (c)(2), (c)(5), (e) .....   | Applicability.  |
| § 63.2 .....  | Definitions.  |
| § 63.3 .....  | Units and Abbreviations.  |
| § 63.4 .....  | Prohibited Activities.  |
| § 63.5 .....  | Construction/Reconstruction.  |
| § 63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)–(j) .....                               | Compliance with Standards and Maintenance Requirements.                       |
| § 63.7 .....  | Performance Testing Requirements.   |
| § 63.8(a)(1), (a)(2), (b), (c)(1)–(c)(4), (c)(7)(i)(B), (c)(7)(ii), (c)(8), (d), (e)(1), (e)(4), (f). | Monitoring Requirements.  |
| § 63.9(a), (b)(1)(i)–(b)(2)(v), (b)(5), (c), (d), (h)–(j) .....                                       | Notification Requirements.  |
| § 63.10(a), (b)(1), (b)(2)(i)–(b)(2)(xii) .....   | Recordkeeping and Reporting Requirements.                                     |
| § 63.10(b)(2)(xiv), (c), (f) .....  | Documentation for Initial Notification and Notification of Compliance Status. |
| § 63.12 .....   | State Authority and Delegations.  |
| § 63.13 .....   | Addresses.  |
| § 63.14 .....   | Incorporation by Reference.   |
| § 63.15 .....   | Availability of Information.  |
| § 63.16 .....   | Performance Track Provisions.   |

5. Part 63 is amended by adding subpart TTTTTT to read as follows:

**Subpart TTTTTT—National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources**

**Applicability and Compliance Dates**

Sec.

63.11462 Am I subject to this subpart?

63.11463 What parts of my plant does this subpart cover?

63.11464 What are my compliance dates?

**Standards, Compliance, and Monitoring Requirements**

63.11465 What are the standards for new and existing sources?

63.11466 What are the performance test requirements for new and existing sources?

63.11467 What are the initial compliance demonstration requirements for new and existing sources?

63.11468 What are the monitoring requirements for new and existing sources?

63.11469 What are the notification requirements?

63.11470 What are the recordkeeping requirements?

**Other Requirements and Information**

63.11471 What General Provisions apply to this subpart?

63.11472 What definitions apply to this subpart?

63.11473 Who implements and enforces this subpart?

63.11474 [Reserved]

**Tables to Subpart TTTTTT of Part 63**

Table 1 to Subpart TTTTTT of Part 63—  
Applicability of General Provisions to  
Subpart TTTTTT

**Subpart TTTTTT—National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources**

**Applicability and Compliance Dates**

**§ 63.11462 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate a secondary nonferrous metals processing facility (as defined in § 63.11472) that is an area source of hazardous air pollutant (HAP) emissions.

(b) If you are an owner or operator of an area source subject to this subpart, you are exempt from the obligation to obtain a permit under 40 CFR part 70 or 71, provided you are not required to obtain a permit under 40 CFR 70.3(a) or 71.3(a) for a reason other than your status as an area source under this subpart. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart applicable to area sources.

**§ 63.11463 What parts of my plant does this subpart cover?**

(a) This subpart applies to any existing, new, or reconstructed affected source located at a secondary nonferrous metals processing facility.

(b) The affected source includes all crushing and screening operations at a secondary zinc processing facility and all furnace melting operations located at any secondary nonferrous metals processing facilities.

(c) An affected source is existing if you commenced construction or reconstruction of the affected source before September 20, 2007.

(d) An affected source is new if you commenced construction or reconstruction of the affected source on or after September 20, 2007.

**§ 63.11464 What are my compliance dates?**

(a) If you have an existing affected source, you must comply with the standards no later than the date of publication of the final rule in the **Federal Register**.

(b) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraphs (b)(1) and (b)(2) of this section.

(1) If you start up your affected source on or before the date of publication of the final rule in the **Federal Register**, you must comply with this subpart no later than the date of publication of the final rule in the **Federal Register**.

(2) If you start up your affected source after the date of publication of the final rule in the **Federal Register**, you must comply with this subpart upon initial startup of your affected source.

**Standards, Compliance, and Monitoring Requirements**

**§ 63.11465 What are the standards for new and existing sources?**

(a) You must route the emissions from each existing affected source through a fabric filter or baghouse that achieves a PM control efficiency of at least 99.0 percent.

(b) You must route the emissions from each new affected source through a fabric filter or baghouse that achieves a PM control efficiency of at least 99.5 percent.

**§ 63.11466 What are the performance test requirements for new and existing sources?**

(a) Except as specified in paragraph (b) of this section, if you own or operate an existing or new affected source, you must conduct a performance test for each affected source within 180 days of your compliance date and report the results in your notification of compliance status.

(b) If you own or operate an existing affected source, you are not required to conduct a performance test if a prior performance test was conducted within the past 5 years of the compliance date using the same methods specified in paragraph (c) of this section and you meet either of the following two conditions:

(1) No process changes have been made since the test; or

(2) You demonstrate that the results of the performance test, with or without adjustments, reliably demonstrates compliance despite process changes.

(c) *Test methods.* You must conduct each performance test according to the requirements in § 63.7 and paragraphs (c)(1) and (2) of this section.

(1) Determine the concentration of PM according to the following test methods in 40 CFR part 60, appendices:

(i) Method 1 or 1A (Appendix A–1) to select sampling port locations and the number of traverse points in each stack or duct. Sampling sites must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) Method 2, 2A, 2C, 2D, 2F, or 2G (Appendices A–1 and A–2) to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, 3B (Appendix A–2), or ANSI/ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses (incorporated by reference—see § 63.14) to determine the dry molecular weight of the stack gas.

(iv) Method 4 (Appendix A–3) to determine the moisture content of the stack gas.

(v) Method 5 or 5D (Appendix A–3) to determine the concentration of particulate matter (front half filterable catch only). Three valid test runs are needed to comprise a performance test.

(2) During the test, you must operate each emissions source within  $\pm 10$  percent of its normal process rate. You must monitor and record the process rate during the test.

**§ 63.11467 What are the initial compliance demonstration requirements for new and existing sources?**

(a) You must demonstrate initial compliance with the applicable standards in § 63.11465 by submitting a Notification of Compliance Status in accordance with § 63.11469(b).

(b) You must conduct the inspection specified in paragraph (c) of this section and include the results of the inspection in the Notification of Compliance Status.

(c) For each existing and new affected source, you must conduct an initial inspection of each baghouse. You must visually inspect the system ductwork and baghouse unit for leaks. Except as

specified in paragraph (e) of this section, you must also inspect the inside of each baghouse for structural integrity and fabric filter condition. You must record the results of the inspection and any maintenance action as required in § 63.11470.

(d) For each installed baghouse that is in operation during the 60 days after the applicable compliance date, you must conduct the inspection specified in paragraph (c) of this section no later than 60 days after your applicable compliance date. For an installed baghouse that is not in operation during the 60 days after the applicable compliance date, you must conduct an initial inspection prior to startup of the baghouse.

(e) An initial inspection of the internal components of a baghouse is not required if an inspection has been performed within the past 12 months.

(f) You must submit the Notification of Compliance Status within 120 calendar days after the applicable compliance date specified in § 63.11464.

**§ 63.11468 What are the monitoring requirements for new and existing sources?**

(a) For an existing affected source, you must demonstrate compliance by conducting the monitoring activities in paragraph (a)(1) or (a)(2) of this section:

(1) Periodic inspections/maintenance. You must perform periodic inspections and maintenance of each baghouse according to the requirements in paragraphs (a)(1)(i) and (ii) of this section.

(i) You must conduct weekly visual inspections of the system ductwork for leaks.

(ii) You must conduct inspections of the interior of the baghouse for structural integrity and to determine the condition of the fabric filter every 12 months.

(2) As an alternative to the monitoring requirements in paragraph (a)(1) of this section, you may demonstrate compliance by conducting a daily 30-minute visible emissions (VE) test (i.e., no visible emissions) using EPA Method 22 (40 CFR part 60, appendix A-7).

(b) If the results of the visual inspection or VE test conducted under paragraph (a) of this section indicate a problem with the operation of the baghouse, including but not limited to air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in PM emissions, you must take immediate corrective action to return the baghouse to normal operation according to the equipment manufacturer's specifications or instructions and record the corrective action taken.

(c) For each new affected source, you must install, operate, and maintain a bag leak detection system according to paragraphs (c)(1) through (3) of this section.

(1) Each bag leak detection system must meet the specifications and requirements in paragraphs (c)(1)(i) through (viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1 milligram per dry standard cubic meter (0.00044 grains per actual cubic foot) or less.

(ii) The bag leak detection system sensor must provide output of relative PM loadings. The owner or operator shall continuously record the output from the bag leak detection system using electronic or other means (e.g., using a strip chart recorder or a data logger).

(iii) The bag leak detection system must be equipped with an alarm system that will sound when the system detects an increase in relative particulate loading over the alarm set point established according to paragraph (c)(1)(iv) of this section, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(iv) In the initial adjustment of the bag leak detection system, you must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(v) Following initial adjustment, you shall not adjust the averaging period, alarm set point, or alarm delay time without approval from the Administrator or delegated authority except as provided in paragraph (c)(1)(vi) of this section.

(vi) Once per quarter, you may adjust the sensitivity of the bag leak detection system to account for seasonal effects, including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required by paragraph (c)(2) of this section.

(vii) You must install the bag leak detection sensor downstream of the fabric filter.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(2) You must develop and submit to the Administrator or delegated authority for approval a site-specific monitoring plan for each bag leak detection system. You must operate and maintain the bag leak detection system according to the site-specific monitoring plan at all times. Each monitoring plan must

describe the items in paragraphs (c)(2)(i) through (vi) of this section.

(i) Installation of the bag leak detection system;

(ii) Initial and periodic adjustment of the bag leak detection system, including how the alarm set-point will be established;

(iii) Operation of the bag leak detection system, including quality assurance procedures;

(iv) How the bag leak detection system will be maintained, including a routine maintenance schedule and spare parts inventory list;

(v) How the bag leak detection system output will be recorded and stored; and

(vi) Corrective action procedures as specified in paragraph (c)(3) of this section. In approving the site-specific monitoring plan, the Administrator or delegated authority may allow owners and operators more than 3 hours to alleviate a specific condition that causes an alarm if the owner or operator identifies in the monitoring plan this specific condition as one that could lead to an alarm, adequately explains why it is not feasible to alleviate this condition within 3 hours of the time the alarm occurs, and demonstrates that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(3) For each bag leak detection system, you must initiate procedures to determine the cause of every alarm within 1 hour of the alarm. Except as provided in paragraph (c)(2)(vi) of this section, you must alleviate the cause of the alarm within 3 hours of the alarm by taking whatever corrective action(s) are necessary. Corrective actions may include, but are not limited to the following:

(i) Inspecting the fabric filter for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in PM emissions;

(ii) Sealing off defective bags or filter media;

(iii) Replacing defective bags or filter media or otherwise repairing the control device;

(iv) Sealing off a defective fabric filter compartment;

(v) Cleaning the bag leak detection system probe or otherwise repairing the bag leak detection system; or

(vi) Shutting down the process producing the PM emissions.

**§ 63.11469 What are the notification requirements?**

(a) You must submit the Initial Notification required by § 63.9(a)(2) no later than 120 calendar days after the applicable compliance date specified in § 63.11464. The Initial Notification must



include the information specified in paragraphs (a)(1) through (3) of this section and may be combined with the Notification of Compliance Status required in § 63.11467 and paragraph (b) of this section.

(1) The name and address of the owner or operator;

(2) The address (i.e., physical location) of the affected source; and

(3) An identification of the relevant standard, or other requirement, that is the basis of the notification and source's compliance date.

(b) You must submit a Notification of Compliance Status required by § 63.9(h) no later than 120 days after the applicable compliance date specified in § 63.11464. In addition to the information required in § 63.9(h)(2) and § 63.11367, your notification must include the following certification(s) of compliance, as applicable, and signed by a responsible official:

(1) This certification of compliance by the owner or operator of an existing affected source who is relying on a previous performance test: "This facility complies with the control efficiency requirement in § 63.11465 based on a previous performance test in accordance with § 63.11466."

(2) This certification of compliance by the owner or operator of any new or existing affected source: "This facility has conducted an initial inspection of each control device according to the requirements in § 63.11467, will conduct periodic inspections and maintenance of control devices in accordance with § 63.11468, and will maintain records of each inspection and maintenance action required by § 63.11470."

(3) This certification of compliance by the owner or operator of a new affected source: "This facility has an approved bag leak detection system monitoring plan in accordance with § 63.11468(c)(2)."

**§ 63.11470 What are the recordkeeping requirements?**

(a) You must keep the records specified in paragraphs (a)(1) and (2) of this section.

(1) As required in § 63.10(b)(2)(xiv), you must keep a copy of each notification that you submitted to comply with this subpart and all documentation supporting any Initial

Notification or Notification of Compliance Status that you submitted.

(2) You must keep the records of all inspection and monitoring data required by § 63.11467 and § 63.11468, and the information identified in paragraphs (a)(2)(i) through (a)(2)(v) for each required inspection or monitoring.

(i) The date, place, and time;

(ii) Person conducting the activity;

(iii) Technique or method used;

(iv) Operating conditions during the activity; and

(v) Results.

(b) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(c) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each recorded action.

(d) You must keep each record onsite for at least 2 years after the date of each recorded action according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

**Other Requirements and Information**

**§ 63.11471 What General Provisions apply to this subpart?**

Table 1 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.16 apply to you.

**§ 63.11472 What definitions apply to this subpart?**

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

*Bag leak detection system* means a system that is capable of continuously monitoring relative particulate matter (dust loadings) in the exhaust of a baghouse to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to continuously monitor relative particulate matter loadings.

*Furnace melting operation* means the collection of processes used to charge post-consumer nonferrous scrap material to a furnace, melt the material, and transfer the molten material to a forming medium.

*Secondary nonferrous metals processing facility* means a brass and bronze ingot making, secondary

magnesium processing, or secondary zinc processing plant that uses furnace melting operations to melt post-consumer nonferrous metal scrap to make products including bars, ingots, and blocks, or metal powders.

**§ 63.11473 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as your State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of alternatives to the applicability requirements in § 63.11462 and 63.11463, the compliance date requirements in § 63.11464, and the applicable standards in § 63.11465.

(2) Approval of a major change to a test method under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

**§ 63.11474 [Reserved]**

**Tables to Subpart TTTTTT of Part 63**

As stated in § 63.11470, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) shown in the following table:

TABLE 1 TO SUBPART TTTTTT OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART TTTTTT

| Citation   | Subject        |
|--|----------------|
| 63.1(a)(1)–(a)(4), (a)(6), (a)(10)–(a)(12), (b)(1), (b)(3), (c)(1) <sup>1</sup> , (c)(2), (c)(5), (e). | Applicability. |
| 63.2 .....   | Definitions.   |

TABLE 1 TO SUBPART TTTTTT OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART TTTTTT—  
Continued

| Citation   | Subject   |
|--|---|
| 63.3 .....   | Units and Abbreviations.                                |
| 63.4 .....   | Prohibited Activities and Circumvention.                |
| 63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)(1), (f), (g), (i), (j) ... | Compliance with Standards and Maintenance Requirements. |
| 63.8(a)(1), (a)(2), (b), (c)(1)(i)–(c)(1)(ii), (c)(2), (c)(3), (f) .....               | Monitoring Requirements.                                |
| 63.9(a), (b)(1), (b)(2), (b)(5), (c), (d), (h)(1)–(h)(3), (h)(5), (h)(6), (i), (j) ..  | Notification Requirements.                              |
| 63.10(a), (b)(1), (b)(2)(vii), (b)(2)(xiv), (b)(3), (c), (f) .....                     | Recordkeeping and Reporting Requirements.               |
| 63.12 .....  | State Authority and Delegations.                        |
| 63.13 .....  | Addresses.  |
| 63.14 .....  | Incorporations by Reference.                            |
| 63.15 .....  | Availability of Information and Confidentiality.        |
| 63.16 .....  | Performance Track Provisions.                           |

<sup>1</sup> Section 63.11462(b) of this subpart exempts area sources from the obligation to obtain title V operating permits.

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