containing hazardous materials must bear the endorsement ''Address Service Requested,'' ''Forwarding Service Requested,'' or ''Return Service Requested.''

2. Pieces containing Ballot Mail under 703.8.0.

* * * * *

Exhibit 1.5.3 Treatment of Undeliverable USPS Marketing Mail and Parcel Select Lightweight

Mailer endorsement	USPS treatment of UAA pieces
* * * * *	
''Change Service Requested'' [14].	Option 1.

Restrictions:

The following restrictions apply:

* * * * *

[Revise the ''Change Service Requested'' Option 1 ''Restrictions'' section by adding a new number 3 to read as follows:]

3. This endorsement is not valid for Ballot Mail under 703.8.0.

* * * * *

Option 2

* * * * *

Restrictions:

The following restrictions apply:

* * * * *

[Revise the ''Change Service Requested'' Option 2 ''Restrictions'' section by adding a new number 3 to read as follows:]

3. This endorsement is not valid for Ballot Mail under 703.8.0.

* * * * *

Colleen Hibbert-Kapler,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2023–25569 Filed 11–17–23; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2022–0481; FRL–9630–02–OAR]

RIN 2060–AV78

New Source Performance Standards Review for Secondary Lead Smelters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing amendments to the new source performance standards (NSPS) for secondary lead smelters pursuant to the periodic review required by the Clean Air Act (CAA). Specifically, the EPA is finalizing revisions to the NSPS that applies to affected secondary lead smelters constructed, reconstructed, or modified after December 1, 2022 (NSPS subpart La). The EPA is also finalizing amendments to the NSPS for secondary lead smelters constructed, reconstructed, or modified after June 11, 1973, and on or before December 1, 2022, (NSPS subpart L). In addition, we are finalizing the use of EPA Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) as an alternative for demonstrating compliance with the opacity limit.

DATES: This final rule is effective on November 20, 2023. The incorporation by reference (IBR) of certain publications listed in the rule is approved by the Director of the Federal Register as of November 20, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2022–0481. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Amber Wright, Sector Policies and Programs Division (D243–02), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–4680; email address: *wright.amber@epa.gov.*

SUPPLEMENTARY INFORMATION:

Preamble acronyms and abbreviations. Throughout this document the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

ABR Association of Battery Recyclers
ASTM ASTM, International
BSER best system of emission reduction
CAA Clean Air Act
CBI Confidential Business Information
CFR Code of Federal Regulations
DCOT digital camera opacity technique
EJ environmental justice
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
FR Federal Register
HEPA high efficiency particulate air
IBR incorporation by reference
ICR information collection request
km kilometers
mg/dscm milligram per dry standard cubic meter
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NSPS new source performance standards
NTTAA National Technology Transfer and Advancement
OAQPS Office of Air Quality Planning and Standards
OMB Office of Management and Budget
PDF portable document format
PM particulate matter
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RIN Regulatory Information Number
SOP standard operating procedures
SSM startup, shutdown, and malfunctions
UMRA Unfunded Mandates Reform Act
U.S.C. United States Code
VCS voluntary consensus standard
WESP wet electrostatic precipitator

Organization of this document. The information in this preamble is organized as follows:

I. General Information

A. Does this action apply to me?

The source category that is the subject of this final action is composed of secondary lead smelters regulated under CAA section 111, New Source Performance Standards (NSPS). The 2022 North American Industry Classification System (NAICS) code for the source category is 331492. The NAICS code serves as a guide for readers outlining the type of entities that this final action is likely to affect. The NSPS codified in 40 CFR part 60, subpart L are directly applicable to secondary lead smelters constructed, reconstructed, or modified after June 11, 1973, and on or before December 1, 2022. The NSPS codified in 40 CFR part 60, subpart La, are directly applicable to affected facilities that begin construction, reconstruction, or modification after December 1, 2022. Federal, state, local and tribal government entities would not be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, you should carefully examine the applicability criteria found in 40 CFR part 60, subparts L and La, and consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this preamble, your state air pollution control agency with delegated authority for NSPS, or your EPA Regional Office.

B. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this final action is available on the internet at *https://www.epa.gov/stationary-sources-air-pollution/secondary-lead-smelters-new-source-performance-standards-nsps.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the final rule and key technical documents at this same website.

A redline/strikeout version of the rules showing the final edits being made to incorporate the changes to 40 CFR part 60, subpart L and the new text for 40 CFR part 60, subpart La finalized in this action is available in the docket (Docket ID No. EPA–HQ–OAR–2022–0481). Following signature by the EPA Administrator, the EPA also will post a copy of these documents to *https://www.epa.gov/stationary-sources-air-pollution/secondary-lead-smelters-new-source-performance-standards-nsps.*

C. Judicial Review and Administrative Review

Under CAA section 307(b)(1), judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by January 19, 2024. Under CAA section 307(b)(2), the requirements established by this final rule may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce the requirements.

Section 307(d)(7)(B) of the CAA further provides that ''[o]nly an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review.'' This section also provides a mechanism for the EPA to convene a proceeding for reconsideration, ''[i]f the person raising an objection can demonstrate to the EPA that it was impracticable to raise such objection within [the period for public comment] or if the grounds for such objection arose after the period for public comment, (but within the time specified for judicial review) and if such objection is of central relevance to the outcome of the rule.'' Any person seeking to make such a demonstration to us should submit a Petition for Reconsideration to the Office of the Administrator, U.S. Environmental Protection Agency, Room 3000, WJC West Building, 1200 Pennsylvania Ave. NW, Washington, DC 20460, with a copy to both the person(s) listed in the preceding **FOR FURTHER INFORMATION CONTACT** section, and the Associate General Counsel for the Air and Radiation Law Office, Office of General Counsel (Mail Code 2344A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

II. Background

A. What is the statutory authority for this final action?

The EPA's authority for this final rule is CAA section 111, which governs the establishment of standards of performance for stationary sources. Section 111(b)(1)(A) of the CAA requires the EPA Administrator to list categories of stationary sources that in the Administrator's judgment cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. The EPA must then issue performance standards for new (and modified or reconstructed) sources in each source category pursuant to CAA section 111(b)(1)(B). These standards are referred to as new source performance standards, or NSPS. The EPA has the authority to define the scope of the source categories, determine the pollutants for which standards should be developed, set the emission level of the standards, and distinguish among classes, types, and sizes within categories in establishing the standards.

CAA section 111(b)(1)(B) requires the EPA to ''at least every 8 years review and, if appropriate, revise'' the NSPS. However, the Administrator need not review any such standard if the ''Administrator determines that such review is not appropriate in light of readily available information on the efficacy'' of the standard. When conducting a review of an existing performance standard, the EPA has the discretion and authority to add emission limits for pollutants or emission sources not currently regulated for that source category.

In setting or revising a performance standard, CAA section 111(a)(1) provides that performance standards are to reflect ''the degree of emission limitation achievable through the application of the BSER which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.'' The term ''standard of performance'' in CAA section 111(a)(1) makes clear that the EPA is to determine both the BSER for the regulated sources in the source category and the degree of emission limitation achievable through application of the BSER. The EPA must then, under CAA section 111(b)(1)(B), promulgate standards of performance for new sources that reflect that level of stringency. CAA section 111(b)(5)

generally precludes the EPA from prescribing a particular technological system that must be used to comply with a standard of performance. Rather, sources can select any measure or combination of measures that will achieve the standard. CAA section 111(h)(1) authorizes the Administrator to promulgate ''a design, equipment, work practice, or operational standard, or combination thereof'' if in his or her judgment, ''it is not feasible to prescribe or enforce a standard of performance.'' CAA section 111(h)(2) provides the circumstances under which prescribing or enforcing a standard of performance is ''not feasible,'' such as, when the pollutant cannot be emitted through a conveyance designed to emit or capture the pollutant, or when there is no practicable measurement methodology for the particular class of sources.

Pursuant to the definition of new source in CAA section 111(a)(2), standards of performance apply to facilities that begin construction, reconstruction, or modification after the date of publication of the proposed standards in the **Federal Register**. Under CAA section 111(a)(4), ''modification'' means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source or which results in the emission of any air pollutant not previously emitted. Changes to an existing facility that do not result in an increase in emissions are not considered modifications. Under the provisions in 40 CFR 60.15, reconstruction means the replacement of components of an existing facility such that: (1) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable entirely new facility; and (2) it is technologically and economically feasible to meet the applicable standards. Pursuant to CAA section 111(b)(1)(B), the standards of performance or revisions thereof shall become effective upon promulgation.

B. How does the EPA perform the NSPS review?

As noted in section II.A. of this preamble, CAA section 111 requires the EPA to, at least every 8 years, review and, if appropriate, revise the standards of performance applicable to new, modified, and reconstructed sources. If the EPA revises the standards of performance, they must reflect the degree of emission limitation achievable through the application of the BSER considering the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements. CAA section 111(a)(1).

In reviewing an NSPS to determine whether it is ''appropriate'' to revise the standards of performance, the EPA evaluates the statutory factors, which may include consideration of the following information:

- Expected growth for the source category, including how many new facilities, reconstructions, and modifications may trigger NSPS in the future.
- Pollution control measures, including advances in control technologies, process operations, design or efficiency improvements, or other systems of emission reduction, that are ''adequately demonstrated'' in the regulated industry.
- Available information from the implementation and enforcement of current requirements indicating that emission limitations and percent reductions beyond those required by the current standards are achieved in practice.
- Costs (including capital and annual costs) associated with implementation of the available pollution control measures.
- The amount of emission reductions achievable through application of such pollution control measures.
- Any non-air quality health and environmental impact and energy requirements associated with those control measures.

In evaluating whether the cost of a particular system of emission reduction is reasonable, the EPA considers various costs associated with the particular air pollution control measure or a level of control, including capital costs and operating costs, and the emission reductions that the control measure or particular level of control can achieve. The Agency considers these costs in the context of the industry's overall capital expenditures and revenues. The Agency also considers cost effectiveness analysis as a useful metric and a means of evaluating whether a given control achieves emission reduction at a reasonable cost. A cost effectiveness analysis allows comparisons of relative costs and outcomes (effects) of 2 or more options. In general, cost effectiveness is a measure of the outcomes produced by resources spent. In the context of air pollution control options, cost effectiveness typically refers to the annualized cost of implementing an air pollution control option divided by the amount of pollutant reductions realized annually.

After the EPA evaluates the statutory factors, the EPA compares the various systems of emission reductions and determines which system is ''best,'' and therefore represents the BSER. The EPA then establishes a standard of performance that reflects the degree of emission limitation achievable through the implementation of the BSER. In doing this analysis, the EPA can determine whether subcategorization is appropriate based on classes, types, and sizes of sources, and may identify a different BSER and establish different performance standards for each subcategory. The result of the analysis and BSER determination leads to standards of performance that apply to facilities that begin construction, reconstruction, or modification after the date of publication of the proposed standards in the **Federal Register**. Because the NSPS reflect the BSER under conditions of proper operation and maintenance, in doing its review, the EPA also evaluates and determines the proper testing, monitoring, recordkeeping and reporting requirements needed to ensure compliance with the emission standards.

C. What is the source category regulated in this final action?

The EPA first promulgated NSPS for the secondary lead smelting source category on March 8, 1974 (39 FR 9308). These standards of performance are codified in 40 CFR part 60, subpart L, and are applicable to sources that commence construction, modification, or reconstruction after June 11, 1973. These standards of performance regulate emissions of PM from blast and reverberatory furnaces and specifies limits for visible emissions (opacity) for blast and reverberatory furnaces and for pot (refining) furnaces. The EPA amended NSPS subpart L on October 6, 1975 (40 FR 46250) to remove a provision providing that the failure to meet the NSPS emissions limits due to the presence of uncombined water in the stack gases was not considered a violation. In March 1979, the EPA reviewed the NSPS and analyzed possible revisions to the NSPS; however, the review did not result in any revisions to the NSPS subpart L at that time.[1]

The secondary lead smelting source category consists of facilities that produce lead and lead alloys from lead-bearing scrap material. Lead is used to make various construction, medical, industrial, and consumer products such as batteries, glass, x-ray protection gear, and various fillers. The secondary lead smelting process consists of: (1) pre-

[1] See *https://nepis.epa.gov/Exe/ZyPDF.cgi/91010O7P.PDF?Dockey=91010O7P.PDF.*

processing of lead bearing materials, (2) melting lead metal and reducing lead compounds to lead metal in the smelting furnace, and (3) refining and alloying the lead to customer specifications.

At secondary lead smelting facilities, blast and reverberatory furnaces are used in the smelting processes, and pot furnaces are used in the refining process. The process exhaust from blast and reverberatory furnaces is a source of PM emissions, and emissions of PM also occur as process fugitives at various points during the smelting process, such as during charging and tapping of furnaces and refining processes. Entrainment of dry materials in ambient air due to material processing, vehicle traffic, wind erosion from storage piles, and other activities can also be a source of PM emissions.

Currently, there are 11 secondary lead smelting facilities in the United States and each facility operates furnaces that are subject to NSPS subpart L, which specifies that owners or operators of affected facilities must limit PM emissions from blast and reverberatory furnaces to not more than 50 milligrams per dry standard cubic meter (mg/dscm) or 0.022 grains per dry standard cubic feet (gr/dscf). Subpart L also specifies that visible emissions must not exceed 20 percent opacity from blast or reverberatory furnaces and 10 percent opacity from pot furnaces. Secondary lead smelting facilities use a variety of control devices (*e.g.,* baghouses, gas scrubbers), often in combination, to comply with the PM emissions and opacity limits of the NSPS.

The EPA proposed the current review and revisions of the secondary lead smelting source category NSPS subpart L on December 1, 2022 (87 FR 73708). We received four comment letters, including one from the industry trade association (the Association of Battery Recyclers, or ABR) and three from other stakeholders, during the comment period. Summaries of the more significant comments we timely received regarding the proposed rule and our responses are provided in this preamble. A summary of all other public comments on the proposal and the EPA's responses to those comments is available in *Summary of Public Comments and Responses on Proposed Rule: New Source Performance Standards for Secondary Lead Smelting (40 CFR part 60, subparts L and La) Best System of Emission Reduction Review, Final Amendments,* Docket ID No. EPA–HQ–OAR–2022–0481. In this action, the EPA is finalizing decisions and revisions pursuant to CAA section 111(b)(1)(B) review for the secondary lead smelting NSPS subpart L after our considerations of all the comments received.

III. What changes did we propose for the secondary lead smelting NSPS?

On December 1, 2022, the EPA proposed revisions to the NSPS for secondary lead smelters pursuant to CAA section 111(b)(1)(B) review of NSPS subpart L. In that action, the EPA proposed to establish a new subpart (40 CFR part 60, subpart La) applicable to affected sources that begin construction, reconstruction, or modification after December 1, 2022. The EPA proposed in the NSPS subpart La, revised standards for PM emissions and opacity for blast furnaces, reverberatory furnaces, and process fugitive emissions sources that apply at all times, including periods of SSM. The EPA proposed initial and periodic PM and opacity performance testing, recordkeeping, and reporting requirements. The EPA also proposed to revise the definitions for blast and reverberatory furnaces and added a new definition for pot furnaces.

The EPA also proposed to amend NSPS subpart L to clarify that NSPS subpart L applies to affected sources that commenced construction, reconstruction, or modification after June 11, 1973, and on or before December 1, 2022, and to update the NSPS furnace definitions, performance testing schedule, and monitoring, recordkeeping, and reporting requirements to be more consistent with the NESHAP (40 CFR part 63, subpart X). The EPA also proposed the IBR of an alternative method for determining opacity and the requirement for the submission of electronic performance test reports.

IV. What actions are we finalizing and what is our rationale for such decisions?

The EPA is finalizing revisions to the NSPS for secondary lead smelters pursuant to CAA section 111(b)(1)(B) review. The EPA is promulgating the NSPS revisions in a new subpart, 40 CFR part 60, subpart La. The revised NSPS subpart is applicable to affected sources constructed, modified, or reconstructed after December 1, 2022. This action also finalizes standards of performance in NSPS subpart La for PM emission and opacity that apply at all times including during periods of SSM and other proposed changes such as electronic reporting. Additionally, this action finalizes proposed revisions to the testing, monitoring, notification, recordkeeping, and reporting requirements, which are the same for both NSPS subparts L and La, and finalizes a definition for ''process fugitive emissions source'' in NSPS subpart La based on consideration of public comments.

A. Revised NSPS for Blast, Reverberatory, and Pot Furnaces

1. Proposed BSER for PM Emissions and Opacity

Based on the EPA's permit review and assessment of control costs and other CAA section 111 statutory considerations, the EPA proposed to identify for NSPS subpart La that the BSER for PM emissions and opacity from new, modified, or reconstructed blast furnaces is an afterburner followed by efficient particulate controls (*e.g.,* fabric filter that may be installed in series with a high efficiency particulate air (HEPA) filter and/or a venturi scrubber). For new, modified, or reconstructed reverberatory and pot furnaces, the EPA proposed that the BSER for PM emissions and opacity is efficient particulate controls (*e.g.,* fabric filter that may be installed in series with a HEPA filter, venturi scrubber and/or a wet electrostatic precipitator (WESP)).

Based on the available PM emissions and opacity data, the EPA proposed in NSPS subpart La that the standard of performance for blast and reverberatory furnaces that reflects the application of BSER is an emission limit of 10 mg PM/dscm. For pot furnaces, the EPA proposed in NSPS subpart La that the standard of performance that reflects the application of BSER is a PM emissions limit of 3 mg/dscm. The EPA also proposed that the standard of performance for opacity from blast, reverberatory, and pot furnaces emissions is 0 percent.

2. How the Final Revisions to BSER and the PM Emissions and Opacity Standards Differ From the Proposed Revisions

After considering the comments regarding the EPA's proposed BSER determinations for NSPS subpart La and the proposed PM emissions and opacity standards, the EPA is finalizing the BSER determinations and the PM standards for blast and reverberatory furnaces for NSPS subpart La, as proposed. However, after considering the comments and additional opacity data provided by one commenter, the EPA is finalizing the opacity limits for blast and reverberatory furnace in the final NSPS subpart La at 5 percent, rather than the proposed opacity standard of 0 percent. Also, the EPA is revising the PM limit for pot furnaces to address comments associated with the interaction of the proposed limit for pot

furnaces with the NESHAP subpart X requirements. In the final NSPS subpart La (40 CFR 60.122a(a)), the EPA is promulgating a definition for ''process fugitives emission source'' (see the discussion in section IV.F. of this preamble) and finalizing an emissions limit for PM of 4.9 mg/dscm and an opacity limit of 5 percent from process fugitive emissions sources that includes emissions from pot furnaces, as well as other combined process fugitive emissions (*e.g.,* emissions from furnace charging and tapping and casting).

3. BSER and PM Emissions and Opacity Standards Comments and Responses

a. BSER Determination

Comment: One commenter disagreed with the EPA's determination in the proposal preamble (87 FR 73715) that the BSER for PM emissions and opacity from new, modified, or reconstructed blast furnaces is an afterburner followed by efficient PM controls (*e.g.,* fabric filter installed in series with a high-efficiency particulate air (HEPA) filter and/or a venturi scrubber). The commenter noted that secondary lead smelting facilities use afterburners primarily to reduce emissions of carbon monoxide and unburned hydrocarbons from certain types of furnaces and configurations (*e.g.,* blast furnaces, collocated reverberatory furnaces) and that afterburners have little if any role in reducing emissions of PM.

Response: The EPA disagrees with the commenter's assertion that BSER for PM emissions and opacity from new, modified, or reconstructed blast furnaces should not include an afterburner. The afterburner helps to prevent fouling of the fabric filter by organics and moisture in the furnace exhaust, which results in better PM control. This determination is consistent with the BSER discussed in previous Secondary Lead Smelting NSPS review documents. For example, Volume 1 of the NSPS background document (June 1973, Air Pollution Technical Data (APTD)-1352a) states that the blast furnace afterburner is used upstream of the baghouse to ''incinerate oily and sticky materials to avoid binding the fabric.'' Additionally, the March 1979 NSPS review document (EPA–450/3–79–015) states that, ''As previously noted, with blast furnaces an afterburner is employed to ensure complete combustion of such material [sparks and other burning material in furnace gas] before it enters the baghouse.'' The commenter did not provide any additional information to contradict this long-standing analysis of the benefits of using in blast furnaces an afterburner to further reduce PM emissions.

b. Opacity Emission Limits for NSPS Subpart La

Comment: One commenter contended that the EPA based the proposed standard of 0 percent opacity limit for blast, reverberatory, and pot furnaces on insufficient information and limited data. The commenter also said that the EPA did not evaluate opacity measurements across the affected sources and under different operating conditions (particularly SSM periods).

In response to the EPA's request in the proposal for comments regarding the available opacity data for blast, reverberatory, and pot furnaces, the commenter provided a subset of opacity data measured in a common stack utilizing a continuous opacity monitor system (COMS) at the outlet of the baghouses before the scrubber (the commenter asserted a claim of CBI over the baghouse data). The commenter stated that the baghouse data demonstrate the presence of non-zero opacities during normal operations and contradict the EPA's proposed opacity limitation of 0 percent.

The commenter stated that the inherent subjectivity in the measurement of opacity precludes the EPA from establishing an absolute 0 percent opacity emissions standard. The commenter noted that the subjectivity of opacity measurements is acknowledged in the certification requirements for both EPA Method 9 and ASTM D7520–16 (*i.e.,* >15 percent opacity at any single plume reading or a >7.5 percent opacity average error in each plume category). The commenter added that ASTM D7520–16 references a repeatability (precision) study at 0 percent opacity of ±3 percent opacity (*i.e.,* at 0 percent opacity, ASTM D7520–16 will read between 0 percent opacity to 3 percent opacity 95 percent of the time), which could result in an exceedance of the 0 percent opacity standard. The commenter also noted that the proposed methodologies to determine opacity or visible emissions can be impacted by limitations in contrasting backgrounds and by the presence of wet plumes, which vary from source to source.

To account for the subjectivity and the margin of error associated with the proposed compliance test methods presented above, the commenter stated that the EPA should revise the proposed opacity limit to 5 percent.

Response: The EPA acknowledges that, on occasion during process operations and particularly during startup and shutdown events, brief periods of visible emissions from these sources are possible. However, since these sources are located in negative pressure locations, these periods of visible emissions should not typically occur. As such, to account for the remote possibility of these periods of visible emissions, limited data availability, and the subjectivity and margin of error of the visible emissions test methods, we are finalizing a visible emission standard of no greater than 5 percent over a single 6-minute averaging period. The 5 percent value ''threshold'' is the lowest visible emission increment reading achievable by EPA Method 9 that is greater than 0 percent, and the 6-minute averaging period represents the minimum number of visible emissions observations prescribed by EPA Method 9 to calculate a valid visible emissions average (*i.e.,* a minimum of 24 visible emissions observations shall be made at 15-second intervals). This opacity standard and averaging period accounts for brief periods of visible emissions while still maintaining stringency with the expected absence of emissions in a negative pressure environment.

To verify this, a 6-minute EPA Method 22 visible emissions check should occur at a minimum of once per calendar day during normal operations, as well as during each SSM event. If any visible emissions are observed for any period of time (*i.e.,* >0 seconds), a 30-minute EPA Method 9 visible emissions test must be conducted as soon as practicable. As an alternative, a 30-minute EPA Method 9 visible emissions test can be performed at a minimum of once per calendar day during normal operations, as well as during each SSM event without having to perform the EPA Method 22 visible emissions check. If any rolling 6-minute averaging period from the 30-minute visible emissions test is greater than 5 percent, corrective action must be initiated within 1 hour of detecting visible emissions above the applicable limit. After the corrective action is completed, an additional 30-minute visible emissions test must be performed. After the corrective action is completed, if any rolling 6-minute averaging period from the follow-up 30-minute visible emissions test is greater than 5 percent, the source is deemed out of compliance with the prescribed opacity standard.

Comment: One commenter noted an apparent typographical error in the proposed NSPS subpart La (40 CFR 60.122a) and suggested that the EPA change the text from ''Exhibit 0 percent opacity or greater'' to ''Exhibit opacity greater than'' the limit.

Response: The EPA has revised the text in NSPS subpart La 40 CFR

60.122a(a)(2) and 60.122a(b)(2) to address the typographical error.

c. PM Emissions Limit for Pot Furnaces

Comment: One commenter stated that the proposed rule's treatment of ''pot furnaces,'' including the establishment of PM standards for new pot furnaces, is misaligned with the functioning of pot furnaces at secondary lead smelters and with their treatment under other regulatory provisions, including NESHAP subpart X. The commenter said that NESHAP subpart X regulates pot furnace emissions as process fugitives, which are typically combined with emissions from other sources for ducting to controls, and that isolating pot furnace emissions for the purpose of performance testing may not be practical. The commenter said that the EPA should remove the proposed PM standard for pot furnaces.

The commenter stated that NESHAP subpart X (40 CFR 63.542) considers pot furnaces to be a process fugitive emissions source, rather than a process emissions source. The commenter noted that facilities may mix emissions from pot furnaces with process emissions from the smelting furnaces which makes it more difficult to segregate pot furnace emissions for compliance determination purposes. If the EPA does establish NSPS subpart La emission standards for new pot furnaces at secondary lead smelters, the commenter asserted that the EPA should clarify that commingled emissions from smelting furnaces and pot furnaces are subject to the proposed emission standards in 40 CFR 60.122a(a).

The commenter contended that the data the EPA used to establish the proposed PM emissions limit for pot furnaces are insufficient because the data include contributions from emission sources other than pot furnaces (*e.g.,* casting emissions).

The commenter also stated that the EPA should confirm that smaller refining kettles used for research and development (R&D) are excluded from the proposed definition of pot furnaces. For example, the EPA could exclude such kettles by establishing a size limit (*e.g.,* smaller than 5 tons of molten metal at maximum capacity) and a usage limit (operated fewer than 4000 hours per year). The commenter noted that the R&D refining kettles are a fraction of the size of normal production refining kettles (*e.g.,* 1 ton v. 100 tons) and are, therefore, insignificant emission sources at smelters.

Response: The EPA disagrees with commenter's statement that the final rule should not include a PM standard for pot furnaces. As noted in sections IV.A.1. and 2. of this preamble, the EPA has determined that the final BSER for PM emissions and opacity from new, modified, or reconstructed pot furnaces is efficient particulate controls, and the commenter does not dispute that PM emissions from pot furnaces can be reduced by application of these controls. Consequently, the EPA must establish a PM emissions limit that reflects BSER. However, the EPA acknowledges that isolating pot furnace emissions for NSPS compliance testing may not be feasible for all secondary lead smelting facilities. The EPA also acknowledges that the limited data the EPA used to establish the proposed PM emissions limit for pot furnaces include contributions from emission sources other than pot furnaces (*i.e.,* data from 5 of 6 test reports used to calculate the proposed pot furnace limit included contributions from casting fugitives).

To address the commenter's concern related to isolating emissions for compliance testing and the limited data set, the EPA conducted a further evaluation of the available test data to identify data values that included contributions from pot furnaces combined with other process fugitive sources (*e.g.,* emissions from furnace charging and tapping and casting). The EPA used this data set of comingled pot furnace emissions, which consists of 45 test runs from 3 facilities (Clarios, South Carolina; Gopher Resource, Florida; and Gopher Resource, Minnesota), to derive a PM emissions limit for pot furnace emissions combined with emissions from other process fugitives. Based on this updated analysis, in the final NSPS subpart La (40 CFR 60.122a(a)), the EPA is promulgating a process fugitive source emissions limit for PM of 4.9 mg/dscm from the process emissions control devices. This analysis can be found in the Particulate Matter Emissions Test Data Memorandum for Process Fugitive Sources as Secondary Lead Smelting Facilities located in the docket for this rulemaking. This approach of regulating pot furnace emissions as a process fugitive source is consistent with the approach used under NESHAP subpart X, which requires that new or reconstructed sources must capture all process fugitive emissions (including pot furnace emissions) with hoods or negative pressure enclosures and route those emissions to a control device.

Regarding the commenter's assertion that the EPA should confirm that smaller refining kettles used for R&D are excluded from the proposed definition of pot furnaces, the commentor did not provide any data demonstrating that R&D kettles cannot meet the proposed requirement. Additionally, the EPA is not finalizing the proposed definition for pot furnaces and is finalizing a process fugitive emissions limit. Therefore, the EPA has no basis to provide an exception to the emissions limits specified in NSPS subpart La at this time. However, the EPA may revisit this issue under the NESHAP subpart X review.

B. NSPS Subpart La Without Startup, Shutdown, and Malfunction Exemptions

Consistent with *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), the EPA has established standards in NSPS subpart La that apply at all times. We are finalizing in NSPS subpart La specific requirements at 40 CFR 60.122a(c) that override the general provisions for SSM requirements. In finalizing the standards in NSPS subpart La, the EPA has taken into account startup and shutdown periods and, for the reasons explained in this section of the preamble, has not finalized alternate standards for those periods.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead, they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment (40 CFR 60.2). The EPA interprets CAA section 111 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 111 standards. Nothing in CAA section 111 or in case law requires that the EPA consider malfunctions when determining what standards of performance reflect the degree of emission limitation achievable through ''the application of the best system of emission reduction'' that the EPA determines is adequately demonstrated. While the EPA accounts for variability in setting emissions standards, nothing in CAA section 111 requires the Agency to consider malfunctions as part of that analysis. The EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels the EPA to consider such events in setting CAA section 111 standards of performance. The EPA's approach to malfunctions in the analogous circumstances (setting ''achievable'' standards under CAA section 112) has been upheld as reasonable by the D.C. Circuit in *U.S.*

Sugar Corp. v. *EPA,* 830 F.3d 579, 606–610 (2016).

1. Proposed SSM Provisions

The EPA proposed in NSPS subpart La that the PM emissions and opacity limits for blast, reverberatory, and pot furnaces apply at all times, including periods of SSM. The proposed NSPS subpart La included specific requirements at 40 CFR 60.122a(c) that would override the general provisions for SSM requirements.

2. How the Final Revisions to the SSM Provisions Differ From the Proposed Revisions

After considering the comment on the proposed SSM provisions, the EPA is finalizing in NSPS subpart La that the PM emissions and opacity limits for blast, reverberatory, and pot furnaces apply at all times, including periods of SSM, and is finalizing the SSM provision in 40 CFR 60.122a(c), as proposed.

3. SSM Provision Comment and Response

Comment: One commenter asserted that the EPA should not remove from NSPS subpart La the exception in the NSPS general provisions (40 CFR 60.8(c)) which states that emissions during SSM periods that exceed the applicable NSPS limit are not considered to be a violation of the applicable emission limit. The commenter noted that multiple rulings by the D.C. Circuit (*e.g., Portland Cement Ass'n* v. *Ruckelshaus,* 486 F.2d 375, 398 (D.C. Cir. 1973); *Essex Chem. Corp.* v. *Ruckelshaus,* 486 F.2d 427, 432 (D.C. Cir. 1973); and *National Lime Ass'n* v. *EPA,* 627 F.2d 416, 431 n.46 (D.C. Cir. 1980)) have affirmed the EPA's historic approach of not requiring affected sources to meet NSPS emission limits during SSM events. The commenter stated that it would be arbitrary and capricious for the EPA to interpret *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), as preventing the EPA from exercising discretion in establishing an SSM exception in NSPS subpart La or as making an SSM exception inappropriate in NSPS subpart La on the current record.

Response: As discussed in more detail in the proposal, the EPA has determined that the reasoning in the court's decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (D.C. Cir. 2008), which vacated the SSM exemption in CAA section 112, applies equally to CAA section 111. Therefore, we disagree with the commenter on the applicability of this decision to CAA section 111. While the EPA recognizes the differences between the NESHAP and NSPS programs, the court in *Sierra Club* held that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature, and the definition of emission or standard in CAA section 302(k) and the requirement for continuous standards applies to both NESHAP and NSPS.

C. Testing and Monitoring Requirements

1. Proposed Testing and Monitoring Provisions

The EPA proposed requiring that facilities subject to 40 CFR part 60, subparts L and La conduct periodic PM testing of blast, reverberatory, and pot furnace emissions. The EPA also proposed under 40 CFR part 60, subpart La periodic testing of opacity from blast, reverberatory, and pot furnace emissions. The proposed amendments would allow facilities to request less frequent periodic PM testing, reduced from every 12 months to every 24 months, if the previous periodic compliance test demonstrates that PM emissions are 50 percent or less of the final emissions limit (*e.g.,* PM emissions from blast and reverberatory furnaces of 25 mg/dscm or less for facilities subject to 40 CFR part 60, subpart L).

To reduce the testing burden on facilities, the EPA also proposed allowing facilities to determine the PM emissions by either EPA Method 12 (Determination of Inorganic Lead Emissions from Stationary Sources) or EPA Method 29 (Determination of Metals Emissions from Stationary Sources). For determining opacity under NSPS subpart L, the EPA proposed allowing the use of ASTM, International (ASTM) D7520–16 (Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere) as an alternative to EPA Method 9. For NSPS subpart La, the EPA proposed allowing the use of EPA Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares) if there are zero visible emissions as an alternative to EPA Method 9 or the ASTM D7520–16 method.

The EPA also proposed adding 40 CFR 60.124 and 40 CFR 60.124a (Monitoring requirements) to NSPS subparts L and La, respectively, to include some of the monitoring requirements specified in 40 CFR 63.548(a) through (i) (Monitoring requirements) of the NESHAP (40 CFR part 63, subpart X), including development of a standard operating procedures (SOP) manual for control devices used to reduce PM and opacity emissions.

2. How the Final Revisions to the Testing and Monitoring Provisions Differ From the Proposed Revisions

After considering the comments, the EPA is finalizing the testing and monitoring provisions, as proposed. In response to public comment regarding the appropriate level of the opacity standard, the EPA revised the proposed opacity standard from 0 percent to 5 percent (see the discussion in section IV.A. of this preamble). Although EPA Method 22 is used only to determine the absence of visual emissions (*i.e.,* zero percent opacity), rather than to determine non-zero readings (*e.g.,* 5 percent opacity), the EPA is retaining the use of EPA Method 22 as an alternative method to potentially reduce the testing burden on facilities. For example, a facility could use EPA Method 22 to demonstrate compliance with the final opacity limit of 5 percent by determining no visible emissions. However, if visible emissions are detected, the facility would need to proceed to use EPA Method 9 to confirm opacity is no more than 5 percent.

3. Testing and Monitoring Comments and Responses

Comment: One commenter contended that periodic PM testing is unnecessary and inappropriate, and would not discover any actionable information that would not be discovered through the regular performance testing for particulate lead required by NESHAP subpart X.

Response: The EPA disagrees with the commenter. The target pollutant of the periodic testing under NESHAP subpart X is lead, while the target pollutant for the NSPS is PM. The EPA concludes that it is appropriate to require periodic testing for PM to confirm affected facilities continue to comply with the PM limits. Codifying the testing requirements in the NSPS provides for periodic, direct assessments regarding facility compliance status with the PM limits in NSPS subparts L and La.

Comment: One commenter acknowledged that allowing facilities to conduct performance tests for NESHAP subpart X and NSPS subparts L and La, as applicable, through collection of a single sample will appropriately facilitate effective compliance. The commenter stated that, to assist in the clarity of implementing the proposed rule, the EPA should revise proposed 40 CFR 60.123 and 60.123a to clarify that smelters are to employ section 16.1 of EPA Method 12 or the specifications in EPA Method 29, as stated in section 1.2

of EPA Method 29, and detailed throughout EPA Method 29.

Response: The EPA added the test method sections cited by the commenter to the final rules.

Comment: One commenter noted that proposed NSPS subparts L and La (at 40 CFR 60.123(b)(2) and 60.123a(b)(2)) allow for facilities to request from the EPA Administrator an extension (up to 24 months) for conducting the periodic performance tests for facilities where the previous compliance tests measured PM emissions are 50 percent or less of the emissions limit (*e.g.,* for NSPS subpart L, 25 mg/dscm or less). The commenter asserted that, in practice, it is difficult for well-controlled smelters to obtain a timely decision from the EPA regarding the facility's request, which is essentially tantamount to an unjustified denial of the extension request. The commenter stated that the EPA should provide the testing extension upon receipt of the facility's request by the appropriate EPA regional office, rather than the facility having to wait for Administrator approval.

Response: The EPA disagrees with the commenter. Providing the performance testing extension based solely on the receipt of the facility's request would not be appropriate because it would not provide any opportunity for the EPA or delegated authority to verify the facility's assertion by reviewing the request and supporting documentation (*e.g.,* test report) before granting the testing extension. However, the EPA recognizes it is reasonable for a facility to expect to get a response as to whether the 24-month period is approved within a reasonable timeframe before their next compliance test. Therefore, the EPA has determined that it is appropriate to finalize a provision that would preserve the opportunity to review incoming requests, while encouraging the EPA or delegated authority to act within a reasonable timeframe so that facilities have adequate notice as to when the next compliance test will be required. Accordingly, the EPA is finalizing a provision that provides that the extension request will be deemed automatically approved under the following specified circumstances: (1) a facility completes a performance test that is 50 percent or lower than the applicable emissions limit, (2) the facility submits a request for the extension of 24 months well before their next required compliance test (*i.e.,* no more than 4 months after the subject compliance test that was 50 percent or lower than the limit), and (3) the EPA does not provide a response to such request within 6 months of receipt of such request. The EPA has determined that this provision will provide a balanced approach to the competing interests of all involved parties.

D. Electronic Reporting

The EPA is finalizing a requirement that owners and operators of secondary lead smelters subject to the NSPS subparts L and La submit the results of the initial and periodic performance tests electronically through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). The EPA did not receive any public comments regarding the proposed requirements for electronic reporting.

E. Notification, Recordkeeping, and Reporting Requirements

1. Proposed Notification, Recordkeeping, and Reporting Provisions

The EPA proposed to add the notification, recordkeeping, and reporting requirements specified in the proposed 40 CFR 60.125 and 40 CFR 60.125a (Notification, recordkeeping, and reporting requirements) to NSPS subparts L and La, respectively. The proposed requirements clarified that facilities must comply with the notification and recordkeeping requirements specified in 40 CFR 60.7 and the reporting requirements specified in 40 CFR 60.19. The proposed requirements in NSPS subparts L and La included the recordkeeping requirements from NESHAP subpart X specified in 40 CFR 63.550(b); (c)(1) through (c)(4); (c)(11) through (c)(12); (e)(4) through (e)(7); and (e)(13).

2. How the Final Revisions to the Notification, Recordkeeping and Reporting Provisions Differ From the Proposed Revisions

After considering the comments, the EPA is finalizing the notification, recordkeeping and reporting provisions, as proposed, with the exception of the editorial changes made to the text of 40 CFR 60.125(a) and 60.125a(a); 40 CFR 60.124(c) and 60.124a(c); and 40 CFR 60.124(f)(4) and 60.124a(f)(4), as discussed below in section IV.E.3. of this preamble.

3. Notification, Recordkeeping, and Reporting Comments and Responses

Comment: One commenter stated that the EPA should clarify as to the proposed revisions to NSPS subpart L that certain aspects of the NSPS General Provisions 40 CFR 60.7 and 60.19 will not apply because they concern regulatory provisions that are absent from NSPS subpart L (*e.g.,* 40 CFR 60.7(a)(7) concerns continuous opacity monitoring systems, which appropriately are not required under proposed NSPS subpart L).

Response: The EPA revised the text of 40 CFR 60.125(a) and 60.125a(a) as set forth in the amendatory text portion of this final rule to address the clarification suggested by the commenter.

Comment: One commenter stated that the EPA should revise the proposed NSPS subparts L and La (40 CFR 60.124(c) and 60.124a(c)) to replace the phrase ''PM and opacity emissions control devices'' with the phrase ''baghouses (fabric filters or cartridge collectors)'' to improve the consistency between the underlying requirement proposed in 40 CFR 60.124(b) and 60.124a(b), and the submission provisions proposed in 40 CFR 60.124(c) and 60.124a(c).

Response: The EPA agrees with the editorial change suggested by the commenter. Therefore, the final NSPS subparts L and La (40 CFR 60.124(c) and 60.124a(c)) replace the phrase ''PM and opacity emissions control devices'' with the phrase ''baghouses (fabric filters or cartridge collectors).''

Comment: One commenter requested that the EPA provide a mechanism by which a secondary lead smelting facility could avoid submission of a redundant SOP manual in response to the proposed requirements in 40 CFR 60.124 and 60.124a, given the similarities between those provisions and the SOP required by NESHAP subpart X (40 CFR 63.548).

Response: The EPA disagrees with the commenter that an additional mechanism is needed that would allow secondary lead smelting facilities to avoid submission of redundant SOP manuals in response to the proposed requirements in 40 CFR 60.124 and 60.124a. Proposed 40 CFR 60.124(l) and 60.124a(l) state: ''If an affected source is subject to the monitoring requirements specified in 40 CFR part 63, subpart X (National Emissions Standards for Hazardous Air Pollutants from Secondary Lead Smelting) and those requirements are as stringent or more stringent than the monitoring requirements specified in paragraphs (a) through (j) of this section, compliance with the monitoring requirements specified in 40 CFR part 63, subpart X also demonstrates compliance with the monitoring requirements specified in paragraphs (a) through (k) of this section.'' The EPA believes that this specification in NSPS subparts L and La already addresses the concern raised by the commenter.

Comment: One commenter noted that proposed NSPS subparts L and La (40

CFR 60.124(f)(4) and 60.124a(f)(4)) refer to the document ''Office of Air Quality Planning and Standards (OAQPS) Fabric Filter Bag Leak Detection Guidance'' (EPA–454/R–98–015; September 1997). The commenter stated that the EPA guidance document is 26 years old and may be inconsistent with current guidance provided by manufacturers of bag leak detection systems. The commenter requested that the EPA revise proposed NSPS subparts L and La (40 CFR 60.124(f)(4) and 60.124a(f)(4)) to clarify that a smelter may install and operate the bag leak detection system in a manner consistent with the manufacturer's written specifications and recommendations if there is any conflict between the manufacturer's instructions and the OAQPS guidance.

Response: The EPA agrees with the clarification suggested by the commenter. Therefore, the final text of 40 CFR 60.124(f)(4) and 60.124a(f)(4) as set forth in the amendatory text portion of this final rule.

Comment: One commenter contended that the proposed requirements in NSPS subparts L and La (40 CFR 60.124(k), 60.124a(k), 60.125(c)(10), and 60.125a(c)(10)) for facilities to establish and record parametric monitoring values for each control device used to comply with the PM and opacity emission standards are not consistent with the requirements of NESHAP subpart X (40 CFR 63.550(a)), which only requires parametric monitoring and recordkeeping for scrubbers. The commenter stated that the proposed requirements in NSPS subparts L and La (40 CFR 60.124(k) and 60.124a(k)) for secondary lead smelting facilities to establish, during the initial or periodic performance test, the value or range of values of the monitoring parameter(s) for each control device used to comply with the PM and opacity emission standards was overly vague and potentially would require the establishment of monitoring parameters for pollution control devices (*e.g.,* WESPs) that are employed, but are not part of BSER, or afterburners that are employed, but have little or no role in PM control. The commenter added that the proposed NSPS subparts L and La include monitoring and recordkeeping provisions that provide sufficient criteria for the proper operation of applicable control devices (the commenter provided several citations to the proposed rules). The commenter stated that the EPA should revise the proposed language to specify that a secondary lead smelting facility is not required to establish and record parametric monitoring values for PM control devices (other than scrubbers) if the facility demonstrates compliance with NSPS subparts L and/or La (40 CFR 60.124 and/or 60.124a) by complying with the monitoring provisions of NESHAP subpart X.

Response: Although the EPA strives to improve the consistency between NSPS subparts L and La and NESHAP subpart X, where possible, the EPA's decision-making regarding the requirements for the NSPS must be driven by the requirements of CAA section 111 and the regulatory provisions necessary to implement standards of performance promulgated pursuant to that authority. We have determined that parametric monitoring of control devices is necessary for demonstrating ongoing compliance with the PM and opacity emission standards between the demonstrations provided by the periodic performance tests. We also disagree with the commenter that the text in proposed NSPS subparts L and La (40 CFR 60.124(k) and 60.124a(k)) is overly vague. The rules specify establishment of monitoring parameter values ''for each control device used to comply with the PM and opacity emission standards'' of the NSPS. Regarding the commenter's contention that the proposed text could potentially require the establishment of monitoring parameters for control devices (*e.g.,* WESP) and afterburners, this is consistent with the EPA's intent. The EPA determined that BSER for PM emissions and opacity from new, modified, or reconstructed blast furnaces is an afterburner followed by efficient PM controls, which would include controls such as a WESP.

Comment: One commenter said that the phrase ''and those requirements are as stringent or more stringent than the monitoring requirements specified in paragraphs (a) through (j) of this section'' in proposed NSPS subparts L and La (40 CFR 60.124(l) and 60.124a(l)) introduces regulatory confusion as to whether compliance with the monitoring provisions of NESHAP subpart X also demonstrates compliance with the proposed monitoring requirements of NSPS subparts L and La. The commenter asserted that the EPA should either eliminate the phrase from the regulatory text or, at a minimum, state in the preamble to the final NSPS rulemaking that the current monitoring provisions of NESHAP subpart X are as stringent or more stringent than the monitoring requirements specified in the proposed NSPS.

Response: The EPA believes that the current monitoring provisions of NESHAP subpart X are at least as stringent as the monitoring requirements specified in the final NSPS subparts L and La. Nonetheless, the EPA continues to find it appropriate to finalize the proposed language at 40 CFR 60.124(l) and 60.124a(l) with respect to the NESHAP subpart X monitoring requirements. NESHAP undergo periodic reviews pursuant to CAA section 112, and, to the extent that NESHAP subpart X were revised during a future review, or otherwise modified, such that the monitoring requirements were no longer as stringent or more stringent than those finalized in subparts L and La, it would no longer be appropriate to permit the use of the monitoring requirements in NESHAP subpart X in lieu of those required by the NSPS.

Comment: One commenter said that proposed NSPS subparts L and La (40 CFR 60.124 and 60.124a) require that the monitoring systems comply with the applicable requirements specified in the NSPS General Provisions (40 CFR 60.13) but noted that 40 CFR 60.13(a) states that the section is only applicable ''upon promulgation of performance specifications for continuous monitoring systems under appendix B to this part.'' The commenter contended that, because proposed NSPS subparts L and La do not require continuous monitoring systems to demonstrate compliance with emission limits, the EPA should revise the proposed language in 40 CFR 60.124 and 60.124a to include the following text: ''The owner shall comply with the applicable monitoring requirements specified in 40 CFR 60.13 upon promulgation of performance specifications in 40 CFR part 60—Appendix B for the continuous monitoring systems required in this section. The Procedures of 40 CFR part 60—Appendix F do not apply because the continuous monitoring systems required in this section are not used to demonstrate compliance with emission limits on a continuous basis.''

Response: The EPA disagrees with the commenter that additional text is needed in 40 CFR 60.124 or 60.124a. As the commenter noted, 40 CFR 60.124 and 60.124a state that the owner shall comply with the *applicable* monitoring requirements specified in 40 CFR 60.13. Although the proposed NSPS subparts L and La do not require facilities to use continuous opacity monitoring systems (COMS) or continuous emissions monitoring systems (CEMS) to comply with the standards, NSPS subparts L and La do not preclude facilities from using COMS or CEMS. The performance standards are required if the continuous monitoring system is used to demonstrate compliance with emission limits on a continuous basis.

F. Definitions

1. Proposed Definitions

The EPA proposed to incorporate the definitions shown in Table 1 of this preamble into 40 CFR 60.121 (Definitions) of existing 40 CFR part 60, subpart L and 40 CFR 60.121a (Definitions) of the proposed 40 CFR part 60, subpart La. These proposed definitions were intended to improve the clarity of the NSPS subparts and to reduce potential confusion among industry and regulatory agencies by aligning the descriptions of the affected sources that would be regulated by 40 CFR part 60, subparts L and La to be more consistent with the definitions within the NESHAP at 40 CFR part 63, subpart X, as shown in Table 1. These proposed changes did not affect the applicability of existing NSPS subpart L.

TABLE 1—PART 60 PROCESS EQUIPMENT DEFINITIONS PROPOSED FOR NSPS SUBPARTS L AND La

Equipment	Current definition in NSPS subpart L	NESHAP subpart X	Proposed for NSPS subparts L and La
Blast furnace	Any furnace used to recover metal from slag.	A smelting furnace consisting of a vertical cylinder atop a crucible, into which lead-bearing charge materials are introduced at the top of the furnace and combustion air is introduced through tuyeres at the bottom of the cylinder, and that uses coke as a fuel source and that is operated at such a temperature in the combustion zone (greater than 980 Celsius) that lead compounds are chemically reduced to elemental lead metal.	A smelting furnace consisting of a vertical cylinder atop a crucible, into which lead-bearing charge materials are introduced at the top of the furnace and combustion air is introduced through tuyeres at the bottom of the cylinder, and that lead compounds are chemically reduced to elemental lead metal.
Reverberatory furnace	Includes the following types of reverberatory furnaces: stationary, rotating, rocking, and tilting.	A refractory-lined furnace that uses one or more flames to heat the walls and roof of the furnace and lead-bearing scrap to such a temperature (greater than 980 Celsius) that lead compounds are chemically reduced to elemental lead metal.	A refractory-lined furnace that uses one or more flames to heat the walls and roof of the furnace and lead-bearing scrap such that lead compounds are chemically reduced to elemental lead metal. Reverberatory furnaces include the following types: stationary, rotating, rocking, and tilting.
Pot furnace	Not defined	Refining kettle means an open-top vessel that is constructed of cast iron or steel and is indirectly heated from below and contains molten lead for the purpose of refining and alloying the lead. Included are pot furnaces, receiving kettles, and holding kettles.	Pot furnace is a type of refining kettle, which is an open-top vessel constructed of cast iron or steel and is indirectly heated from below and contains molten lead for the purpose of refining and alloying the lead.

2. How the Final Rule Definitions Differ From the Proposed Definitions

After considering the comments on the proposed definitions, the EPA is not adopting the proposed changes to the definitions for blast furnace, reverberatory furnace, and pot furnace in current NSPS subpart L. For NSPS subpart La, the EPA is maintaining in 40 CFR 60.121a (Definitions) the definitions of ''blast furnace,'' ''lead,'' ''reverberatory furnace,'' and ''secondary lead smelter'' specified in current NSPS subpart L (instead of adopting the proposed definitions in Table 1, above) and finalizing the definition of ''process fugitive emissions source.'' Table 2 of this preamble shows the final process definitions for NSPS subpart La.

TABLE 2—PART 60 FINAL DEFINITIONS FOR NSPS SUBPART LA

Equipment	Final NSPS subpart La
Blast furnace	Blast furnace means any furnace used to recover metal from slag.
Lead	Lead means elemental lead or alloys in which the predominant component is lead.
Reverberatory furnace	Reverberatory furnace includes the following types of reverberatory furnaces: stationary, rotating, rocking, and tilting.
Process fugitive emissions source	A source of PM emissions at a secondary lead smelter that is associated with lead smelting or refining including, but not limited to, smelting furnace charging points; smelting furnace lead and slag taps; pot and refining furnaces; and casting kettles.

3. Definition Comments and Responses

Comment: One commenter provided several comments and recommendations regarding the proposed definitions in NSPS subparts L and La. The commenter said that the EPA should revise the proposed definition of ''secondary lead smelter'' to use the term ''lead-bearing material'' rather than ''lead-bearing scrap material'' and either include or cross-reference the definition of ''lead bearing material'' from NESHAP subpart X (40 CFR 63.542). The commenter noted that the proposed definitions in NSPS subparts L and La did not define either ''lead-bearing material'' or ''lead-bearing scrap material.'' The commenter said that the EPA should clarify that these terms in the proposed definitions of ''blast furnace'' and ''reverberatory

furnace'' (40 CFR 60.121(a) and 60.121a(a)), mean the same as ''lead-bearing material'' as defined in NESHAP subpart X (40 CFR 63.542).

The commenter stated that the EPA should align the proposed definition of ''blast furnace'' in 40 CFR 60.121(d) and 60.121a(d) with the NESHAP definition for ''blast furnace'' used in NESHAP subpart X (40 CFR 63.542) by including the phrases ''uses coke as a fuel source'' and ''(greater than 980 Celsius)'' to eliminate potential confusion about applicability and the possibility of any gaps between the NESHAP and NSPS definitions. The commenter said that the EPA should align the proposed definition of ''reverberatory furnace'' in NSPS subparts L and La (40 CFR 60.121(a) and 60.121a(a)) with the NESHAP subpart X definition by excluding the last sentence of the proposed definition to eliminate potential confusion about applicability and the possibility of any gaps between the NESHAP and NSPS definitions: ''Reverberatory furnaces include the following types: stationary, rotating, rocking, and tilting furnaces.''

The commenter said that the proposed definitions for ''lead'' in NSPS subparts L and La (40 CFR 60.121(c) and 60.121a(c)) should include the term ''lead alloy,'' rather than ''alloy,'' because ''alloy'' arguably could refer to certain unspecified non-lead alloys. The commenter stated that the EPA should change the term ''alloy'' to ''lead alloy'' and add the definition of ''lead alloy'' from NESHAP subpart X (40 CFR 63.542) to NSPS subparts L and La.

The commenter also noted that the proposed NSPS subparts L and La did not define the term ''smelting'' used in the proposed secondary lead smelter definition and said that the EPA should either include or cross-reference the definition of ''smelting'' from NESHAP subpart X (40 CFR 63.542).

The commenter asserted that the EPA should clarify that, for a refining kettle that meets the pot furnace definition, the new pot furnace includes all of the typical refining kettle components including (as applicable): footers, structural steel, kettle or pot (constructed of cast iron or steel), indirect heating system (burners, piping, monitors, combustion air system, and flue), cover, fume collection system (hood), agitator (mixer, motor, drive, and mount), furnace shell, refractory lining, lead pump, electrical components (switches, controllers, etc.), and process monitors. The commenter noted that this clarification is important because facilities regularly replace both the kettle and the refractory lining component of the pot furnace during the pot furnace's useful life and replacing the kettle or the refractory lining of a pot furnace potentially could be misinterpreted as reconstruction without appropriate clarification on this issue.

The commenter also stated that the EPA should revise the definition of ''pot furnace'' at proposed 40 CFR 60.121(e) and 60.121a(e) as follows to clarify that the definition does not apply to receiving kettles, holding kettles, or R&D kettles: ''(e) Pot furnace means a type of refining kettle, which is an open-top vessel constructed of cast iron or steel and is indirectly heated from below and contains molten lead for the purpose of refining and alloying the lead. For avoidance of doubt, the term ''pot furnace'' excludes the following types of refining kettles: (i) receiving kettles and holding kettles where refining or alloying activities do not occur; and (ii) pot furnaces with a maximum capacity less than 5 tons molten metal that are operated fewer than 4000 hours per year.''

The commenter noted that the important distinction between pot furnaces used for refining and alloying, on the one hand, and refining kettles used for receiving or holding molten lead, on the other hand, is not present in the proposed rule. Instead, the commenter said that the EPA proposed a definition of pot furnaces in 40 CFR 60.120(e) and 60.120a(e) as ''a type of refining kettle, which is an open-top vessel constructed of cast iron or steel and is indirectly heated from below and contains molten lead for the purpose of refining and alloying the lead.''

Response: These proposed definitions were intended to improve the clarity of the NSPS subparts and to reduce potential confusion among industry and regulatory agencies by aligning the descriptions of the affected sources that would be regulated by NSPS subparts L and La to be more consistent with the definitions within the NESHAP subpart X. However, after considering the comments received regarding the proposed process equipment definitions and because of potential future changes to the definitions in NESHAP subpart X pursuant to the EPA's upcoming review of NESHAP subpart X, which applies to new and existing sources, the EPA is not finalizing the proposed process equipment definition changes in subpart L and La. The EPA had determined that it is more appropriate to complete the NESHAP review first before finalizing any changes to the existing definitions in NSPS subparts L and La for blast furnace, lead, reverberatory furnace, and secondary lead.

As part of the NESHAP review process, the EPA will acquire new information regarding secondary lead process equipment, which could result in revisions to the existing NESHAP definitions or development of new definitions. Were the EPA to finalize the proposed definitions in NSPS subparts L and La at this time, such future revisions to the definitions in NESHAP subpart X may create new inconsistencies. In this case, finalizing the proposed definitions to NSPS subparts L and La would not increase clarity and consistency as intended. Instead, any definition changes made in NSPS subparts L and La at this time with the intent of improving the consistency between the NSPS and NESHAP definitions would be mistimed, and the EPA might need to consider further revising the NSPS definitions established in this action in the future to reflect the equipment definitions specified in the post-review NESHAP. Because the EPA has decided not to finalize the revised definitions, the EPA does not need to provide detailed responses to the comments suggesting specific revisions to those definitions.

In addition, after revisiting the process definitions that have been in NSPS subpart L since 1983, we find that no changes are needed to improve clarity as initially thought at proposal. Therefore, we are not finalizing any changes to the existing definitions in NSPS subpart L or in NSPS subpart La. Instead, we are maintaining the blast furnace, lead, reverberatory furnace, and secondary lead smelter definitions currently specified in NSPS subpart L. However, we are adding to NSPS subpart La a definition for ''process fugitive emissions source'' to accommodate the final PM standard for pot furnaces (see the discussion in section IV.A.2. of this preamble). Also, regarding the comments that the EPA should include the term ''lead alloy,'' rather than ''alloy,'' the current subpart L and new subpart La both state that ''*Lead* means elemental lead or alloys in which the predominant component is lead.'' This definition is clear that the only alloys affected by the rule are alloys in which the predominant component is lead. The term ''alloys in which the predominant component is lead'' essentially means the same thing as ''lead alloys''. Therefore, we did not make any changes to the definition of lead or add a new definition for lead alloys to subparts L or La.

With regard to the comment that the EPA should include a definition of smelting or provide a cross reference, because of potential future changes to

the definitions in NESHAP subpart X (including for ''smelting'') pursuant the EPA's upcoming review of NESHAP subpart X (discussed above), which applies to new and existing sources, the EPA decided not to add a new definition for smelting in subpart L or La at this time because of potential inconsistencies once the EPA completes the next NESHAP review.

Regarding the comment that EPA should revise the definition of ''pot furnace'', this may have been an important clarification for the NSPS final rule if the EPA finalized the proposed pot furnace specific emissions limit of 3 mg/dscm. However, as explained in a previous response, instead of a pot furnace specific limit, the EPA is promulgating a PM limit of 4.9 mg/dscm for process fugitive emissions, which includes pot furnaces, but also includes other process fugitive emissions sources (such as refining kettles, holding kettles, alloying units). Therefore, we conclude that the specific definition clarifications requested by the commenter are no longer necessary for implementation of the NSPS and can wait until the EPA completes the next NESHAP review.

G. Effective Date and Compliance Dates

Pursuant to CAA section 111(b)(1)(B), the effective date of the final rule requirements in NSPS subpart La and amendments to NSPS subpart L will be the promulgation date, which is the date of publication of the final rule in the **Federal Register**. Affected sources that commence construction, reconstruction, or modification after December 1, 2022, must comply with all requirements of NSPS subpart La no later than the effective date of the final rule or upon startup, whichever is later.

V. Summary of Cost, Environmental, and Economic Impacts

A. What are the air quality impacts?

The final amendments to 40 CFR part 60, subpart La:

- Reduce the PM emissions limit for blast and reverberatory furnaces from 50 to 10 mg/dscm.
- Establish new PM emissions limits for process fugitive emissions sources of 4.9 mg/dscm.
- Lower the opacity limit for blast and reverberatory furnaces from 20 percent to 5 percent.
- Lower the opacity limit for pot furnaces from 10 percent to 5 percent.

New or reconstructed blast, reverberatory, and pot furnaces will also be subject to the NESHAP (40 CFR part 63, subpart X) requirements for new sources, while modified blast, reverberatory, and pot furnaces will also be subject to the NESHAP requirements for existing sources. NESHAP subpart X regulates particulate lead emissions from process vent, process fugitive, and fugitive dust sources. The emissions capture systems and control devices that are already required by the NESHAP to comply with the lead limits for blast furnaces, reverberatory furnaces, and process fugitive emissions sources will also control PM emissions regulated by the NSPS. Therefore, the final 40 CFR part 60, subpart La will not result in actual reductions of PM emissions. However, codifying the lower PM and opacity limits in the final 40 CFR part 60, subpart La will significantly reduce the PM and opacity allowable emissions of affected sources that commence construction, reconstruction, or modification after December 1, 2022.

B. What are the secondary impacts?

Indirect or secondary air emissions impacts result from the increased energy usage associated with the operation of control devices (*e.g.,* increased secondary emissions of criteria pollutants from electricity generating power plants). The EPA does not expect that facilities will need any additional control devices or other equipment to meet the final NSPS requirements beyond those that would already be needed to comply with the NESHAP. Therefore, the EPA does not attribute any secondary impacts to the final 40 CFR part 60, subpart La.

C. What are the cost impacts for regulated facilities?

For 40 CFR part 60, subparts L and La, the EPA requires that facilities conduct periodic performance tests to measure PM emissions using EPA Method 5 (Determination of Particulate Matter Emissions from Stationary Sources). The NESHAP (40 CFR part 63, subpart X) also requires periodic tests for lead using EPA Method 12 (Determination of Inorganic Lead Emissions from Stationary Sources) or EPA Method 29 (Metal Emissions from Stationary Sources). Because both of the NESHAP test methods analyze the PM captured on the internal surfaces of the sampling probe and on a sampling train filter to determine the lead concentration, facilities can conduct an additional gravimetric analysis of the EPA Method 12 or EPA Method 29 probe rinse and filter to determine PM emissions, rather than performing separate tests using EPA Method 5. The EPA estimates that the additional gravimetric analysis of the EPA Method 12 or EPA Method 29 particulate filter costs approximately $300 per test per year. To estimate the total cost associated with the final periodic PM performance tests under 40 CFR part 60, subparts L and La, the EPA assumed that each respondent under the respective subparts would conduct 3 p.m. tests per year (1 for each furnace type). See section V.C. of this preamble for more details on cost estimates.

For 40 CFR part 60, subpart La, the EPA is also requiring that facilities periodically determine the opacity of blast furnace, reverberatory furnace, and process fugitive source emissions. For NSPS subpart La, the EPA is requiring that facilities conduct initial and periodic tests using EPA Method 9 or ASTM D7520–16. Alternatively, facilities can use EPA Method 22 (Visible Determination of Fugitive Emissions) to determine no visible emissions from blast furnace, reverberatory furnace, and process fugitive emissions sources. To estimate the cost of the initial and periodic opacity tests for NSPS subpart La, the EPA assumed that new facilities would be able to determine no visible emissions using EPA Method 22, rather than using EPA Method 9. The EPA assumed that new facilities would train facility personnel to implement EPA Method 22 (at a one-time cost of $426 per facility), but not incur additional capital costs associated with conducting the EPA Method 9 observations.

We estimate that 2 of the 11 existing facilities will be modified or reconstructed over the next five years such that these 2 facilities will be subject to subpart La, and the other 9 facilities will be subject to subpart L. Therefore, for 40 CFR part 60, subpart L, the total incremental cost for the periodic PM testing over the 3-year period is $16,200 three tests per year at $300 per test for 9 respondents for years 2 and 3 (facilities subject to subpart L have already conducted initial performance tests for PM emissions and opacity). For 40 CFR part 60, subpart La, the total incremental cost for PM testing over the 3-year period is $8,100 (*i.e.,* three tests per year at $300 per test for the two existing facilities that the EPA assumes will undergo reconstruction and one new facility) and the total incremental cost for opacity testing is $426 for EPA Method 22 training (*i.e.,* $426 one-time cost for the new facility). Based on a review of facility operating permits, the two existing facilities that we determined could be reconstructed over the 3-year period (thereby triggering NSPS subpart La applicability) already conduct periodic opacity tests using EPA Method 9. Therefore, the EPA did not estimate opacity testing costs for the two potential reconstructed facilities. The

estimated total incremental cost for emissions testing for two reconstructed sources and one new source projected over the 3-year period is $8,526.

The EPA did not estimate cost impacts for the final monitoring requirements in 40 CFR part 60, subparts L and La because this action will allow subject facilities to comply with these subparts by complying with the applicable monitoring requirements for new sources specified in the NESHAP (40 CFR part 63, subpart X). Therefore, there is no additional monitoring burden.

D. What are the economic impacts?

The EPA conducted an economic impact analysis (EIA) and small business screening assessment for this final action, as discussed in the proposal for this action and detailed in the memorandum, *Economic Impact Analysis for Final Revisions and Amendments to the New Source Performance Standards for Secondary Lead Smelters,* which is available in the docket for this action. The economic impacts of this final action were estimated by comparing total annualized compliance costs to revenues at the ultimate parent company level. This is known as the cost-to-revenue or cost-to-sales test. This ratio provides a measure of the direct economic impact to ultimate parent company owners of facilities while presuming no impact on consumers.

As discussed in the proposal for this action, we estimate that the total cost for emissions testing, reporting, and recordkeeping projected over the 3-year period for the 9 sources subject to NSPS subpart L is $80,000. The average annual cost per facility is approximately $3,000. The 9 facilities subject to NSPS subpart L are owned by seven different parent companies with an annual average revenue of $4.5 billion in 2021. As discussed in section V.C. of this preamble, we assume the other 2 existing facilities will be modified or reconstructed and therefore will be subject to subpart La. The economic impact associated with this cost as an annual cost per sales, for the average parent company in the industry, is less than 0.0001 percent and is not expected to result in a significant market impact, regardless of whether it is fully passed on to the consumer or fully absorbed by the affected firms.

In addition, the cost analysis assumed that facilities subject to final 40 CFR part 60, subpart La would conduct initial and periodic tests for PM emissions and opacity, but would not need to install control devices to meet the final PM and opacity emissions limits because the new, modified, or reconstructed facility would install the same types of controls already necessary to comply with NESHAP subpart X. The EPA also assumed that facilities subject to the final NSPS subpart La would not incur monitoring costs attributed to the new NSPS.

The EPA views the testing costs to be upper-bound estimates on the potential compliance costs of the final 40 CFR part 60, subparts L and La. Even under the upper-bound cost assumptions described above, the EPA expects the potential economic impacts of this final action will be small.

As required by the Regulatory Flexibility Act (RFA), we performed an analysis to determine if any small entities might be disproportionately impacted by the final requirements. The EPA does not know with certainty which existing facilities may be reconstructed or modified in the future and subject to NSPS subpart La, and therefore cannot perform an accurate cost-to-sales analysis. However, based on an assessment of the projected growth in the secondary lead smelting industry, the EPA believes it is unlikely that any future facilities will be reconstructed or modified by a small business.

E. What are the benefits?

The final revisions to 40 CFR part 60, subparts L and La clarify both rules, improve the practical enforceability of the rules, and enhance compliance and enforcement. The EPA expects that implementing the final amendments to 40 CFR part 60, subparts L and La will help ensure that control systems used to reduce PM and opacity emissions from affected sources are properly operated and maintained over time.

Additionally, the final amendments to require electronic reporting of emissions test results in 40 CFR part 60, subparts L and La will ultimately reduce the burden on regulated facilities, delegated air agencies, and the EPA, and also improve access to data, minimize data reporting errors, and eliminate paper waste and redundancies.

F. What analysis of environmental justice did we conduct?

Executive Order 12898 directs the EPA to identify the populations of concern who are most likely to experience unequal burdens from environmental harms, which are specifically minority populations (people of color), low-income populations, and Indigenous peoples (59 FR 7629; February 16, 1994). Additionally, Executive Order 13985 is intended to advance racial equity and support underserved communities through Federal government actions (86 FR 7009; January 20, 2021). The EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' [2] The EPA further defines fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.'' In recognizing that people of color and low-income populations often bear an unequal burden of environmental harms and risks, the EPA continues to consider ways of protecting them from adverse public health and environmental effects of air pollution. For purposes of analyzing regulatory impacts, the EPA relies upon its June 2016 *Technical Guidance for Assessing Environmental Justice in Regulatory Analysis,*[3] which provides recommendations that encourage analysts to conduct the highest quality analysis feasible, recognizing that data limitations, time, resource constraints, and analytical challenges will vary by media and circumstance. The Technical Guidance states that a regulatory action may involve potential EJ concerns if it could: (1) create new disproportionate impacts on minority populations, low-income populations, and/or indigenous peoples; (2) exacerbate existing disproportionate impacts on minority populations, low-income populations, and/or indigenous peoples; or (3) present opportunities to address existing disproportionate impacts on minority populations, low-income populations, and/or indigenous peoples through this action under development.

The Agency has conducted an analysis of the demographics of the populations living near existing facilities in the Secondary Lead Smelting source category. Because this action finalizes standards of performance for new, modified, and reconstructed sources that commence construction after December 1, 2022, the locations of the construction of new secondary lead smelters are not known. As discussed above, we assumed two existing facilities might be modified. However, it is not known with any

[2] See *https://www.epa.gov/environmentaljustice.*

[3] See *https://www.epa.gov/environmentaljustice/technical-guidance-assessing-environmental-justice-regulatory-analysis.*

certainty which of the existing secondary lead smelters might be modified or reconstructed. Therefore, the demographic analysis was conducted for the 11 existing secondary lead smelters as a proxy for the characterization of the demographics in areas where new, modified, or reconstructed source might be located in the future.

Section F. (''What analysis of environmental justice did we conduct?'') of the proposal preamble (87 FR 73708) presents the full results of the demographic analysis. The analysis included an assessment of individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the existing facilities. We then compared the data from the analysis to the national average for each of the demographic groups. The results show that, for populations within 5 km of the 11 secondary lead smelters, the percent Hispanic or Latino population is higher than the national average (38 percent versus 19 percent). The percent of ''other and multiracial population'' and people living in linguistic isolation within the same geographic area are higher than the national average (12 percent versus 8 percent and 8 percent versus 5 percent, respectively). The percent of the population over 25 without a high school diploma is higher than the national average (19 percent versus 12 percent), while the percent of the population living below the poverty line is similar to the national average. The results of the analysis of populations within 50 km of the 11 secondary lead smelters are similar to the 5 km analysis.

The technical report, *Analysis of Demographic Factors for Populations Living Near Secondary Lead Smelting Source Category Operations,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2022–0481), presents the methodology and the results of the demographic analysis.

As indicated above, the locations of any new secondary lead smelting facilities that would be subject to NSPS subpart La are not known. Also, it is not known with any certainty which existing secondary lead smelters may be modified or reconstructed and subject to the NSPS subpart La. Thus, we are limited in our ability to estimate the potential EJ impacts of this rule. However, we anticipate the changes to the NSPS will generally minimize or reduce future emissions in surrounding communities of new, modified, or reconstructed facilities, including those communities with higher percentages of people of color. Furthermore, the EPA expects that the NSPS subpart La, will ensure compliance with the PM emissions and opacity limits at all times (including periods of SSM) via initial and periodic emissions testing. NSPS subpart La also codifies standards of performance reflecting improvements in PM control technologies that have occurred in the industry since promulgation of the current NSPS subpart L. Therefore, effects of emissions on populations in proximity to any future affected sources, including in communities potentially overburdened by pollution, which are often people of color, low-income, and Indigenous communities, will be minimized due to compliance with the standards of performance being finalized in this action.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to OMB under the PRA. The updated Information Collection Request (ICR) document that the EPA prepared for NSPS subpart L has been assigned EPA ICR number 1128.13, and the new ICR prepared for the final NSPS subpart La has been assigned EPA ICR number 2729.01. You can find copies of the ICRs in the docket for this rule, and they are briefly summarized here. The information collection requirements are not enforceable until OMB approves them.

The EPA is finalizing amendments to the existing NSPS (40 CFR part 60, subpart L) that:

- Require periodic testing for PM emissions.
- Incorporate monitoring, recordkeeping, and reporting requirements that are consistent with NESHAP subpart X.
- Require electronic reporting of performance test results.

A summary of the ICR for NSPS subpart L follows:

Respondents/affected entities: Secondary lead smelting facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart L).

Estimated number of respondents: Nine existing facilities subject to 40 CFR part 60, subpart L.

Frequency of response: Annually.

Total estimated burden: The annual recordkeeping and reporting burden for facilities to comply with all the requirements in the NSPS is estimated to be 228 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting costs for all facilities to comply with all the requirements in the NSPS is estimated to be $27,000 (per year).

The EPA is also finalizing a new subpart (40 CFR part 60, subpart La) for new, modified, or reconstructed facilities that commenced construction, reconstruction, or modification after December 1, 2022, that:

- Includes definitions for ''blast furnace,'' ''lead,'' ''reverberatory furnace,'' and ''secondary lead smelter'' that are the same as NSPS subpart L.
- Includes a definition for ''process fugitive emissions source'' to be consistent with the definition used in NESHAP subpart X.
- Establishes a tighter PM limit (10 mg/dscm) for blast and reverberatory furnaces.
- Establishes a new PM limit (4.9 mg/dscm) for process fugitive emissions sources.
- Establishes a tighter opacity limit (5 percent) for blast, reverberatory, and process fugitive emissions sources.
- Removes the exemptions for periods of SSM.
- Requires initial and periodic testing for PM emissions and opacity.
- Incorporates monitoring, recordkeeping, and reporting requirements that are consistent with the NESHAP (40 CFR part 63, subpart X).
- Requires electronic reporting of performance test results.

A summary of the ICR for NSPS subpart La follows:

Respondents/affected entities: Secondary lead smelting facilities.

Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart La).

Estimated number of respondents: Three facilities (two reconstructed and one new source) in the next 3 years.

Frequency of response: Annually.

Total estimated burden: The annual recordkeeping and reporting burden for facilities to comply with all the requirements in the NSPS is estimated to be 127 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: The annual recordkeeping and reporting costs for all

facilities to comply with all the requirements in the NSPS is estimated to be $14,000 (per year).

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 the EPA's regulations in 40 CFR are listed in 40 CFR part 9. When OMB approves this ICR, the Agency will announce that approval in the **Federal Register** and publish a technical amendment to 40 CFR part 9 to display the OMB control number for the approved information collection activities contained in this final rule.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities (SISNOSE) under the RFA.

This action will not impose any significant requirements on small entities. Details of the analysis in support of this determination are presented in the memorandum titled, *Economic Impact Analysis and Small Business Screening Assessment for Final Revisions and Amendments to the New Source Performance Standards for Secondary Lead Smelters,* which is available in the docket for this action (Docket ID No. EPA–HQ–OAR–2022–0481).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local, or tribal governments, and there are no nationwide annualized costs of this final rule for affected industrial sources in the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will 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.

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

This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249; November 9, 2000). It will 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. This final rule imposes requirements on owners and operators of secondary lead smelting facilities and not tribal governments. The EPA does not know of any secondary lead smelting facilities owned or operated by Indian tribal governments. Thus, Executive Order 13175 does not apply to this action.

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

Executive Order 13045 directs Federal agencies to include an evaluation of the health and safety effects of the planned regulation on children in Federal health and safety standards and explain why the regulation is preferable to potentially effective and reasonably feasible alternatives. This action is not subject to Executive Order 13045 because it is not a significant regulatory action under section 3(f)(1) of Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

The EPA does not believe there are disproportionate risks to children because the new NSPS subpart La lowers PM emissions and opacity from new, modified, or reconstructed secondary lead smelters compared to the current NSPS, which will benefit children's health. Additionally, the periodic PM emissions and opacity testing requirements of NSPS subparts La and L, and the updated monitoring, recordkeeping, and reporting requirements, improve compliance with emission limits, which also benefits children's health.

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

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA) and 1 CFR Part 51

This action involves technical standards. The EPA is requiring use of EPA Method 5 (Determination of Particulate Matter emissions from Stationary Sources) to measure filterable PM and EPA Method 9 (Visual Determination of the Opacity of Emissions from Stationary Sources) to determine visible emissions from blast and reverberatory process vents and process fugitive emissions. Therefore, the EPA conducted searches for the Secondary Lead Smelting NSPS through the Enhanced National Standards Systems Network Database managed by the American National Standards Institute (ANSI). We also contacted voluntary consensus standards (VCS) organizations and accessed and searched their databases.

We conducted searches for EPA Methods 1, 1A, 2, 2A, 2B, 2C, 2D, 2F, 2G, 2H, 3, 3A, 3C, 4, 5, 9, 12, 22, and 29 of 40 CFR part 60, appendix A. During the EPA's VCS search, if the title or abstract (if provided) of the VCS described technical sampling and analytical procedures that are similar to the EPA's reference method, the EPA reviewed it as a potential equivalent method. We reviewed all potential standards to determine the practicality of the VCS for this rule. This review requires significant method validation data that meet the requirements of EPA Method 301 for accepting alternative methods or scientific, engineering, and policy equivalence to procedures in the EPA reference methods. The EPA may reconsider determinations of impracticality when additional information is available for a particular VCS. No applicable VCS were identified for EPA Methods 1, 1A, 2, 2A, 2B, 2C, 2D, 2F, 2G, 2H, 3, 3A, 3C, 4, 5, 12, 22, or 29.

In this final action, the EPA incorporates by reference the VCS ASTM D7520–16, ''Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient Atmosphere approved April 1, 2016'' which is an instrumental method to determine plume opacity in the outdoor ambient environment as an alternative to visual measurements made by certified smoke readers in accordance with EPA Method 9. The concept of ASTM D7520–16, also known as the Digital Camera Opacity Technique or DCOT, is a test protocol to determine the opacity of visible emissions using a digital camera. This method is based on previous method development using digital still cameras and field testing of those methods. The purpose of ASTM D7520–16 is to set a minimum level of performance for products that use DCOT to determine plume opacity in ambient environments.

The DCOT method is an acceptable alternative to EPA Method 9 with the following caveats:

- During the digital camera opacity technique (DCOT) certification procedure outlined in section 9.2 of ASTM D7520–16, you or the DCOT

vendor must present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

- You must also have SOP in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in section 8.1 of ASTM D7520–16.
- You must follow the recordkeeping procedures outlined in 40 CFR 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEG files used for opacity and certification determination.
- You or the DCOT vendor must have a minimum of four independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of any one reading and the average error must not exceed 7.5 percent opacity.
- This approval does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software and operator in accordance with ASTM D7520–16 and this letter is on the facility, DCOT operator, and DCOT vendor. This method describes procedures to determine the opacity of a plume, using digital imagery and associated hardware and software, where opacity is caused by PM emitted from a stationary point source in the outdoor ambient environment. The opacity of emissions is determined by the application of a DCOT that consists of a digital still camera, analysis software, and the output function's content to obtain and interpret digital images to determine and report plume opacity.

The ASTM D7520–16 document is available from ASTM at *https://www.astm.org* or 1100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, telephone number: (610) 832–9500, fax number: (610) 8329555; *service@astm.org.*

The EPA is finalizing the use of the guidance document, EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS Fabric Filter Bag Leak Detection Guidance, September 1997. This document provides guidance on the use of triboelectric monitors as fabric filter bag leak detectors. The document includes fabric filter and monitoring system descriptions; guidance on monitor selection, installation, setup, adjustment, and operation; and quality assurance procedures. Several types of instruments are available to monitor changes in particulate emission rates for the purpose of detecting fabric filter bag leaks or similar failures. The principles of operation of these instruments include electrical charge transfer and light scattering. The document is available at *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=2000D5T6.PDF.*

Additional information for the VCS search and determinations can be found in the docket for this final action (Docket ID No. EPA–HQ–OAR–2022–0481).

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

Executive Order 14096 (88 FR 25251, Apr. 26, 2023) directs federal agencies to advance the goal of environmental justice for all. This action builds upon and supplements the efforts of Executive Order 12898 (59 FR 7629, February 16, 1994) to address environmental justice.

The EPA believes that the human health or environmental conditions that exist prior to this action result in or have the potential to result in disproportionate and adverse human health or environmental effects on communities with environmental justice concerns. The locations of future new, modified, and reconstructed secondary lead smelters are not known with any certainty. Therefore, we evaluated the populations living near existing secondary lead smelters as a proxy for the characteristics of the demographics in areas where a new, modified, or reconstructed source might locate in the future. The result of the analysis shows that the percent Hispanic or Latino population, ''other and multiracial population'' and people living in linguistic isolation within the same geographic area, over 25 without a high school diploma are higher than the national average.

The EPA believes that this action is likely to reduce existing potential disproportionate and adverse effects on communities with environmental justice concerns. We anticipate the changes to the NSPS will generally minimize or reduce future emissions in these communities that are in proximity to new, modified, or reconstructed facilities. Specifically, the EPA expects that the Standards of Performance for Secondary Lead Smelters Constructed after December 1, 2022, will ensure compliance with the PM and opacity limits at all times (including periods of SSM) via initial and periodic emissions testing and parametric monitoring of control devices. Subpart La also codifies improvements in PM control technologies that have occurred in the industry since promulgation of the current NSPS subpart L. Therefore, effects of emissions on populations in proximity to any future affected sources, including in communities with environmental justice concerns, will be minimized due to compliance with the standards of performance being finalized in this action.

The information supporting this Executive Order review is contained in a technical report, *Analysis of Demographic Factors for Populations Living Near Secondary Lead Smelting Source Category Operations,* available in the docket for this action (Docket ID No. EPA–HQ–OAR–2022–0481), and in section IV.F. of the proposed rule's preamble (87 FR 73708), as well as summarized in section V.F. of this preamble.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedures, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements.

Michael S. Regan,
Administrator.

For the reasons set forth in the preamble, the Environmental Protection Agency amends title 40, chapter I of the Code of Federal Regulations as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

■ 1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart A—General Provisions

■ 2. Amend § 60.17 by revising paragraphs (h)(206) and (j)(2) to read as follows:

§ 60.17 Incorporations by reference.

* * * * *

(h) * * *

(206) ASTM D7520–16, Standard Test Method for Determining the Opacity of a Plume in the Outdoor Ambient

Atmosphere, approved April 1, 2016; IBR approved for §§ 60.123(c)(6); 60.123(c)(6)(i); 60.123(c)(6)(ii); 60.123(c)(6)(v); 60.123a(c)(6)(ii); 60.123a(c)(6)(ii)(A); 60.123a(c)(6)(ii)(B); 60.123a(c)(6)(ii)(E); 60.271(k); 60.272(a) and (b); 60.273(c) and (d); 60.274(h); 60.275(e); 60.276(c); 60.271a; 60.272a(a) and (b); 60.273a(c) and (d); 60.274a(h); 60.275a(e); 60.276a(f); 60.271b; 60.272b(a) and (b); 60.273b(c) and (d); 60.274b(h); 60.275b(e); 60.276b(f); 60.374a(d).

* * * * *

(j) * * *

(2) EPA–454/R–98–015, Office of Air Quality Planning and Standards (OAQPS), Fabric Filter Bag Leak Detection Guidance, September 1997, *https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=2000D5T6.PDF;* IBR approved for §§ 60.124(f); 60.124a(f); 60.273(e); 60.273a(e); 60.273b(e); 60.373a(b); 60.2145(r); 60.2710(r); 60.4905(b); 60.5225(b).

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Subpart L—Standards of Performance for Secondary Lead Smelters for Which Construction, Reconstruction, or Modification Commenced After June 11, 1973, and On or Before December 1, 2022

■ 3. Revise the heading for subpart L to part 60 to read as set forth above.

■ 4. Amend § 60.120 by revising paragraph (b) to read as follows:

§ 60.120 Applicability and designation of affected facility.

* * * * *

(b) Any facility under paragraph (a) of this section that commences construction or modification after June 11, 1973, and on or before December 1, 2022, is subject to the requirements of this subpart.

■ 5. Amend § 60.122 by revising paragraph (a)(1) to read as follows:

§ 60.122 Standard for particulate matter.

(a) * * *

(1) Contain particulate matter (PM) in excess of 50 milligrams per dry standard cubic meter, mg/dscm (0.022 grains per dry standard cubic feet, gr/dscf).

* * * * *

■ 6. Revise § 60.123 to read as follows:

§ 60.123 Test methods and procedures.

(a) *Initial performance tests.* The owner or operator shall conduct performance tests to demonstrate initial compliance with the PM emission and opacity standards specified in § 60.122.

(b) *Periodic performance tests.* After November 20, 2023, the owner or operator shall conduct periodic performance tests to demonstrate compliance with the PM emissions standards specified in § 60.122(a). The owner or operator shall conduct the first periodic test by no later than July 31, 2024. The owner or operator shall conduct subsequent periodic tests according to the schedule specified in paragraph (b)(1) or (2) of this section.

(1) Conduct performance tests no later than 12 months following the previous compliance test.

(2) Conduct performance tests no later than 24 months following the previous compliance test if the previous compliance test measured PM emissions of 25 mg/dscm or less and the owner or operator has obtained approval from the Administrator for a written request to extend the period of the periodic performance test. The extension request will be deemed automatically approved if the owner or operator submits the results of a PM performance test of 25 mg/dscm or less, the owner or operator submits the request for the extension within 4 months after the subject compliance test, and the Administrator does not provide a response to such request within 6 months of submission.

(c) *Test methods.* In conducting the performance tests required in § 60.8, the owner or operator shall use the following EPA reference test methods and procedures in appendix A of this part or other methods and procedures as specified in this section, except as provided in § 60.8(b).

(1) EPA Method 1 at appendix A–1 to this part to select sampling port locations and the number of traverse points.

(2) EPA Method 2 at appendix A–1 to this part or EPA Method 5D at appendix A–3 to this part, section 8.3 for positive fabric filters, to measure the volumetric flow rate of the gas stream.

(3) EPA Method 3, 3A, or 3B at 40 CFR part 60, appendix A–2 to determine the dry molecular weight of the stack gas and concentrations of carbon dioxide and oxygen in the sample gas.

(4) EPA Method 4 at appendix A–3 to this part to determine the moisture content of the gas stream.

(5) EPA Method 5 or 5D at appendix A–3 to this part to measure PM concentrations. The EPA Method 5 tests shall be conducted during representative periods of furnace operation, including charging and tapping, and the sampling time and sample volume for each test run shall be at least 60 minutes and 0.90 dscm (31.8 dscf), respectively. As an alternative to using EPA Method 5, owners or operators may measure PM emissions by the following methods:

(i) EPA Method 12 at appendix A–5 to this part (see section 16.1 of Method 12) to measure PM and inorganic lead concentrations.

(ii) EPA Method 29 at appendix A–8 to this part to measure metal (lead) concentrations and PM (see section 1.2 of Method 29).

(6) EPA Method 9 at appendix A–4 to this part and the procedures specified in § 60.11 for determining opacity. ASTM D7520–16 (incorporated by reference at § 60.17) is an acceptable alternative to EPA Method 9 with the specified conditions in paragraphs (c)(6)(i) through (v) of this section.

(*i*) During the digital camera opacity technique (DCOT) certification procedure outlined in section 9.2 of ASTM D7520–16 (incorporated by reference at § 60.17), the owner or operator or the DCOT vendor shall present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(ii) The owner or operator shall also have standard operating procedures (SOPs) in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in section 8.1 of ASTM D7520–16 (incorporated by reference at § 60.17). Records shall be maintained in a form suitable and readily available for expeditious review.

(iii) The owner or operator shall follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(iv) The owner or operator or the DCOT vendor shall have a minimum of four (4) independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of any one reading and the average error shall not exceed 7.5 percent opacity.

(v) This approval does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16 (incorporated by reference at § 60.17) and this section is on the owner or operator, DCOT operator, and DCOT vendor.

■ 7. Add §§ 60.124 and 60.125 to subpart L to read as follows:

§ 60.124 Monitoring requirements.

(a) The owner shall comply with the applicable monitoring requirements specified in the NSPS General provision § 60.13.

(b) The owner shall prepare, and at all times operate according to, a SOP manual that describes in detail procedures for inspection, maintenance, and bag leak detection and corrective action plans for all baghouses (fabric filters or cartridge filters) used to reduce PM and opacity emissions from any affected source subject to the emissions standards in § 60.122.

(c) The owner shall submit the SOP manual for the baghouses (fabric filters or cartridge collectors) described in paragraph (b) of this section to the Administrator or delegated authority for review and approval.

(d) The procedures specified in the SOP manual for inspections and routine maintenance shall, at a minimum, include the requirements of paragraphs (d)(1) through (9) of this section.

(1) Daily monitoring of the pressure drop across each baghouse cell.

(2) Weekly confirmation that dust is being removed from hoppers through visual inspection, or equivalent means of ensuring the proper functioning of removal mechanisms.

(3) Daily check of compressed air supply for pulse-jet baghouses.

(4) An appropriate methodology for monitoring cleaning cycles to ensure proper operation.

(5) Monthly check of bag cleaning mechanisms for proper functioning through visual inspection or equivalent means.

(6) Monthly check of bag tension on reverse air and shaker-type baghouses. Such checks are not required for shaker-type baghouses using self-tensioning (spring loaded) devices.

(7) Quarterly confirmation of the physical integrity of the baghouse through visual inspection of the baghouse interior for air leaks.

(8) Quarterly inspection of fans for wear, material buildup, and corrosion through visual inspection, vibration detectors, or equivalent means.

(9) Continuous operation of a bag leak detection system.

(e) The procedures specified in the SOP manual for baghouse maintenance shall include, at a minimum, a preventative maintenance schedule that is consistent with the baghouse manufacturer's instructions for routine and long-term maintenance.

(f) The bag leak detection system required by paragraph (d)(9) of this section, shall meet the specification and requirements of paragraphs (f)(1) through (8) of this section.

(1) The bag leak detection system shall be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 50.0 mg/dscm (0.022 gr/dscf) or less.

(2) The bag leak detection system sensor shall provide output of relative PM loadings.

(3) The bag leak detection system shall be equipped with an alarm system that will alarm when an increase in relative particulate loadings is detected over a preset level.

(4) The owner shall install and operate the bag leak detection system in a manner consistent with the guidance provided in EPA–454/R–98–015, Office of Air quality Planning and Standards (OAQPS) Fabric Filter Bag Leak Detection Guidance, (incorporated by reference, see § 60.17) or the manufacturer's written specifications and recommendations for installation, operation, and adjustment of the system.

(5) The initial adjustment of the system shall, at a minimum, consist of establishing the baseline output by adjusting the sensitivity (range) and the averaging period of the device, and establishing the alarm set points and the alarm delay time.

(6) Following initial adjustment, the owner shall not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in the approved SOP manual required under paragraph (b) of this section. The owner cannot increase the sensitivity by more than 100 percent or decrease the sensitivity by more than 50 percent over a 365-day period unless such adjustment follows a complete baghouse inspection that demonstrates that the baghouse is in good operating condition.

(7) For negative pressure, induced air baghouses, and positive pressure baghouses that are discharged to the atmosphere through a stack, the owner shall install the bag leak detector downstream of the baghouse and upstream of any wet acid gas scrubber.

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

(g) The owner shall include in the SOP manual required by paragraph (b) of this section a corrective action plan that specifies the procedures to be followed in the case of a bag leak detection system alarm. The corrective action plan shall include, at a minimum, the procedures used to determine and record the time and cause of the alarm as well as the corrective actions taken to minimize emissions as specified in paragraphs (g)(1) and (2) of this section.

(1) The procedures used to determine the cause of the alarm shall be initiated within 30 minutes of the alarm.

(2) The cause of the alarm shall be alleviated by taking the necessary corrective action(s) that may include, but not be limited to, those listed in paragraphs (g)(2)(i) through (vi) of this section.

(i) Inspecting the baghouse for air leaks, torn or broken filter elements, or any other malfunction that may cause an increase in 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 baghouse compartment.

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

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

(h) Baghouses equipped with high-efficiency particulate air (HEPA) filters as a secondary filter used to control emissions from any source subject to the PM and opacity emission standards in § 60.122 are exempt from the requirement to be equipped with a bag leak detection system. The owner or operator shall monitor and record the pressure drop across each HEPA filter system daily. If the pressure drop is outside the limit(s) specified by the filter manufacturer, the owner or operator shall take appropriate corrective measures, which may include but not be limited to those given in paragraphs (h)(1) through (4) of this section.

(1) Inspecting the filter and filter housing for air leaks and torn or broken filters.

(2) Replacing defective filter media, or otherwise repairing the control device.

(3) Sealing off a defective control device by routing air to other control devices

(4) Shutting down the process producing the particulate emissions.

(i) Baghouses followed by a wet electrostatic precipitator (WESP) used as a secondary control device for any source subject to the PM and opacity emission standards in § 60.122 are exempt from the requirement to be equipped with a bag leak detection system.

(j) If a wet scrubber is used to demonstrate continuous compliance with the PM emissions standards for blast and reverberatory furnaces specified in § 60.122(a), the owner or operator shall monitor and record the pressure drop and water flow rate of the wet scrubber during the initial

performance or periodic compliance test conducted to demonstrate compliance with the PM emissions limit under § 60.122(a). Thereafter, the owner or operator shall monitor and record the pressure drop and water flow rate values at least once every hour and maintain the pressure drop and water flow rate at levels no lower than 30 percent below the pressure drop and water flow rate measured during the initial performance or compliance test.

(k) During the initial performance test required by § 60.123(a), or any periodic performance test required by § 60.123(b), the owner or operator shall establish the value or range of values of the monitoring parameter(s) for each control device used to comply with the PM and opacity emission standards specified in § 60.122.

(l) If an affected source is subject to the monitoring requirements specified in 40 CFR part 63, subpart X (National Emissions Standards for Hazardous Air Pollutants from Secondary Lead Smelting) and those requirements are as stringent or more stringent than the monitoring requirements specified in paragraphs (a) through (j) of this section, compliance with the monitoring requirements specified in 40 CFR part 63, subpart X also demonstrates compliance with the monitoring requirements specified in paragraphs (a) through (k) of this section.

§ 60.125 Notification, recordkeeping, and reporting requirements.

(a) The owner or operator shall comply with the applicable notification and recordkeeping requirements specified in § 60.7 and the reporting requirements specified in the NSPS General Provisions § 60.19.

(1) Records shall be maintained in a form suitable and readily available for expeditious review, according to § 60.7(f). However, electronic recordkeeping and reporting may be used if suitable for the specific case (*e.g.,* by electronic media such as Excel spreadsheet, on CD or hard copy), and when required by this subpart.

(2) Records shall be kept on site for at least 2 years after the date of occurrence, measurement, maintenance, corrective action, report, or record, according to § 60.7(f).

(b) The SOP manual required in § 60.124(b) shall be submitted to the Administrator in electronic format for review and approval of the initial submittal and whenever an update is made to the procedure.

(c) The owner or operator shall maintain for a period of 2 years, records of the information listed in paragraphs (c)(1) through (10) of this section.

(1) Electronic records of the bag leak detection system output.

(2) An identification of 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 corrective actions taken, and the date and time the cause of the alarm was corrected.

(3) All records of inspections and maintenance activities required under § 60.124(d) as part of the practices described in the SOP manual for baghouses required under § 60.124(b).

(4) Electronic records of the pressure drop and water flow rate values for wet scrubbers used to control PM emissions from blast or reverberatory furnaces as required in § 60.124(j).

(5) Records of the occurrence and duration of each malfunction of operation (*i.e.,* process equipment) or the air pollution control equipment and monitoring equipment.

(6) Records of actions taken during periods of malfunction to minimize emissions in accordance with § 60.11(d), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

(7) Records of all alarms from the bag leak detection system specified in § 60.124(d)(9).

(8) Records maintained as part of the practices described in the SOP manual for baghouses required under § 60.124(b), including an explanation of the periods when the procedures were not followed, and the corrective actions taken.

(9) Record of the periods when the pressure drop and water flow rate of wet scrubbers used to control process fugitive sources dropped below the levels established in § 60.124(j), and an explanation of the corrective actions taken.

(10) Records of the rationale for the control device monitoring parameter value(s), established as specified in § 60.124(k), monitoring frequency, and averaging time. Include all data and calculations used to develop the value and a description of why the value, monitoring frequency, and averaging time demonstrate continuous compliance with the applicable emission standard.

(d) In addition to the reporting requirements specified in § 60.7 and § 60.19, the owner or operator shall submit the results of the initial and periodic performance tests within 60 days after the date of completing each performance test required by this subpart, following the procedures specified in paragraphs (d)(1) through (3) of this section.

(1) Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (*https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert*) at the time of the test. Submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov*). The data shall be submitted in a file format generated using the EPA's ERT. Alternatively, the owner or operator may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test. The results of the performance test shall be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) Confidential business information (CBI).

(i) The EPA will make all the information submitted through CEDRI available to the public without further notice to the owner or operator. Do not use CEDRI to submit information that the owner or operator claims as CBI. Although we do not expect persons to assert a claim of CBI, if the owner or operator wishes to assert a CBI claim for some of the information submitted under paragraph (a)(1) or (2) of this section, the owner or operator shall submit a complete file, including information claimed to be CBI, to the EPA.

(ii) The file shall be generated using the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website.

(iii) Clearly mark the part or all of the information that the owner or operator claims to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

(iv) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic submissions shall be transmitted directly to the OAQPS CBI Office at the

email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings and be flagged to the attention of the Group Leader, Measurement Policy Group. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if the owner or operator does not have a file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link.

(v) If the owner or operator cannot transmit the file electronically, the owner or operator may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Group Leader, Measurement Policy Group. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(vi) All CBI claims shall be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(vii) The owner or operator shall submit the same file submitted to the CBI office with the CBI omitted to the EPA through CEDRI via the EPA's CDX as described in paragraphs (d)(1) and (2) of this section.

(e) Claims of EPA system outage. If the owner or operator is required to electronically submit a report through CEDRI in the EPA's CDX, the owner or operator may assert a claim of EPA system outage for failure to timely comply with that reporting requirement. To assert a claim of EPA system outage, the owner or operator shall meet the requirements outlined in paragraphs (e)(1) through (7) of this section.

(1) The owner or operator shall have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage shall have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) The owner or operator shall submit notification to the Administrator in writing as soon as possible following the date the owner or operator first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) The owner or operator shall provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which the owner or operator proposes to report, or if the owner or operator has already met the reporting requirement at the time of the notification, the date the owner or operator reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report shall be submitted electronically as soon as possible after the outage is resolved.

(f) *Claims of force majeure.* If the owner or operator is required to electronically submit a report through CEDRI in the EPA's CDX, the owner or operator may assert a claim of *force majeure* for failure to timely comply with that reporting requirement. To assert a claim of *force majeure,* the owner or operator shall meet the requirements outlined in paragraphs (f)(1) through (5) of this section.

(1) The owner or operator may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) The owner or operator shall submit notification to the Administrator in writing as soon as possible following the date the owner or operator first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) The owner or operator shall provide to the Administrator:

(i) A written description of the *force majeure* event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which the owner or operator proposes to report, or if the owner or operator has already met the reporting requirement at the time of the notification, the date the owner or operator reported.

(4) The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting shall occur as soon as possible after the *force majeure* event occurs.

■ 8. Add subpart La consisting of §§ 60.120a through 60.125a to part 60 to read as follows:

Subpart La—Standards of Performance for Secondary Lead Smelters for Which Construction, Reconstruction, or Modification Commenced After December 1, 2022

Sec.

Subpart La—Standards of Performance for Secondary Lead Smelters for Which Construction, Reconstruction, or Modification Commenced After December 1, 2022

§ 60.120a Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities in secondary lead smelters: Process fugitive emissions sources, blast (cupola) furnaces, and reverberatory furnaces.

(b) Any facility under paragraph (a) of this section that commences construction, reconstruction, or modification after November 20, 2023, is subject to the requirements of this subpart.

§ 60.121a Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in subpart A of this part.

Blast furnace means any furnace used to recover metal from slag.

Lead means elemental lead or alloys in which the predominant component is lead.

Process fugitive emissions source means a source of particulate matter (PM) emissions at a secondary lead smelter that is associated with lead smelting or refining including, but not limited to, smelting furnace charging points; smelting furnace lead and slag taps; pot and refining furnaces; and casting kettles.

Reverberatory furnace includes the following types of reverberatory furnaces: stationary, rotating, rocking, and tilting.

Secondary lead smelter means any facility producing lead from a lead-bearing scrap material by smelting to the metallic form.

§ 60.122a Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall discharge or cause the discharge into the atmosphere from a blast (cupola) or reverberatory furnace any gases which:

(1) Contain PM in excess of 10 milligrams per dry standard cubic meter, mg/dscm (0.0044 grains per dry standard cubic feet, gr/dscf).

(2) Exhibit opacity greater than 5 percent.

(b) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall discharge or cause the discharge into the atmosphere from any process fugitive emissions source any gases which:

(1) Contain PM in excess of 4.9 mg/dscm (0.0021 grains per dry standard cubic feet, gr/dscf).

(2) Exhibit opacity greater than 5 percent.

(c) The PM and opacity emissions standards specified in paragraphs (a) and (b) of this section apply at all times, including periods of startup, shutdown, and malfunction.

§ 60.123a Test methods and procedures.

(a) *Initial performance tests.* The owner or operator shall conduct performance tests to demonstrate initial compliance with the PM and opacity emission standards specified in § 60.122a.

(b) *Periodic performance tests.* Following the initial compliance demonstration required by paragraph (a) of this section, the owner or operator shall conduct periodic performance tests to demonstrate compliance with the PM and opacity emissions standards specified in § 60.122a according to the schedule specified in paragraph (b)(1) or (2) of this section.

(1) Conduct performance tests no later than 12 months following the previous compliance test.

(2) Conduct performance tests up to 24 calendar months following the previous compliance test if the previous compliance test measured PM emissions equal to or less than the concentrations specified in paragraphs (b)(2)(i) and (ii) of this section and the owner or operator has obtained approval from the Administrator for a written request to extend the period of the periodic performance test. The extension request will be deemed automatically approved if the owner or operator submits the results of a PM performance test equal to or less than the applicable concentrations specified in paragraphs (b)(2)(i) and (ii) of this section, the owner or operator submits the request for the extension within 4 months after the subject compliance test, and the Administrator does not provide a response to such request within 6 months of submission.

(i) 5 mg/dscm for blast and reverberatory furnaces.

(ii) 2.4 mg/dscm for process fugitive emissions sources.

(c) *Test methods.* In conducting the performance tests required in § 60.8, the owner or operator shall use the following EPA reference test methods and procedures in appendix A of this part or other methods and procedures as specified in this section, except as provided in § 60.8(b).

(1) EPA Method 1 at appendix A–1 to this part for selecting sampling port locations and the number of traverse points.

(2) EPA Method 2 at appendix A–1 to this part at appendix A–1 to this part or EPA Method 5D at appendix A–3 to this part, section 8.3 for positive fabric filters, to measure the volumetric flow rate of the gas stream.

(3) EPA Method 3, 3A, 3B, or 3C at appendix A–1 to this part to determine the dry molecular weight of the stack gas and the concentrations of carbon dioxide and oxygen in the sample gas.

(4) EPA Method 4 at appendix A–3 to this part to determine the moisture content of the gas stream.

(5) EPA Method 5 or 5D at appendix A–3 to this part for measuring PM concentrations. The EPA Method 5 or 5D tests shall be conducted during representative periods of furnace operation, including charging and tapping, and the sampling time and sample volume for each test run shall be at least 60 minutes and 0.90 dscm (31.8 dscf), respectively. As an alternative to using EPA Method 5, owners or operators may measure PM emissions by the following methods:

(i) EPA Method 12 at appendix A–5 to this part (see section 16.1 of Method 12) to measure inorganic lead concentrations and PM.

(ii) EPA Method 29 at appendix A–8 to this part to measure metal (lead) concentrations and PM (see section 1.2 of Method 29).

(6) EPA Method 9 at appendix A–4 to this part and the procedures specified in § 60.11 for determining opacity. Owners or operators may use the following methods as alternatives to EPA Method 9 as applicable and appropriate:

(i) EPA Method 22 (Visual Determination of Fugitive Emissions) at appendix A–7 to this part for determining no visible emissions.

(ii) ASTM D7520–16 (incorporated by reference at § 60.17) is an acceptable alternative with the specified conditions in paragraphs (c)(6)(ii)(A) through (E) of this section.

(A) During the digital camera opacity technique (DCOT) certification procedure outlined in section 9.2 of ASTM D7520–16 (incorporated by reference at § 60.17), the owner or operator or the DCOT vendor shall present the plumes in front of various backgrounds of color and contrast representing conditions anticipated during field use such as blue sky, trees, and mixed backgrounds (clouds and/or a sparse tree stand).

(B) The owner or operator shall also have standard operating procedures (SOPs) in place including daily or other frequency quality checks to ensure the equipment is within manufacturing specifications as outlined in section 8.1 of ASTM D7520–16 (incorporated by reference at § 60.17).

(C) The owner or operator shall follow the recordkeeping procedures outlined in § 63.10(b)(1) for the DCOT certification, compliance report, data sheets, and all raw unaltered JPEGs used for opacity and certification determination.

(D) The owner or operator or the DCOT vendor shall have a minimum of four (4) independent technology users apply the software to determine the visible opacity of the 300 certification plumes. For each set of 25 plumes, the user may not exceed 15 percent opacity of *any one* reading and the average error shall not exceed 7.5 percent opacity.

(E) This approval does not provide or imply a certification or validation of any vendor's hardware or software. The onus to maintain and verify the certification and/or training of the DCOT camera, software, and operator in accordance with ASTM D7520–16

(incorporated by reference at § 60.17) and this section is on the owner or operator, DCOT operator, and DCOT vendor.

§ 60.124a Monitoring requirements.

(a) The owner shall comply with the applicable monitoring requirements specified in § 60.13.

(b) The owner shall prepare, and at all times operate according to, an SOP manual that describes in detail procedures for inspection, maintenance, and bag leak detection and corrective action plans for all baghouses (fabric filters or cartridge filters) used to reduce PM and opacity emissions from any affected source subject to the emissions standards in § 60.122a.

(c) The owner shall submit the SOP manual for the baghouses (fabric filters or cartridge collectors) described in paragraph (b) of this section to the Administrator or delegated authority for review and approval.

(d) The procedures specified in the SOP manual for inspections and routine maintenance shall, at a minimum, include the requirements of paragraphs (d)(1) through (9) of this section.

(1) Daily monitoring of the pressure drop across each baghouse cell.

(2) Weekly confirmation that dust is being removed from hoppers through visual inspection, or equivalent means of ensuring the proper functioning of removal mechanisms.

(3) Daily check of compressed air supply for pulse-jet baghouses.

(4) An appropriate methodology for monitoring cleaning cycles to ensure proper operation.

(5) Monthly check of bag cleaning mechanisms for proper functioning through visual inspection or equivalent means.

(6) Monthly check of bag tension on reverse air and shaker-type baghouses. Such checks are not required for shaker-type baghouses using self-tensioning (spring loaded) devices.

(7) Quarterly confirmation of the physical integrity of the baghouse through visual inspection of the baghouse interior for air leaks.

(8) Quarterly inspection of fans for wear, material buildup, and corrosion through visual inspection, vibration detectors, or equivalent means.

(9) Continuous operation of a bag leak detection system.

(e) The procedures specified in the SOP manual for baghouse maintenance shall include, at a minimum, a preventative maintenance schedule that is consistent with the baghouse manufacturer's instructions for routine and long-term maintenance.

(f) The bag leak detection system required by paragraph (d)(9) of this section, shall meet the specification and requirements of paragraphs (f)(1) through (8) of this section.

(1) The bag leak detection system shall be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 50.0 mg/dscm (0.022 gr/dscf) or less.

(2) The bag leak detection system sensor shall provide output of relative PM loadings.

(3) The bag leak detection system shall be equipped with an alarm system that will alarm when an increase in relative particulate loadings is detected over a preset level.

(4) The owner shall install and operate the bag leak detection system in a manner consistent with the guidance provided in EPA–454/R–98–015, Office of Air quality Planning and Standards (OAQPS) Fabric Filter Bag Leak Detection Guidance (incorporated by reference, see § 60.17) or the manufacturer's written specifications and recommendations for installation, operation, and adjustment of the system.

(5) The initial adjustment of the system shall, at a minimum, consist of establishing the baseline output by adjusting the sensitivity (range) and the averaging period of the device, and establishing the alarm set points and the alarm delay time.

(6) Following initial adjustment, the owner shall not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in the approved SOP manual required under paragraph (b) of this section. The owner cannot increase the sensitivity by more than 100 percent or decrease the sensitivity by more than 50 percent over a 365-day period unless such adjustment follows a complete baghouse inspection that demonstrates that the baghouse is in good operating condition.

(7) For negative pressure, induced air baghouses, and positive pressure baghouses that are discharged to the atmosphere through a stack, the owner shall install the bag leak detector downstream of the baghouse and upstream of any wet acid gas scrubber.

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

(g) The owner shall include in the SOP manual required by paragraph (b) of this section a corrective action plan that specifies the procedures to be followed in the case of a bag leak detection system alarm. The corrective action plan shall include, at a minimum, the procedures used to determine and record the time and cause of the alarm as well as the corrective actions taken to minimize emissions as specified in paragraphs (g)(1) and (2) of this section.

(1) The procedures used to determine the cause of the alarm shall be initiated within 30 minutes of the alarm.

(2) The cause of the alarm shall be alleviated by taking the necessary corrective action(s) that may include, but not be limited to, those listed in paragraphs (g)(2)(i) through (vi) of this section.

(i) Inspecting the baghouse for air leaks, torn or broken filter elements, or any other malfunction that may cause an increase in 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 baghouse compartment.

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

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

(h) Baghouses equipped with high-efficiency particulate air (HEPA) filters as a secondary filter used to control emissions from any source subject to the PM and opacity emission standards in § 60.122a are exempt from the requirement to be equipped with a bag leak detection system. The owner or operator shall monitor and record the pressure drop across each HEPA filter system daily. If the pressure drop is outside the limit(s) specified by the filter manufacturer, the owner or operator shall take appropriate corrective measures, which may include but not be limited to those given in paragraphs (h)(1) through (4) of this section.

(1) Inspecting the filter and filter housing for air leaks and torn or broken filters.

(2) Replacing defective filter media, or otherwise repairing the control device.

(3) Sealing off a defective control device by routing air to other control devices.

(4) Shutting down the process producing the particulate emissions.

(i) Baghouses followed by a wet electrostatic precipitator (WESP) used as a secondary control device for any source subject to the PM and opacity emission standards in § 60.122a are exempt from the requirement to be equipped with a bag leak detection system.

(j) If a wet scrubber is used to demonstrate continuous compliance with the PM emissions standards for blast and reverberatory furnaces specified in § 60.122a(a), the owner or

operator shall monitor and record the pressure drop and water flow rate of the wet scrubber during the initial performance or annual compliance test conducted to demonstrate compliance with the PM emissions limit under § 60.122a(a). Thereafter, the owner or operator shall monitor and record the pressure drop and water flow rate values at least once every hour and maintain the pressure drop and water flow rate at levels no lower than 30 percent below the pressure drop and water flow rate measured during the initial performance or compliance test.

(k) During the initial performance test required by § 60.123a(a), or any periodic performance test required by § 60.123a(b), the owner or operator shall establish the value or range of values of the monitoring parameter(s) for each control device used to comply with the PM and opacity emission standards specified in § 60.122a.

(l) If an affected source is subject to the monitoring requirements specified in 40 CFR part 63, subpart X (National Emissions Standards for Hazardous Air Pollutants from Secondary Lead Smelting) and those requirements are as stringent or more stringent than the monitoring requirements specified in paragraphs (a) through (j) of this section compliance with 40 CFR part 63, subpart X also demonstrates compliance with the monitoring requirements specified in paragraphs (a) through (k) of this section.

§ 60.125a Notification, recordkeeping, and reporting requirements.

(a) The owner or operator shall comply with the applicable notification and recordkeeping requirements specified in § 60.7 and the reporting requirements specified in § 60.19.

(1) Records shall be maintained in a form suitable and readily available for expeditious review, according to § 60.7(f). However, electronic recordkeeping and reporting may be used if suitable for the specific case (*e.g.,* by electronic media such as Excel spreadsheet, on CD or hard copy), and when required by this subpart.

(2) Records shall be kept on site for at least 2 years after the date of occurrence, measurement, maintenance, corrective action, report, or record, according to § 60.7(f).

(b) The SOP manual required in § 60.124a(b) shall be submitted to the Administrator in electronic format for review and approval of the initial submittal and whenever an update is made to the procedure.

(c) The owner or operator shall maintain for a period of 2 years, records of the information listed in paragraphs (c)(1) through (10) of this section.

(1) Electronic records of the bag leak detection system output.

(2) An identification of 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 corrective actions taken, and the date and time the cause of the alarm was corrected.

(3) All records of inspections and maintenance activities required under § 60.124a(d) as part of the practices described in the SOP manual for baghouses required under § 60.124a(b).

(4) Electronic records of the pressure drop and water flow rate values for wet scrubbers used to control PM emissions from blast or reverberatory furnaces as required in § 60.124a(j).

(5) Records of the occurrence and duration of each malfunction of operation (*i.e.,* process equipment) or the air pollution control equipment and monitoring equipment.

(6) Records of actions taken during periods of malfunction to minimize emissions in accordance with § 60.11(d), including corrective actions to restore malfunctioning process and air pollution control and monitoring equipment to its normal or usual manner of operation.

(7) Records of all alarms and corrective actions taken for the bag leak detection system specified in § 60.124a(d)(9).

(8) Records maintained as part of the practices described in the SOP manual for baghouses required under § 60.124a(b), including an explanation of the periods when the procedures were not followed, and the corrective actions taken.

(9) Record of the periods when the pressure drop and water flow rate of wet scrubbers used to control process fugitive sources dropped below the levels established in § 60.124a(j), and an explanation of the corrective actions taken.

(10) Records of the rationale for the control device monitoring parameter value(s), established as specified in § 60.124a(k), monitoring frequency, and averaging time. Include all data and calculations used to develop the value and a description of why the value, monitoring frequency, and averaging time demonstrate continuous compliance with the applicable emission standard.

(d) In addition to the reporting requirements specified in §§ 60.7 and 60.19, within 60 days after the date of completing each performance test required by this subpart, the owner or operator shall submit the results of the initial and periodic performance tests following the procedures as specified in paragraphs (d)(1) through (3) of this section.

(1) *Data collected using test methods supported by the EPA's Electronic Reporting Tool (ERT) as listed on the EPA's ERT website (https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert) at the time of the test.* Submit the results of the performance test to the EPA via the Compliance and Emissions Data Reporting Interface (CEDRI), which can be accessed through the EPA's Central Data Exchange (CDX) (*https://cdx.epa.gov*). The data shall be submitted in a file format generated using the EPA's ERT. Alternatively, the owner or operator may submit an electronic file consistent with the extensible markup language (XML) schema listed on the EPA's ERT website.

(2) *Data collected using test methods that are not supported by the EPA's ERT as listed on the EPA's ERT website at the time of the test.* The results of the performance test shall be included as an attachment in the ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website. Submit the ERT generated package or alternative file to the EPA via CEDRI.

(3) *Confidential business information (CBI).* (i) The EPA will make all the information submitted through CEDRI available to the public without further notice to the owner or operator. Do not use CEDRI to submit information the owner or operator claims as CBI. Although we do not expect persons to assert a claim of CBI, if the owner or operator wishes to assert a CBI claim for some of the information submitted under paragraph (a)(1) or (2) of this section, the owner or operator shall submit a complete file, including information claimed to be CBI, to the EPA.

(ii) The file shall be generated using the EPA's ERT or an alternate electronic file consistent with the XML schema listed on the EPA's ERT website.

(iii) Clearly mark the part or all of the information that the owner or operator claims to be CBI. Information not marked as CBI may be authorized for public release without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

(iv) The preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol, or other online file sharing services. Electronic

submissions shall be transmitted directly to the OAQPS CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings and be flagged to the attention of the Group Leader, Measurement Policy Group. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if the owner or operator does not have a file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link.

(v) If the owner or operator cannot transmit the file electronically, the owner or operator may send CBI information through the postal service to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Group Leader, Measurement Policy Group. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

(vi) All CBI claims shall be asserted at the time of submission. Anything submitted using CEDRI cannot later be claimed CBI. Furthermore, under CAA section 114(c), emissions data is not entitled to confidential treatment, and the EPA is required to make emissions data available to the public. Thus, emissions data will not be protected as CBI and will be made publicly available.

(vii) The owner or operator shall submit the same file submitted to the CBI office with the CBI omitted to the EPA through CEDRI via the EPA's CDX as described in paragraphs (d)(1) and (2) of this section.

(e) If the owner or operator is required to electronically submit a report through CEDRI in the EPA's CDX, the owner or operator may assert a claim of EPA system outage for failure to timely comply with that reporting requirement. To assert a claim of EPA system outage, the owner or operator shall meet the requirements outlined in paragraphs (e)(1) through (7) of this section.

(1) The owner or operator shall have been or will be precluded from accessing CEDRI and submitting a required report within the time prescribed due to an outage of either the EPA's CEDRI or CDX systems.

(2) The outage shall have occurred within the period of time beginning five business days prior to the date that the submission is due.

(3) The outage may be planned or unplanned.

(4) The owner or operator shall submit notification to the Administrator in writing as soon as possible following the date the owner or operator first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(5) The owner or operator shall provide to the Administrator a written description identifying:

(i) The date(s) and time(s) when CDX or CEDRI was accessed and the system was unavailable;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to EPA system outage;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which the owner or operator propose to report, or if the owner or operator has already met the reporting requirement at the time of the notification, the date the owner or operator reported.

(6) The decision to accept the claim of EPA system outage and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(7) In any circumstance, the report shall be submitted electronically as soon as possible after the outage is resolved.

(f) If the owner or operator is required to electronically submit a report through CEDRI in the EPA's CDX, the owner or operator may assert a claim of *force majeure* for failure to timely comply with that reporting requirement. To assert a claim of *force majeure,* the owner or operator shall meet the requirements outlined in paragraphs (f)(1) through (5) of this section.

(1) The owner or operator may submit a claim if a *force majeure* event is about to occur, occurs, or has occurred or there are lingering effects from such an event within the period of time beginning five business days prior to the date the submission is due. For the purposes of this section, a *force majeure* event is defined as an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the requirement to submit a report electronically within the time period prescribed. Examples of such events are acts of nature (*e.g.,* hurricanes, earthquakes, or floods), acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility (*e.g.,* large scale power outage).

(2) The owner or operator shall submit notification to the Administrator in writing as soon as possible following the date the owner or operator first knew, or through due diligence should have known, that the event may cause or has caused a delay in reporting.

(3) The owner or operator shall provide to the Administrator:

(i) A written description of the *force majeure* event;

(ii) A rationale for attributing the delay in reporting beyond the regulatory deadline to the *force majeure* event;

(iii) A description of measures taken or to be taken to minimize the delay in reporting; and

(iv) The date by which the owner or operator proposes to report, or if the owner or operator has already met the reporting requirement at the time of the notification, the date the owner or operator reported.

(4) The decision to accept the claim of *force majeure* and allow an extension to the reporting deadline is solely within the discretion of the Administrator.

(5) In any circumstance, the reporting shall occur as soon as possible after the *force majeure* event occurs.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[WC Docket Nos. 13–97, 07–243, 20–67; IB Docket No. 16–155; FCC 23–75; FR ID 183540]

Numbering Policies for Modern Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopts rules regarding direct access to numbers by providers of interconnected Voice over internet Protocol (VoIP) services. The Commission takes this action in furtherance of Congress' directive in the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence (TRACED) Act to examine ways to reduce access to telephone numbers by potential perpetrators of illegal robocalls. These actions safeguard U.S. numbering resources and consumers, protect national security interests, promote public safety, and reduce opportunities for regulatory arbitrage.

DATES: Effective December 20, 2023, except for the amendments to 47 CFR 52.15(g)(3)(ii)(B) through (F), (I), (K), (L), and (N) and (g)(3)(x)(A) (amendatory instruction 3), which are delayed indefinitely. The amendments to 47 CFR