

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-7430-6]

RIN 2060-AE77

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On March 23, 2000, the EPA issued national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production facilities under section 112 of the Clean Air Act (CAA). This action amends the applicability provisions for aluminum die casters, foundries, and extruders. The amendments also add new provisions governing control of

commonly-ducted units; revise the procedures for adoption of operation, maintenance, and monitoring plans; revise the criteria concerning testing of representative emission units; revise the standard for unvented in-line flux boxes; and clarify the control requirements for sidewall furnaces. These changes are being made pursuant to settlement agreements in two cases seeking judicial review of the NESHAP for secondary aluminum production. A separate rule to clarify compliance dates and defer certain early compliance obligations which might have otherwise come due before completion of this rulemaking was published on September 24, 2002.

EFFECTIVE DATE: December 30, 2002.

ADDRESSES: Docket A-2002-05, containing supporting information used in developing these final rule amendments, is available for public inspection and copying between 8:30 a.m. to 5:30 p.m., Monday through

Friday, excluding Federal holidays, at the following address: U.S. EPA, Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, U.S. EPA, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504-05), Office of Air Quality Planning and Standards, Research Triangle Park, NC 27711, telephone number (919) 541-0296, electronic mail address, *schaefer.john@epa.gov*.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The amendments change the applicability provisions of the NESHAP for three types of facilities: aluminum extruded product manufacturing facilities (NAICS 331316), aluminum die casting facilities (NAICS 331521), and aluminum foundry facilities (NAICS 331524). Consequently, categories and entities potentially regulated by this action include:

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

* North American Information Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in § 63.1500 of the final rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Docket. We have established an official public docket for this action under Docket ID No. A-2002-06 and E-Docket ID No. OAR-2002-0084. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center (EPA/DC), EPA West,

Room B102, 1301 Constitution Avenue, NW, Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

Electronic Docket Access. You may access the final rule electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility in the above paragraph entitled

“Docket.” Once in the system, select “search,” then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today’s amendments will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of these actions will be posted on the TTN’s policy and guidance page for newly proposed rules or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of these final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by February 28, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to these final rule amendments that was raised with reasonable specificity during the period

for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by these final rule amendments may not be challenged separately in any civil or criminal proceedings brought by the EPA to enforce these requirements.

Outline. The information presented in this preamble is organized as follows:

- I. Background
- II. Summary of the Final Amendments
 - A. How Are We Amending the Applicability provisions?
 - B. What Amendments Are We Making Concerning Control of Commonly-Ducted Units?
 - C. How Are We Amending the Procedures for Adoption of an Operation, Maintenance, and Monitoring Plan?
 - D. How Are We Amending the Provisions Concerning Testing of Representative Emission Units?
 - E. How Are We Amending the Standards for Unvented In-Line Flux Boxes?
 - F. How Are We Clarifying the Control Requirements for Sidewall Furnaces?
 - G. What Other Amendments Are We Making?
- III. Response to Comments on Amendments to the NESHAP for Secondary Aluminum Production
- IV. Statutory and Executive Order Reviews
 - A. Executive Order 12866, Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. *et seq.*
 - D. Unfunded Mandates Reform Act of 1995
 - E. Executive Order 13132, Federalism
 - F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments
 - G. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
 - H. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer and Advancement Act
 - J. Congressional Review Act

I. Background

On March 23, 2000 (63 FR 15690), we promulgated the NESHAP for secondary aluminum production (40 CFR part 63, subpart RRR). Those standards were established under the authority of section 112(d) of the CAA to reduce emissions of hazardous air pollutants (HAP) from major and area sources.

After promulgation of the NESHAP for secondary aluminum production, two petitions for judicial review of the standards were filed in the D.C. Circuit Court of Appeals. The first of these petitions was filed by the American Foundrymen's Society, the North American Die Casting Association, and

the Non-Ferrous Founders' Society (*American Foundrymen's Society et al. v. U.S. EPA*, Civ. No 00-1208 (D.C. Cir.)). A second petition for judicial review was filed by the Aluminum Association (*The Aluminum Association v. U.S. EPA*, No. 00-1211 (D.C. Cir.)). There was no significant overlap in the issues presented by the two petitions, and the cases have never been consolidated. However, we did thereafter enter into separate settlement discussions with the petitioners in each case.

The *Foundrymen's* case presented issues concerning the applicability of subpart RRR to aluminum die casters and aluminum foundries which were considered during the initial rulemaking development. Because aluminum die casters and foundries sometimes conduct the same type of operations as other secondary aluminum producers, we originally intended to apply the standards to these facilities, but only in those instances where they conduct such operations. However, representatives of the affected facilities argued that they should not be considered to be secondary aluminum producers and should be wholly exempt from the NESHAP. During the rulemaking development, we decided to permit die casters and foundries to melt contaminated internal scrap without being considered to be secondary aluminum producers, but their representatives insisted that too many facilities would still be subject to the NESHAP. At the time of promulgation of the standards, in response to a request by the die casters and foundries, we announced we would withdraw the standards as applied to die casters and foundries and develop separate maximum achievable control technology (MACT) standards for these facilities.

After the *Foundrymen's* case was filed, we negotiated an initial settlement agreement in that case which established a process to effectuate our commitment to develop new MACT standards. In that first settlement, EPA agreed that it would stay the current standards for these facilities, collect comprehensive data to support alternate standards, and promulgate alternate standards. We then published a proposal to stay the standards for these facilities (65 FR 55491, September 14, 2000) and an advance notice of proposed rulemaking (ANPR) announcing new standards for these facilities (65 FR 55489, September 14, 2000).

During the subsequent process of preparing for information collection, the petitioners concluded that the existing

standards were not as sweeping in applicability as they had feared, and the parties then agreed to explore an alternate approach to settlement based on clarifications of the current standards. We subsequently reached agreement with the *Foundrymen's* petitioners on a new settlement which entirely supplanted the prior settlement. Accordingly, we published a notice withdrawing the proposed stay of the existing standards for aluminum die casters and foundries, and announcing that we would take no further action on new standards for those facilities (67 FR 41138, June 14, 2002).

In the new settlement, we agreed to propose some changes in the applicability provisions of the current standards concerning aluminum die casters and foundries. These changes included permitting customer returns without paints or solid coatings to be treated like internal scrap, and permitting facilities operated by the same company at different locations to be aggregated for purposes of determining what is internal scrap. These revisions of the applicability criteria were proposed on June 14, 2002 (67 FR 41125) and are being adopted in today's final rule.

In the *Foundrymen's* settlement, we also agreed to defer the compliance date for new sources constructed or reconstructed at existing aluminum die casters, foundries, and extruders until the compliance date for existing sources, so that the rulemaking on general applicability issues could be completed first. We took final action concerning that element of the *Foundrymen's* settlement in a final rule published on September 24, 2002 (67 FR 59787).

In entirely separate discussions, we also agreed on a settlement of the *Aluminum Association* case. That settlement required that we propose a number of substantive clarifications and revisions of the standards, which we are also adopting in today's final rule. The *Aluminum Association* settlement also required that we clarify and simplify the compliance dates for the standards, and defer certain early compliance obligations which might otherwise come due during the rulemaking process. We took final action concerning those compliance issues in the final rule published on September 24, 2002 (67 FR 59787).

II. Summary of the Final Amendments

A. How Are We Amending the Applicability Provisions?

We originally intended to regulate aluminum die casting facilities,

aluminum foundries, and aluminum extruders under subpart RRR only when they engage in the same types of operations as other secondary aluminum producers. We decided during rulemaking development that such facilities should be permitted to melt their own internally-generated scrap without being automatically treated the same as secondary aluminum producers, who typically process contaminated aluminum scrap obtained from other sources. Thus, § 63.1500(d) in the current standards exempts such facilities if:

- The facility does not melt any materials other than clean charge and materials generated within the facility; and
- The facility does not operate a thermal chip dryer, sweat furnace, or scrap dryer/delacquering kiln/decoating kiln.

However, it became apparent during discussions with representatives of these facilities that some aluminum die casting facilities that do not otherwise engage in secondary aluminum operations might fall within the rule solely because they melt certain materials which do not fit clearly within the phrase “materials generated within the facility.” In particular, some facilities routinely have defective or incorrect aluminum castings returned by customers and then remelt them. In addition, some companies conduct operations at multiple locations and may melt scrap initially generated at one location at a different location.

To address these issues, the amendments contain new applicability language which permits aluminum die casters, foundries, and extruders to melt customer returns which contain no paint or other solid coatings without thereby becoming subject to the standards. The amendments also include a new definition of internal scrap which includes all scrap originating from aluminum castings or extrusions that remains at all times within the control of the company that produced the castings or extrusions. We do not regard either of these changes in the applicability language as materially altering our original intent to only cover those aluminum die casters, foundries, and extruders who conduct secondary aluminum operations. Under the new language we are adopting, customer returns would not qualify if they have been painted or are contaminated with other solid coatings because these castings would normally require prior cleaning to avoid excess emissions. Moreover, scrap obtained from an external source does not qualify unless

it fits within the definition of clean charge.

The amendments also change the existing definitions of “secondary aluminum production facility,” “clean charge,” “internal runaround” (now called “runaround scrap”), and “thermal chip dryer,” and add new definitions of “customer returns” and “internal scrap.” In the aggregate, these revisions clarify the circumstances when aluminum die casters, foundries, and extruders are considered to be secondary aluminum production facilities and, thus, within the applicability of the rule.

We are also adding a new section to the general applicability provisions which permits aluminum die casters, foundries, and extruders which are area sources to operate thermal chip dryers subject to the requirements of the rule without automatically subjecting their furnace operations to the rule. We are making this change to eliminate an incentive which might exist for small facilities, which are otherwise outside the applicability of the rule, to discontinue their use of thermal chip dryers. As long as such chip dryers are operated in conformity with the rule, we think their use will promote safety and lower emissions at some small operations.

We are mindful that some may question why contaminated internal scrap generated by aluminum die casters, foundries, and extruders should be treated differently than external scrap with similar contamination levels which is processed by the secondary aluminum industry. We stress that the decision we made during the original secondary aluminum rulemaking process to make this distinction was based on the qualitative differences in the operations being undertaken by the facilities in question, rather than on any conclusions regarding the likely magnitude of emissions from such operations. Moreover, we think that the additional revisions and clarifications of applicability for aluminum die casters, foundries, and extruders which we have made are reasonable clarifications and fully consistent with that original decision.

B. What Amendments Are We Making Concerning Control of Commonly-Ducted Units?

The current rule permits secondary aluminum producers to combine existing group 1 furnaces and in-line fluxers within a particular facility in a “secondary aluminum processing unit” or SAPU. The facility can then demonstrate compliance by determining the permissible emissions for the entire

SAPU and then controlling emissions for the SAPU to that level. This broader definition of the affected source which must be controlled gives a secondary aluminum production facility added flexibility in fashioning the most cost-effective control strategies which will meet the standards.

The existing rule also permits new group 1 furnaces and new in-line fluxers to be included in a new SAPU. However, it does not afford a facility the latitude to combine new and existing sources in the same SAPU. This is because the respective standards for existing sources and new sources are separate legal requirements, and we construe the CAA to require that standards be separately applied to all affected units.

Because the standards for an existing SAPU and the standards for a new SAPU happen to be identical in this instance, the legal constraints on combining existing emission units with new emission units have been understandably frustrating to some facilities. Moreover, in some facilities it may make the most sense from an engineering perspective to manifold emissions from units which are subject to differing standards to the same emission control device. In order to help facilities meet the standards in the most efficient and cost-effective manner, we are adding additional language pertaining to commonly-ducted units. The new language reflects two different approaches to this problem. A facility subject to the standards may use either approach or both approaches if it wishes.

First, the amendments add a new paragraph to § 63.1505(k) for SAPU. The new paragraph (k)(6) allows the owner or operator to redesignate any existing group 1 furnace or in-line fluxer at a secondary aluminum processing facility as a new emission unit. Any redesignated emission unit may then be included in a new SAPU at that facility. Any such redesignation (which requires prior approval of the responsible permitting authority) applies only under subpart RRR and is irreversible.

Second, we are also adding new language which clarifies the procedures by which units which are subject to differing standards but are manifolded to the same control device can demonstrate compliance. We believe that this new language is not required to permit this type of combined compliance demonstration, but we think it will give useful additional guidance to permitting authorities in establishing sound and defensible procedures for documenting compliance when units

are commonly-ducted but subject to separate standards.

We are adding two new paragraphs to § 63.1511 pertaining to compliance demonstrations for commonly-ducted units. The first of these paragraphs simply confirms other provisions of the rule which provide that aggregate emissions can be measured to demonstrate compliance for all emission units within a SAPU.

The second new paragraph covers those situations where commonly-ducted units are not within a single existing or new SAPU. In this instance, the following criteria apply:

- Testing must be designed to verify that each affected source or emission unit individually satisfies all applicable emission requirements.
- Emissions must be tested at the outlet of each individual affected source or emission unit while it is operating under the highest load or capacity reasonably expected to occur, prior to the point that the emissions are combined with those from other affected sources or emission units.
- Combined emissions for the affected sources and emission units must be tested at the outlet of the control device while they are operating simultaneously under the highest load or capacity reasonably expected to occur.
- When determining compliance for a commonly-ducted unit, emissions of a particular pollutant from the individual unit are presumed to be controlled by the same percentage as total emissions of that pollutant from all commonly-ducted units.

C. How Are We Amending the Procedures for Adoption of an Operation, Maintenance, and Monitoring Plan?

In the final rule amendments published on September 24, 2002 (67 FR 59787), we clarified the timing of submission of an operation, maintenance, and monitoring (OM&M) plan to the permitting authority, which is ambiguous in the rule as initially promulgated on March 23, 2000. In this action, we are clarifying the procedures by which a facility submits an OM&M plan to the permitting authority and by which the permitting authority can require any necessary revisions of the plan.

Section 63.1505(k) of the existing rule refers to approval of an OM&M plan by the permitting authority, and the necessary elements of an OM&M plan are described in § 63.1510(b), but the procedures for submission and approval of the plan are not specified. We are

amending the existing rule to correct that omission.

Under the amendments, the facility is required to certify that the OM&M plan it is submitting complies with all requirements of the standards and to comply with the OM&M plan as submitted to the permitting authority, unless and until the plan is revised. If the permitting authority determines that any revisions of the plan are necessary to satisfy the requirements of the standards, the facility is required to promptly make all necessary revisions and resubmit the revised plan. If the facility itself determines that revisions of the OM&M plan are necessary, such revisions will not become effective until the owner or operator submits a description of the changes and a revised plan incorporating them to the permitting authority. These same general procedures also apply to the site-specific monitoring plan, which is one element of the OM&M plan.

D. How Are We Amending the Provisions Concerning Testing of Representative Emission Units?

Section 63.1511(f) of the existing rule establishes a procedure which permits a secondary aluminum production facility to test a representative group 1 furnace or in-line flux box in order to determine the emission rate for other units of the same type at that facility. We are clarifying the criteria for demonstrating compliance by testing of representative emission units.

In particular, the existing rule provides that the emission unit being tested must use "identical feed/charge and flux materials in the same proportions" as those emission units it represents. Industry representatives have expressed concern that this language could be given an unduly restrictive construction. To clarify our original intent, we are amending the criteria to require "feed materials and charge rates which are comparable" and "the same type of flux materials in the same proportions" as the emission units the tested unit represents.

E. How Are We Amending the Standards for Unvented In-Line Flux Boxes?

The existing rule requires that all in-line flux boxes meet the same emission standards and be tested in the same manner. Industry representatives have argued that the testing procedures in the rule are not practicable for in-line flux boxes which are unvented (units which have no ventilation ductwork manifolded to an outlet or emission control device). Documenting compliance with the particulate matter (PM) standard for such units might

require construction of a temporary enclosure around the unit to capture and measure emissions.

Industry representatives have also argued that the emissions of hydrogen chloride (HCl) and PM from such units are intrinsically low, but we believe it is quite possible for the HCl emissions from such units to exceed the applicable standards. The existing rule provides a procedure by which a facility can demonstrate compliance for HCl by limiting its use of reactive chlorine flux and then assuming that all chlorine used is emitted as HCl. However, because of the greater complexity of the reactions which generate PM emissions, there is no analogous procedure for PM.

While we do not agree with the industry that all emissions from unvented in-line flux boxes are intrinsically low, we do agree that the physical characteristics of these units and the nature of the reactions that generate PM mean that we can reliably conclude that an unvented unit which demonstrates compliance with the emission standards for HCl by limiting reactive chlorine flux will also be in compliance with the emission standards for PM. Therefore, we are adding new language to § 63.1512(h) which permits a facility with an unvented in-line flux box, which elects to demonstrate compliance with the emission standards for HCl by limiting use of reactive chlorine flux, to infer compliance with the emission standards for PM as well. This gives facilities an alternative to testing of actual emissions, which could require costly construction of an enclosure around the unit or other engineering modifications. If a facility infers compliance with the PM standard in this manner, the facility is also required to use the maximum permissible PM emission rate for the flux box when determining the total emissions for any secondary aluminum processing unit which includes the flux box.

F. How Are We Clarifying the Control Requirements for Sidewell Furnaces?

Industry representatives have pointed out that § 63.1506(m)(6) includes language that could require installation of an additional control device on sidewell furnaces whenever the level of molten metal is permitted to fall below the passage between the sidewell and the hearth, or reactive flux is added in the hearth. While we believe that a control device will sometimes be necessary in these circumstances, this result was not our intent.

As indicated in the preamble to our original proposal, we believe that there is a potential for additional emissions if

the level of molten metal is permitted to fall below the top of the passage between the sidewell and the hearth, or if reactive flux is added in the hearth. Therefore, if these events occur, the emissions from both the sidewell and the hearth must be captured and tested in order to demonstrate compliance with the applicable emission standards. If the emission tests show that a control device is necessary to attain compliance, it must be installed. We are revising the language in question to clarify our intent.

In addition, we are amending § 63.1505(i)(7) to correct an erroneous cross-reference. As amended, certain sidewell group 1 furnaces are required to meet the limits in paragraphs (i)(1) through (4) rather than (j)(1) through (4).

G. What Other Amendments Are We Making?

We are amending § 63.1510(w) to clarify the procedures for obtaining approval of alternative monitoring methods. The new language makes it clear that this section refers to alternative monitoring methods other than those which may be separately authorized pursuant to § 63.1510(j)(5) or § 63.1510(v).

We are also clarifying the recordkeeping requirements for in-line fluxers which do not use reactive flux. Section 63.1517(b)(11) is amended to permit the facility to document that a particular in-line fluxer does not use reactive flux through the use of operating logs that show that no source of reactive flux was used, labels that prohibit use of reactive flux, or operating logs which document the type of flux used during each operating cycle.

We are amending § 63.1505(f)(1), which establishes emission standards for sweat furnaces, to correct an erroneous residence time.

We are clarifying the definition of a melting/holding furnace in § 63.1503.

We are amending § 63.1517(b)(16) to clarify that both major and area sources must keep a copy of the OM&M plan on-site by deleting language in § 63.1517(b)(16)(ii) that requires only major sources to keep a copy of the OM&M plan on-site.

We are also making minor amendments to correct printing or technical errors in the final rule. These include:

- Revising Tables 2 and 3 of subpart RRR to correct entries which were inadvertently printed in the wrong columns and an incorrect specification for a weight measurement device.

- Revising Equation 2 of § 63.1505(k)(2) to correct the HCl emission limit (L_{HCl}).

- Revising the entry for § 63.14 in appendix A to subpart RRR to include incorporation by reference for a second document.

III. Response to Comments on Amendments to the NESHAP for Secondary Aluminum Production

Comment: One commenter opposes the proposed revision of the applicability criteria which would permit facilities to melt customer returns. This commenter argues that there is no reason to conclude that melting scrap contaminated with oils and coating applied outside the facility is less likely to result in dioxin formation than melting purchased scrap with similar contaminants.

Response: In considering this comment, it should be noted that those customer returns which are contaminated with paints or other solid coatings are not included in the proposed applicability change. In any case, our decision to permit melting of certain customer returns is based on a decision to treat this scrap like contaminated internal scrap in deciding whether a facility is engaged in secondary aluminum production. Our decision is not based on any technical assessment regarding the likelihood of dioxin formation.

Comment: One commenter argues that the amendments would allow foundries and die casters, including those facilities which are major sources of HAP, to permanently avoid emission limitations, testing requirements and monitoring requirements.

Response: We recognize that some aluminum foundries and die casters may have the potential to emit more than 10 tons per year of chlorine (a listed HAP), but we do not agree with the conclusion of the commenter that the rule will permit such facilities to escape regulation entirely. We note that the same argument could be made concerning the applicability exclusion in the existing subpart RRR. Our decision to exclude certain aluminum die casters, foundries, and extruders from the applicability of subpart RRR does not constitute a determination that such facilities should be entirely unregulated. We believe that most, if not all, of the excluded facilities are only area sources of HAP. However, if there is any aluminum foundry or die caster which would be entirely exempt under the revised applicability provisions for the secondary aluminum source category and which also has the potential to emit major source quantities

of HAP, a separate MACT standard may ultimately be necessary. If the commenter identifies any facility which is a major source of HAP but is not included in any listed source category, EPA has authority to augment the source category list as provided in CAA section 112(c)(5).

Comment: One commenter opposes the provisions permitting redesignation of existing emission units as new, on the basis that uncontrolled or poorly controlled new emission units could comply by averaging their emissions with well-controlled redesignated older units.

Response: We believe the commenter has misconstrued the effect of the new provisions. The existing rule provides that certain types of emission units may be included within a secondary aluminum processing unit or SAPU, which is the affected source to which the standards apply. We construe the statute to prohibit combining new emission units with existing emission units. The final rule amendments pursuant to the settlement provide that existing emission units may be permanently redesignated as new. Because the standard for an existing SAPU and the standard for a new SAPU are identical, this procedure will not alter the basic control requirements which apply to the redesignated units. The final rule amendments also establish a procedure under which multiple units can be ducted to the same control device, but compliance will still be separately demonstrated for each commonly-ducted unit.

Comment: One commenter states that there are no data to support the change in residence time requirements for sweat furnace afterburners.

Response: We established the emission limits for sweat furnaces based on limited performance test data. The EPA established the work practice standards for sweat furnaces on the basis of conditions which were thought to have existed during these performance tests. Upon review of the performance test data, we determined incorrect dimensional data provided in the test report led to an incorrect calculation of afterburner residence time. The amendments do not make the emission limits less stringent but only alter the work practice requirements which are necessary to ensure compliance with the emission limits. We have no further sweat furnace emission data and the commenter has not provided any such data.

Comment: The same commenter who questioned the technical basis for the decreased residence time for sweat furnaces argues that EPA is obligated to

consider longer residence times as a "beyond the floor control option."

Response: We are not aware of any technologies which could decrease the HAP emission rate for sweat furnaces beyond the floor technology and have no data upon which to evaluate any such technologies. While an increase in the residence time for the floor technology may increase the overall control efficiency by a marginal amount, no data are available to make this determination.

Comment: One commenter requests that the amendments include a work practice standard for thermal chip dryers, analogous to the work practice requirement for sweat furnaces.

Response: The amendments requested by the commenter are outside of the scope of these amendments and cannot be considered in this rulemaking. In any event, the commenter supplied no test data in support of a work practice standard for thermal chip dryers, and EPA has no data that would support the suggested change in the standard.

IV. Statutory and Executive Order Review

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether the regulatory action is "significant" and therefore subject to review by the OMB and the requirements of the Executive Order. The Executive Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this action is not a "significant regulatory action" and was not submitted to OMB for review.

B. Paperwork Reduction Act

The Office of Management and Budget (OMB) has previously approved the

information collection requirements in the existing rule (subpart RRR) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and assigned OMB control No. 2060-0433. This action does not change the information collection requirements in subpart RRR, but does reduce the number of facilities subject to the rule. An amended Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1894.01), and a copy may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at auby.susan@epa.gov, or by calling (202) 566-1672. A copy may also be downloaded from the Internet at <http://www.epa.gov/icr>.

The information requirements in the existing rule include mandatory notifications, records, and reports required by the NESHAP General Provisions (40 CFR part 63, subpart A). These information requirements are needed to confirm the compliance status of major sources, to identify any nonmajor sources not subject to the standards and any new or reconstructed sources subject to the standards, and to confirm that emission control devices are being properly operated and maintained. Based on the recorded and reported information, EPA can decide which facilities, records, or processes should be inspected. These recordkeeping and reporting requirements are specifically authorized under section 114 of the CAA. All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to Agency policies in 40 CFR part 2, subpart B.

Under the amendments, fewer facilities would be subject to the testing, monitoring, recordkeeping, and reporting requirements. For this reason, the overall burden estimate for the existing rule will be reduced by approximately 20 percent.

As a result of these amendments, the annual public reporting and recordkeeping burden for this collection of information (averaged over the first 3 years after the effective date of the rule) is estimated to decrease by 28,000 labor hours per year and \$8.5 million per year. Total capital costs associated with monitoring requirements over the 3-year period of the ICR remain unchanged at an estimated \$1.3 million; this estimate includes the capital and startup costs associated with installation of monitoring equipment.

Burden means the total time, effort, or financial resources expended by persons

to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information; process and maintain information and disclose and provide information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to respond to a collection of information; search existing data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

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

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with these final rule amendments. The EPA has also determined that these final rule amendments will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule amendments on small entities, a small entity is defined as: (1) A small business whose parent company has fewer than 750 employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule amendments on small entities, the EPA has concluded that this action will not create any new costs for affected firms, large or small. In fact, the amendments will reduce the economic impact on small businesses because of the revised applicability requirements for die casters, extruders, and foundries. Because these plants will not incur any significant costs or economic impact, EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with these final rule amendments. After

considering the economic impact of today's final rule amendments on small entities, the EPA has concluded that they will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least-burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least-costly, most cost-effective, or least-burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that these final rule amendments do not contain a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector in any 1 year. No incremental costs are attributable to these amendments. In addition, the amendments do not significantly or uniquely affect small governments

because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, the requirements of the UMRA do not apply to these amendments.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the EPA consults with State and local officials early in the process of developing the proposed regulation.

These rule amendments do not have federalism implications. They do not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected plants are owned or operated by State governments. Thus, the requirements of section 6 of the Executive Order do not apply to these rule amendments.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the

Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes."

These rule amendments do not have tribal implications. They do 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. No tribal governments own plants subject to the existing rule or today's amendments. Thus, Executive Order 13175 does not apply to these rule amendments.

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

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant," as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives.

We interpret Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. These final rule amendments are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks.

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

These final rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104-113; 15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be

inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (such as material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA requires Federal agencies to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

The EPA's response to the NTTAA requirements are discussed in the preamble to the final rule (65 FR 15690). These amendments do not change the required methods or procedures, but would expand provisions for the use of alternative methods. If a plant wishes to use an alternative method other than those identified in the existing rule, the owner or operator may submit an application to EPA according to the procedures described in the existing rule.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. These final rule amendments are not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: December 19, 2002.

Christine Todd Whitman,
Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart RRR—[AMENDED]

- 2. Section 63.1500 is amended by:
 - a. Revising paragraph (a);
 - b. Removing existing paragraph (d);
 - c. Redesignating existing paragraphs (e) and (f) as (d) and (e); and
 - d. Adding new paragraph (f).

The addition and revision reads as follows:

§ 63.1500 Applicability.

(a) The requirements of this subpart apply to the owner or operator of each secondary aluminum production facility as defined in § 63.1503.

* * * * *

(f) An aluminum die casting facility, aluminum foundry, or aluminum extrusion facility shall be considered to be an area source if it does not emit, or have the potential to emit considering controls, 10 tons per year or more of any single listed HAP or 25 tons per year of any combination of listed HAP from all emission sources which are located in a contiguous area and under common control, without regard to whether or not such sources are regulated under this subpart or any other subpart. In the case of an aluminum die casting facility, aluminum foundry, or aluminum extrusion facility which is an area source and is subject to regulation under this subpart only because it operates a thermal chip dryer, no furnace operated by such a facility shall be deemed to be subject to the requirements of this subpart if it melts only clean charge, internal scrap, or customer returns.

3. Section 63.1503 is amended by:

- a. Adding in alphabetical order new definitions for the terms "aluminum scrap," "customer returns," "internal scrap," and "runaround scrap"; and
- b. Revising definitions for the terms "clean charge," "cover flux," "group 1 furnace," "group 2 furnace," "melting/holding furnace," "reactive fluxing," "scrap dryer/delacquering kiln/decoating kiln," "secondary aluminum processing unit (SAPU)," "secondary aluminum production facility," and "thermal chip dryer."

The additions and revisions read as follows:

§ 63.1503 Definitions.

* * * * *

Aluminum scrap means fragments of aluminum stock removed during manufacturing (*i.e.*, machining), manufactured aluminum articles or parts rejected or discarded and useful only as material for reprocessing, and waste and discarded material made of aluminum.

* * * * *

Clean charge means furnace charge materials including molten aluminum, T-bar, sow, ingot, billet, pig, alloying elements, *aluminum scrap* known by the owner or operator to be entirely free of paints, coatings, and lubricants; uncoated/unpainted aluminum chips that have been thermally dried or treated by a centrifugal cleaner; *aluminum scrap* dried at 343 °C (650 °F) or higher; *aluminum scrap* delacquered/decoated at 482 °C (900 °F) or higher, and *runaround scrap*.

Cover flux means salt added to the surface of molten aluminum in a *group 1* or *group 2 furnace*, without agitation of the molten aluminum, for the purpose of preventing oxidation.

Customer returns means any aluminum product which is returned by a customer to the aluminum company that originally manufactured the product prior to resale of the product or further distribution in commerce, and which contains no paint or other solid coatings (*i.e.*, lacquers).

* * * * *

Group 1 furnace means a furnace of any design that melts, holds, or processes aluminum that contains paint, lubricants, coatings, or other foreign materials with or without *reactive fluxing*, or processes *clean charge* with *reactive fluxing*.

Group 2 furnace means a furnace of any design that melts, holds, or processes only *clean charge* and that performs no *fluxing* or performs *fluxing* using only nonreactive, non-HAP-containing/non-HAP-generating gases or agents.

* * * * *

Internal scrap means all aluminum scrap regardless of the level of contamination which originates from castings or extrusions produced by an aluminum die casting facility, aluminum foundry, or aluminum extrusion facility, and which remains at all times within the control of the company that produced the castings or extrusions.

* * * * *

Melting/holding furnace means a *group 1 furnace* that processes only *clean charge*, performs melting, holding, and fluxing functions, and does not transfer molten aluminum to or from another furnace except for purposes of alloy changes, off-specification product drains, or maintenance activities.

* * * * *

Reactive fluxing means the use of any gas, liquid, or solid flux (other than cover flux) that results in a HAP emission. Argon and nitrogen are not reactive and do not produce HAP.

* * * * *

Runaround scrap means scrap materials generated on-site by aluminum casting, extruding, rolling, scalping, forging, forming/stamping, cutting, and trimming operations and that do not contain paint or solid coatings. Uncoated/unpainted aluminum chips generated by turning, boring, milling, and similar machining operations may be clean charge if they have been thermally dried or treated by a centrifugal cleaner, but are not considered to be *runaround scrap*.

Scrap dryer/delacquering kiln/decoating kiln means a unit used primarily to remove various organic contaminants such as oil, paint, lacquer, ink, plastic, and/or rubber from *aluminum scrap* (including used beverage containers) prior to melting.

Secondary aluminum processing unit (SAPU). An existing SAPU means all existing *group 1 furnaces* and all existing *in-line fluxers* within a *secondary aluminum production facility*. Each existing *group 1 furnace* or existing *in-line fluxer* is considered an *emission unit* within a *secondary aluminum production facility*. A new SAPU means any combination of individual *group 1 furnaces* and *in-line fluxers* within a *secondary aluminum processing facility* which either were constructed or reconstructed after February 11, 1999, or have been permanently redesignated as new emission units pursuant to § 63.1505(k)(6). Each of the *group 1 furnaces* or *in-line fluxers* within a new SAPU is considered an *emission unit* within that *secondary aluminum processing unit*.

Secondary aluminum production facility means any establishment using *clean charge*, *aluminum scrap*, or dross from aluminum production, as the raw material and performing one or more of the following processes: scrap shredding, scrap drying/delacquering/decoating, thermal chip drying, furnace operations (*i.e.*, melting, holding, sweating, refining, fluxing, or alloying), recovery of aluminum from dross, in-line fluxing, or dross cooling. A *secondary aluminum production facility* may be independent or part of a primary aluminum production facility. For purposes of this subpart, aluminum die casting facilities, aluminum foundries, and aluminum extrusion facilities are not considered to be secondary aluminum production facilities if the only materials they melt are *clean charge*, customer returns, or internal scrap, and if they do not operate sweat furnaces, thermal chip dryers, or scrap dryers/delacquering kilns/decoating kilns. The determination of whether a facility is a *secondary aluminum*

production facility is only for purposes of this subpart and any regulatory requirements which are derived from the applicability of this subpart, and is separate from any determination which may be made under other environmental laws and regulations, including whether the same facility is a "secondary metal production facility" as that term is used in 42 U.S.C. § 7479(1) and 40 CFR 52.21(b)(1)(i)(A) ("prevention of significant deterioration of air quality").

Thermal chip dryer means a device that uses heat to evaporate oil or oil/water mixtures from unpainted/uncoated aluminum chips. Pre-heating boxes or other dryers which are used solely to remove water from aluminum scrap are not considered to be thermal chip dryers for purposes of this subpart.

- 4. Section 63.1505 is amended by:
 - a. Revising the section heading;
 - b. Revising paragraph (f)(1);
 - c. Revising paragraph (i)(7);
 - d. Republishing the introductory text of paragraph (k)(2) and revising Equation 2; and
 - e. Adding new paragraph (k)(6).

The revisions and addition read as follows:

§ 63.1505 Emission standards for affected sources and emission units.

(f) *Sweat furnace.* * * *

(1) The owner or operator is not required to conduct a performance test to demonstrate compliance with the emission standard of paragraph (f)(2) of this section, provided that, on and after the compliance date of this rule, the owner or operator operates and maintains an afterburner with a design residence time of 0.8 seconds or greater and an operating temperature of 1600 °F or greater.

(i) *Group 1 furnace.* * * *

(7) The owner or operator of a sidewell group 1 furnace that conducts reactive fluxing (except for cover flux) in the hearth, or that conducts reactive fluxing in the sidewell at times when the level of molten metal falls below the top of the passage between the sidewell and the hearth, must comply with the emission limits of paragraphs (i)(1) through (4) of this section on the basis of the combined emissions from the sidewell and the hearth.

(k) *Secondary aluminum processing unit.* * * *

(2) The owner or operator must not discharge or allow to be discharged to

the atmosphere any 3-day, 24-hour rolling average emissions of HCl in excess of:

$$L_{\text{CHCl}} = \frac{\sum_{i=1}^n (L_{\text{HCl}} \times T_{\text{HCl}})}{\sum_{i=1}^n (T_{\text{HCl}})} \quad (\text{Eq. 2})$$

(6) With the prior approval of the responsible permitting authority, an owner or operator may redesignate any existing group 1 furnace or in-line fluxer at a secondary aluminum production facility as a new emission unit. Any emission unit so redesignated may thereafter be included in a new SAPU at that facility. Any such redesignation will be solely for the purpose of this MACT standard and will be irreversible.

- 5. Section 63.1506 is amended by:
 - a. Removing existing paragraph (a)(2);
 - b. Redesignating existing paragraphs (a)(3) through (a)(5) as paragraphs (a)(2) through (a)(4); and
 - c. Revising paragraphs (m)(6)(i) and (ii).

The revisions read as follows.

§ 63.1506 Operating requirements.

(m) *Group 1 furnace with add-on air pollution control devices.* * * *

- (6) * * *
 - (i) The level of molten metal remains above the top of the passage between the sidewell and hearth during reactive flux injection, unless emissions from both the sidewell and the hearth are included in demonstrating compliance with all applicable emission limits.
 - (ii) Reactive flux is added only in the sidewell, unless emissions from both the sidewell and the hearth are included in demonstrating compliance with all applicable emission limits.

- 6. Section 63.1510 is amended by:
 - a. Removing the last sentence in the introductory text of paragraph (b), "Each plan must contain the following information", and adding, in its place, five new sentences;
 - b. Revising the introductory text of paragraph (o)(1); and
 - c. Revising the introductory text of paragraph (w).

The revisions read as follows:

§ 63.1510 Monitoring requirements.

(b) *Operation, maintenance, and monitoring (OM&M) plan.* * * * The plan must be accompanied by a written certification by the owner or operator that the OM&M plan satisfies all

requirements of this section and is otherwise consistent with the requirements of this subpart. The owner or operator must comply with all of the provisions of the OM&M plan as submitted to the permitting authority, unless and until the plan is revised in accordance with the following procedures. If the permitting authority determines at any time after receipt of the OM&M plan that any revisions of the plan are necessary to satisfy the requirements of this section or this subpart, the owner or operator must promptly make all necessary revisions and resubmit the revised plan. If the owner or operator determines that any other revisions of the OM&M plan are necessary, such revisions will not become effective until the owner or operator submits a description of the changes and a revised plan incorporating them to the permitting authority. Each plan must contain the following information:

* * * * *

(o) *Group 1 furnace without add-on air pollution control devices.* * * *

(1) The owner or operator must develop, in consultation with the responsible permitting authority, a written site-specific monitoring plan. The site-specific monitoring plan must be submitted to the permitting authority as part of the OM&M plan. The site-specific monitoring plan must contain sufficient procedures to ensure continuing compliance with all applicable emission limits and must demonstrate, based on documented test results, the relationship between emissions of PM, HCl, and D/F and the proposed monitoring parameters for each pollutant. Test data must establish the highest level of PM, HCl, and D/F that will be emitted from the furnace. This may be determined by conducting performance tests and monitoring operating parameters while charging the furnace with feed/charge materials containing the highest anticipated levels of oils and coatings and fluxing at the highest anticipated rate. If the permitting authority determines that any revisions of the site-specific monitoring plan are necessary to meet the requirements of this section or this subpart, the owner or operator must promptly make all necessary revisions and resubmit the revised plan to the permitting authority.

* * * * *

(w) *Alternative monitoring methods.* If an owner or operator wishes to use an alternative monitoring method to demonstrate compliance with any emission standard in this subpart, other than those alternative monitoring

methods which may be authorized pursuant to § 63.1510(j)(5) and § 63.1510(v), the owner or operator may submit an application to the Administrator. Any such application will be processed according to the criteria and procedures set forth in paragraphs (w)(1) through (6) of this section.

* * * * *

7. Section 63.1511 is amended by revising paragraph (f) and adding paragraphs (h) and (i) to read as follows:

§ 63.1511 Performance test/compliance demonstration general requirements.

* * * * *

(f) *Testing of representative emission units.* With the prior approval of the permitting authority, an owner or operator may utilize emission rates obtained by testing a particular type of group 1 furnace which is not controlled by any add-on control device, or by testing an in-line flux box which is not controlled by any add-on control device, to determine the emission rate for other units of the same type at the same facility. Such emission test results may only be considered to be representative of other units if all of the following criteria are satisfied:

(1) The tested emission unit must use feed materials and charge rates which are comparable to the emission units that it represents;

(2) The tested emission unit must use the same type of flux materials in the same proportions as the emission units it represents;

(3) The tested emission unit must be operated utilizing the same work practices as the emission units that it represents;

(4) The tested emission unit must be of the same design as the emission units that it represents; and

(5) The tested emission unit must be tested under the highest load or capacity reasonably expected to occur for any of the emission units that it represents.

* * * * *

(h) *Testing of commonly-ducted units within a secondary aluminum processing unit.* When group 1 furnaces and/or in-line fluxers are included in a single existing SAPU or new SAPU, and the emissions from more than one emission unit within that existing SAPU or new SAPU are manifolded to a single control device, compliance for all units within the SAPU is demonstrated if the total measured emissions from all controlled and uncontrolled units in the SAPU do not exceed the emission limits calculated for that SAPU based on the applicable equation in § 63.1505(k).

(i) *Testing of commonly-ducted units not within a secondary aluminum processing unit.* With the prior approval of the permitting authority, an owner or operator may do combined performance testing of two or more individual affected sources or emission units which are not included in a single existing SAPU or new SAPU, but whose emissions are manifolded to a single control device. Any such performance testing of commonly-ducted units must satisfy the following basic requirements:

(1) All testing must be designed to verify that each affected source or emission unit individually satisfies all emission requirements applicable to that affected source or emission unit;

(2) All emissions of pollutants subject to a standard must be tested at the outlet from each individual affected source or emission unit while operating under the highest load or capacity reasonably expected to occur, and prior to the point that the emissions are manifolded together with emissions from other affected sources or emission units;

(3) The combined emissions from all affected sources and emission units which are manifolded to a single emission control device must be tested at the outlet of the emission control device;

(4) All tests at the outlet of the emission control device must be conducted with all affected sources and emission units whose emissions are manifolded to the control device operating simultaneously under the highest load or capacity reasonably expected to occur; and

(5) For purposes of demonstrating compliance of a commonly-ducted unit with any emission limit for a particular type of pollutant, the emissions of that pollutant by the individual unit shall be presumed to be controlled by the same percentage as total emissions of that pollutant from all commonly-ducted units are controlled at the outlet of the emission control device.

8. Section 63.1512 is amended by revising paragraph (h) to read as follows:

§ 63.1512 Performance test/compliance demonstration requirements and procedures.

* * * * *

(h) *In-line fluxer.* (1) The owner or operator of an in-line fluxer that uses reactive flux materials must conduct a performance test to measure emissions of HCl and PM or otherwise demonstrate compliance in accordance with paragraph (h)(2) of this section. If the in-line fluxer is equipped with an add-on control device, the emissions must be measured at the outlet of the control device.

(2) The owner or operator may choose to limit the rate at which reactive chlorine flux is added to an in-line fluxer and assume, for the purposes of demonstrating compliance with the SAPU emission limit, that all chlorine in the reactive flux added to the in-line fluxer is emitted as HCl. Under these circumstances, the owner or operator is not required to conduct an emission test for HCl. If the owner or operator of any in-line flux box which has no ventilation ductwork manifolded to any outlet or emission control device chooses to demonstrate compliance with the emission limit for HCl by limiting use of reactive chlorine flux and assuming that all chlorine in the flux is emitted as HCl, compliance with the HCl limit shall also constitute compliance with the emission limit for PM, and no separate emission test for PM is required. In this case, the owner or operator of the unvented in-line flux box must utilize the maximum permissible PM emission rate for the in-line flux boxes when determining the

total emissions for any SAPU which includes the flux box.

9. Section 63.1515 is amended by revising paragraphs (b)(8) and (b)(9) to read as follows:

§ 63.1515 Notifications.

(8) Manufacturer's specification or analysis documenting the design residence time of no less than 0.8 seconds and design operating temperature of no less than 1,600 °F for each afterburner used to control emissions from a sweat furnace that is not subject to a performance test.

(9) The OM&M plan (including site-specific monitoring plan for each group 1 furnace with no add-on air pollution control device).

10. Section 63.1517 is amended by revising paragraphs (b)(11) and (b)(16)(ii) to read as follows:

§ 63.1517 Records.

(b) * * *

(11) For each in-line fluxer for which the owner or operator has certified that no reactive flux was used:

(i) Operating logs which establish that no source of reactive flux was present at the in-line fluxer;

(ii) Labels required pursuant to § 63.1506(b) which establish that no reactive flux may be used at the in-line fluxer; or

(iii) Operating logs which document each flux gas, agent, or material used during each operating cycle.

(16) * * *

(ii) OM&M plan; and

11. Table 2 to subpart RRR is amended under the entry for "Group 1 furnace with lime-injected fabric filter (including those that are part of secondary aluminum processing unit)" by revising in column 2 the entry "Fabric filter inlet temperature" to read as follows:

TABLE 2 TO SUBPART RRR OF PART 63.—SUMMARY OF OPERATING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS

Affected source/emission unit	Monitor type/operation/process	Operating requirements
Group 1 furnace with lime-injected fabric filter (including those that are part of a secondary aluminum processing unit).	Fabric filter inlet temperature.	Maintain average fabric filter inlet temperature for each 3-hour period at or below average temperature during the performance test +14 °C (+25 °F).

12. Table 3 to subpart RRR is amended by:
 a. Under the entry for "Group 1 furnace with lime-injected fabric filter", revising in column 2 the entry "Reactive flux injection rate Weight measurement device accuracy of +1%"; calibrate

every 3 months; record weight and type of reactive flux added or injected for each 15-minute block period while reactive fluxing occurs; calculate and record total reactive flux injection rate for each operating cycle or time period used in performance test; or Alternative

flux injection rate determination procedure per § 63.1510(j)(5)."; and
 b. Under the entry for "Group 1 furnace without add-on controls", revising in column 2 the entry for "Feed material (melting/holding furnace)".
 The revisions read as follows:

TABLE 3 TO SUBPART RRR OF PART 63.—SUMMARY OF MONITORING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS

Affected source/emission unit	Monitor type/Operation/Process	Monitoring requirements
Group 1 furnace with lime-injected fabric filter	Reactive flux injection rate	Weight measurement device accuracy of ±1% ^b ; calibrate every 3 months; record weight and type of reactive flux added or injected for each 15-minute block period while reactive fluxing occurs; calculate and record total reactive flux injection rate for each operating cycle or time period used in performance test; or Alternative flux injection rate determination procedure per § 63.1510(j)(5).

TABLE 3 TO SUBPART RRR OF PART 63.—SUMMARY OF MONITORING REQUIREMENTS FOR NEW AND EXISTING AFFECTED SOURCES AND EMISSION UNITS—Continued

Affected source/emission unit	Monitor type/Operation/ Process	Monitoring requirements
Group 1 furnace without add-on controls	***** Feed material (melting/ holding furnace).	***** ***** Record type of permissible feed/charge material; certify charge materials every 6 months.

* * * * *

13. Appendix A to subpart RRR is amended under the entry for “§ 63.14” by revising in column 2 the entry for “Incorporation by reference” to read as follows:

APPENDIX A TO SUBPART RRR OF PART 63.—GENERAL PROVISIONS APPLICABILITY TO SUBPART RRR

Citation	Requirement	Applies to RRR	Comment
§ 63.14	* Incorporation by Reference.	* Yes	* * * Chapters 3 and 5 of ACGIH Industrial Ventilation Manual for capture/ collection systems; and Interim Procedures for Estimating Risk As- sociated with Exposure to Mixtures of Chlorinated Dibenzofurans (CDDs and CDFs) and 1989 Update (incorporated by reference in § 63.1502).

* * * * *

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