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Part IV

Environmental Protection Agency

40 CFR Part 60

**Standards of Performance for Steel
Plants: Electric Arc Furnaces Constructed
After October 21, 1974, and On or Before
August 17, 1983; and Standards of
Performance for Steel Plants: Electric Arc
Furnaces and Argon-Oxygen
Decarburization Vessels Constructed After
August 17, 1983; Proposed Rule**

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 60**

[AD-FRL-7394-3]

RIN 2060-AJ68

Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983; and Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; amendments.

SUMMARY: The EPA is proposing to amend certain provisions in the new source performance standards (NSPS) for electric arc furnaces (EAF) constructed after October 21, 1974, and on or before August 17, 1983, and the NSPS for EAF constructed after August 17, 1983. The proposed changes add alternative requirements for monitoring emissions from EAF exhausts. In addition, minor editorial corrections are being made.

DATES: *Comments.* Comments must be received on or before December 16, 2002.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by November 5, 2002, a public hearing will be held on November 15, 2002.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-79-33, U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A-79-33, U.S. EPA, Room Number M1500, 401 M Street, SW., Washington, DC 20460. Effective August 27, 2002, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102T), Attention Docket Number A-79-33, U.S. EPA, 1301 Constitution Avenue, NW., Room Number B108, Washington, DC 20460. We request that a separate copy of each public comment be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Public Hearing. If a public hearing is held, it will be held at the new EPA

facility complex in Research Triangle Park, NC.

Docket. Docket No. A-79-33 contains supporting information used in developing the standards. The docket is located at the U.S. EPA, 401 M Street, SW., Washington, DC 20460 in Room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. Effective August 27, 2002, the docket will be located at: U.S. EPA, 1301 Constitution Avenue, NW., Room Number B108, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavender, Metals Group, Emission Standards Division (C439-02), U.S. EPA, Research Triangle Park, NC 27711, telephone number: (919) 541-2364, electronic mail address: cavender.kevin@epa.gov.

To request a public hearing, to request to speak at a public hearing, or to find out if a public hearing will be held, contact Ms. Cassie Posey, Metals Group, Emission Standards Division (C439-02), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-0069, electronic mail address: posey.cassie@epa.gov.

For information concerning applicability and rule determinations, contact your State or local permitting authority or the appropriate EPA regional office representatives.

SUPPLEMENTARY INFORMATION: *Comments.* Comments and data may be submitted by electronic mail (e-mail) to: a-and-r-docket@epa.gov. Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect format. All comments and data submitted in electronic form must note the docket number: Docket No. A-79-33. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: OAQPS Document Control Office (C404-02), Attention: Mr. Kevin Cavender, Emission Standards Division, U.S. EPA, Research Triangle Park, NC 27711. The EPA will disclose information identified as CBI only to the

extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Cassie Posey, telephone number: (919) 541-0069. Persons interested in attending the public hearing must also contact Cassie Posey to verify the time, date, and location of the hearing. The address, telephone number, and e-mail address for Ms. Posey are listed in the preceding **FOR FURTHER INFORMATION CONTACT** section. A public hearing, if held, will provide interested parties the opportunity to present data, views, or arguments concerning the proposed emission standards.

Docket. The docket is an organized and complete file of all the information considered by the EPA in rule development. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the Clean Air Act (CAA).) The regulatory text and other materials related to the rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposed rule will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the proposed rule will be posted on the TTN's policy and guidance page for newly proposed 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.

Regulated Entities. Entities potentially regulated by this action include steel manufacturing facilities who operate electric arc furnaces. Affected categories and entities include certain sources in

the North American Information Classification System code 331111.

This description 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 the 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.

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

- I. Background
 - A. What is an EAF?
 - B. What are the current NSPS requirements for an EAF?
 - C. Why are the current NSPS requirements being amended?
 - D. What is a bag leak detection system, and how is it used to monitor baghouse performance?
- II. Summary of Proposed Amendment
 - A. What is the alternative monitoring option being proposed?
 - B. What are the editorial corrections being made?
- III. Administrative Requirements
 - A. Executive Order 12866, Regulatory Planning and Review
 - B. Executive Order 13132, Federalism
 - C. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments
 - D. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks
 - E. Unfunded Mandates Reform Act of 1995
 - F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 *et seq.*
 - G. Paperwork Reduction Act
 - H. National Technology Transfer and Advancement Act of 1995
 - I. Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution or Use

I. Background

A. What Is an EAF?

An EAF is a metallurgical furnace used to produce carbon and alloy steels. The input material to an EAF is typically 100 percent scrap steel. Cylindrical, refractory lined EAF are equipped with carbon electrodes to be raised or lowered through the furnace roof. With electrodes retracted, the furnace roof can be rotated to permit the charge of scrap steel by overhead crane. Alloying agents and fluxing materials usually are added through doors on the side of the furnace. Electric current is passed between the electrodes and through the scrap, generating arcing and the generation of enough heat to melt

the scrap steel charge. After the melting and refining periods, impurities (in the form of a slag) and the refined steel are poured from the furnace.

The production of steel in an EAF is a batch process. Cycles, or heats, range from about 1½ to 5 hours to produce carbon steel and from 5 to 10 hours to produce alloy steel. Scrap steel is charged to begin a cycle, and alloying agents and slag forming materials are added for refining. Stages of each cycle normally are charging, melting, refining (which usually includes oxygen blowing), and tapping.

All of those operations generate particulate matter (PM) emissions. Emission control techniques involve an emission capture system and a gas cleaning system. Emission capture systems used in the industry include direct shell (fourth hole) evacuation, side draft hoods, combination hoods, canopy hoods, scavenger ducts, and furnace enclosures. Direct shell evacuation (DEC) consists of ductwork attached to a separate opening, or "fourth hole", in the furnace roof which draws emissions to a gas cleaner. The direct shell evacuation system works only when the furnace is up-right and the roof is in place. The side draft hoods collect furnace offgases from around the electrode holes and the work doors after the gases leave the furnace. The combination hood incorporates elements from the side draft and direct shell evacuation systems. Canopy hoods and scavenger ducts are used to address charging and tapping emissions. Baghouses are typically used as the gas cleaning system.

B. What Are the Current NSPS Requirements for an EAF?

The NSPS for EAF constructed after October 21, 1974, and on or before August 17, 1983 (40 CFR part 60, subpart AA) were first promulgated in the **Federal Register** on September 23, 1975 (40 FR 43850). The NSPS for EAF constructed after August 17, 1983 (40 CFR part 60, subpart AAa) were first promulgated in the **Federal Register** on October 31, 1984 (49 FR 43845). Both subparts limit the allowable PM concentration in the exhaust of an EAF emission control device to 12 milligrams per dry standard cubic meter (mg/dscm). In addition to the PM emission limit, both subparts limit visible emissions from the EAF control device to less than 3 percent opacity, as determined by EPA Method 9 of 40 CFR part 60, appendix A.

In both subparts, if the control device is equipped with a single stack, the owner or operator is required to install, calibrate, maintain, and operate a

continuous opacity monitoring system (COMS). The owner and operator must report each 6-minute average COM reading of 3 percent or greater as an excess emission. A COMS is not required on any modular or multiple-stack fabric filter if opacity readings are taken at least once per day during a melting and refining period, in accordance with EPA Method 9.

The subparts also contain requirements for the EAF capture systems. However, those requirements are not being amended by today's action. As such, we do not discuss the capture system requirements here.

C. Why Are the Current NSPS Requirements Being Amended?

Today's action is being taken in response to a petition to reopen the NSPS that we received from the American Iron and Steel Institute (AISI), the Specialty Steel Industry of North America (SSINA), and the Steel Manufacturers Association (SMA), who jointly will be referred to as "the Petitioner." In their request to reopen the EAF NSPS, the Petitioner argues that COMS are not capable of accurately monitoring opacity emissions from an EAF shop at the 3 percent excess emissions threshold level and that the EAF NSPS should be amended to address the technological shortcomings associated with COMS. In making their argument, the Petitioner points to our recent revision to the performance specification for COMS (PS-1, 65 FR 48914) in which we acknowledge that there is potential for measurement error associated with COM readings. A conservative approach to estimating the upper range of the potential measurement error resulted in an estimate of approximately 4 percent opacity. The Petitioner also points out that the American Society for Testing and Materials (ASTM) Standard for COMS (ASTM D 6216-98), which is incorporated in PS-1, expressly limits the scope of the ASTM Standard to COMS used to monitor opacity subject to an opacity limit of 10 percent or greater due to the potential error associated with opacity measurements.

The Petitioner argues that COMS generate inaccurate data which can trigger Federal and State reporting requirements and expose a facility to potential liability even when the facility is meeting the opacity standard. As pointed out above, owners and operators are required by the NSPS to report all 6-minute average COMS readings above 3 percent as periods of excess emissions. Since the potential COMS measurement error is high in comparison to the 3 percent opacity

standard, the Petitioner believes that the COMS can and do produce readings above the 3 percent excess emissions threshold when the actual opacity is below 3 percent. The Petitioner points out that the credible evidence revisions (62 FR 8313, February 24, 1997) clarify our intent to use COMS data as evidence of a potential emissions violation. Therefore, the Petitioner argues, COMS data falsely indicating emissions above 3 percent opacity could be used as evidence of violations of the opacity standard. Even if the erroneous COMS data are eventually determined not to be credible, the Petitioner argues, companies must bear the burden and cost of defending against such allegations.

The revisions to PS-1 explained that we did not believe it was appropriate to limit the applicability of PS-1 based on the level of the emission limit that would be monitored. Instead of limiting the applicability of PS-1, we determined that PS-1 should acknowledge the measurement uncertainty associated with COMS measurements below 10 percent opacity, and allow for a consideration of the potential error (through statistical procedures or otherwise) when evaluating compliance with opacity standards below 10 percent.

We agree that it is appropriate to provide an alternative monitoring option for EAF owners and operators who are concerned with the accuracy of COMS measurements at levels below 10 percent opacity. In addition, we believe that bag leak detection systems, the alternative monitoring option being proposed, are a viable alternative to COMS for the purpose of monitoring the performance of baghouses.

D. What Is a Bag Leak Detection System, and How Is It Used To Monitor Baghouse Performance?

A bag leak detection system is a device that is used to measure relative particulate loadings in the exhaust of a baghouse on a continuous basis in order to detect bag leaks and other conditions that result in increases in particulate loadings. Bag leak detection systems have been developed based on a number of principles including triboelectric effect, electrodynamic effect, and light scattering. A bag leak detection system does not need to provide an output in terms of particulate concentration, but must provide an output that is proportionate to the particulate concentration such that if particulate concentrations increase the output from the bag leak detection system increases.

A bag leak detection system identifies leaks by the resulting increase in

particulate loadings. A properly designed baghouse will control particulate emissions to very low levels when in good operating condition. However, if the baghouse develops a leak, due to a torn bag or seal, there will be a measurable increase in particulate emissions. A bag leak detection system is capable of quickly (within a few seconds) determining that an abnormal increase in particulate concentrations has occurred and can then trigger an alarm to alert the operator so that the leak can be stopped as soon as possible. Bag leak detection systems are capable of detecting small leaks while particulate emissions are well below the levels that would result in observable opacity. For that reason, we believe that bag leak detection systems are well suited for monitoring the performance of a baghouse.

II. Summary of Proposed Amendment

A. What Is the Alternative Monitoring Option Being Proposed?

We are proposing bag leak detection coupled with a once per day opacity observation as an alternative monitoring option to COMS. Under the proposed alternative, a facility could elect to install, calibrate, maintain, and operate a bag leak detection system. Owners or operators would be required to develop a site specific monitoring plan describing how the system would be selected, installed, and operated, including how the alarm levels would be established. Within 30 minutes of an alarm, the owner or operator would be required to initiate procedures to determine the cause of the alarm and alleviate the cause of the alarm within 3 hours. In addition, the owner or operator would be required to maintain and operate their baghouse such that the alarm on the bag leak detector does not alarm for more than 3 percent of the operating hours in any 6-month reporting period.

The owner or operator would also be required to conduct an opacity observation at least once per day when the furnace is in the melting or refining operation day, in accordance with EPA Method 9. All opacity observations greater than 3 percent opacity would be reported as a violation of the opacity standard. In addition, if the alarm on the bag leak detection system was not alarming during the time the opacity was observed to be greater than 3 percent, the alarm on the bag leak detection system would have to be lowered to a point that an alarm would have occurred during the observation.

B. What Are the Editorial Corrections Being Made?

Two typographical errors are being corrected in the amendment. In 40 CFR 60.274(c) and in 40 CFR 60.274a(c), the references to paragraphs (b)(1) and (2) are being corrected to refer to paragraph (b). The paragraphs (b)(1) and (2) of 40 CFR 60.274(c) and 40 CFR 60.274a(c) were incorporated into paragraph (b) during the last revision to the NSPS (64 FR 10105, March 2, 1999). In 40 CFR 60.274a(b), the reference to paragraph (d) is being corrected to refer to paragraph (e).

In addition, 40 CFR 60.274a(d) and 40 CFR 60.274a(e) are being revised to clarify that owners and operators may petition the Administrator to approve alternatives to the monitoring requirements specified in 40 CFR 60.274a(b), as well as alternatives to the monthly operational status inspections specified in 40 CFR 60.274a(d). This revision does not change the rule requirements because owners and operators are currently allowed to petition for alternative monitoring requirements under 40 CFR 60.13(i) of the General Provisions.

III. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is "significant" and, therefore, subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. The Executive Order defines "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 entitlements, grants, user fees, or loan programs, or the rights and obligation 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 the proposed rule amendments are not a "significant regulatory action" because none of the listed criteria apply

to the action. Consequently, the action was not submitted to OMB for review under Executive Order 12866.

B. Executive Order 13132, Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires us 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."

The proposed rule amendments do not have federalism implications. They 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, as specified in Executive Order 13132.

None of the affected facilities are owned or operated by State governments, and the requirements of the proposed rule amendments will not supercede State regulations that are more stringent. Thus, Executive Order 13132 does not apply to the proposed rule amendments.

In the spirit of Executive Order 13132 and consistent with our policy to promote communications between us and State and local governments, we specifically solicit comments on the proposed rule amendments from State and local officials.

C. 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 us 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 the Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes."

The proposed rule amendments do not have tribal implications. They 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. No tribal governments own or operate an affected source. Thus, Executive Order 13175 does not apply to the proposed rule amendments.

D. 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 we have 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 rule is preferable to other potentially effective and reasonably feasible alternatives that we considered.

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 rule. The proposed rule amendments are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks. No children's risk analysis was performed because the action only provides affected EAF owners and operators with alternative monitoring options. Furthermore, the proposed rule amendments have been determined not to be "economically significant" as defined under Executive Order 12866.

E. 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, we 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 a rule for which a written statement is needed, section 205 of the UMRA generally requires us 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 us 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 we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we 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 our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the proposed rule amendments do not contain a Federal mandate that may result in estimated costs of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of the proposed rule amendments for any year has been estimated to be less than \$62,000. Thus, today's proposed rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that the proposed rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments because they contain no requirements that apply to such governments or impose obligations upon them. Therefore, today's proposed rule amendments are not subject to the requirements of section 203 of the UMRA.

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

The RFA generally requires an agency to prepare a regulatory flexibility analysis for any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses,

small organizations, and small governmental jurisdictions. The proposed amendments will not have a significant impact on a substantial number of small entities because the amendments only provide alternative compliance options designed to provide facilities with increased flexibility. Therefore, I certify that the action will not have a significant economic impact on a substantial number of small entities.

G. Paperwork Reduction Act

The information collection requirements in the proposed rule amendments have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* We have prepared an Information Collection Request (ICR) document (ICR No. 1060.11), and you may obtain a copy from Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division, U.S. EPA (2822), 1200 Pennsylvania Avenue NW., Washington, DC 20460; by e-mail at auby.susan@epa.gov; or by calling (202) 566-1672. You may also download a copy off the Internet at <http://www.epa.gov/icr>. The information requirements are not effective until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the NSPS General Provisions (40 CFR part 60, subpart A), which are mandatory for all operators subject to NSPS. The recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to us pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to our policies set forth in 40 CFR part 2, subpart B.

The annual increase to monitoring, recordkeeping, and reporting burden for the proposed rule amendments are estimated at 1750 labor hours at a total cost of \$61,267 nationwide, and the annual average increase in burden is 175 labor hours and \$6,127 per source. We estimate that there will be no increase in the annualized capital costs due to the proposed rule amendments. We estimate that the annualized costs associated with purchasing and installing a bag leak detection system are equal to the offsetting annualized cost savings associated with the discontinued use and periodic replacement of a COMS. In making the estimates, it was assumed that ten existing facilities currently required to install and operate COMS would elect to use the proposed alternative monitoring

option. The cost estimates reflect increased costs associated with the installation and operation of a bag leak detection system and with daily opacity observations partially offset by the cost savings from no longer having to operate and maintain a COMS.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to: Review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search 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 our regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested on our need for the information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, Collection Strategies Division, U.S. EPA (2822), 1200 Pennsylvania Avenue NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503; marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after October 16, 2002, a comment to OMB is best assured of having its full effect if OMB receives it by November 15, 2002. The final action will respond to any OMB or public comments on the information collection requirements contained in this proposal.

H. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) Public Law 104-113 (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory and procurement

activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs us to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards. The proposed rulemaking does not involve a technical standard.

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

The proposed rule amendments are not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 9, 2002.

Christine Todd Whitman,
Administrator.

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

PART 60—[AMENDED]

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

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

2. Section 60.271 is amended by adding new paragraphs (o) and (p) to read as follows:

§ 60.271 Definitions.

* * * * *

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

(p) *Operating time* means the period of time in hours that an affected source is in operation beginning at a startup and ending at the next shutdown.

3. Section 60.273 is amended by revising paragraph (c) and adding new paragraphs (e), (f), (g), and (h) to read as follows:

§ 60.273 Emission monitoring.

* * * * *

(c) A continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the control device(s) is not required on any modular, multi-stack, negative-pressure or positive-pressure fabric filter if observations of the opacity of the visible emissions from the control device are performed by a certified visible emission observer; or on any single-stack fabric filter if visible emissions from the control device are performed by a certified visible emission observer and the owner installs and continuously operates a bag leak detection system according to paragraph (e) of this section. Visible emission observations shall be conducted at least once per day for at least three 6-minute periods when the furnace is operating in the melting and refining period. All visible emissions observations shall be conducted in accordance with Method 9 of appendix A to this part. If visible emissions occur from more than one point, the opacity shall be recorded for any points where visible emissions are observed. Where it is possible to determine that a number of visible emission sites relate to only one incident of the visible emission, only one set of three 6-minute observations will be required. In that case, the Method 9 observations must be made for the site of highest opacity that directly relates to the cause (or location) of visible emissions observed during a single incident. Records shall be maintained of any 6-minute average that is in excess of the emission limit specified in § 60.272(a).

* * * * *

(e) A bag leak detection system must be installed and continuously operated on all single-stack fabric filters if the owner or operator elects not to install and operate a continuous opacity monitoring system as provided for under paragraph (c) of this section. In addition, the owner or operator shall meet the visible emissions observation requirements in paragraph (c) of this section. The bag leak detection system must meet the specifications and requirements of paragraphs (e)(1) through (8) of this section.

(1) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligrams per actual cubic meter

(0.0044 grains per actual cubic foot) or less.

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

(3) The bag leak detection system must be equipped with an alarm system that will sound when an increase in relative particulate loading is detected over the alarm set point established according to paragraph (e)(4) of this section, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(4) For each bag leak detection system required by paragraph (e) of this section, the owner or operator shall develop and submit, to the Administrator or delegated authority, for approval, a site-specific monitoring plan that addresses the items identified in paragraphs (e)(4)(i) through (v) of this section. For each bag leak detection system that operates based on the triboelectric effect, the monitoring plan shall be consistent with the recommendations contained in the U.S. Environmental Protection Agency guidance document "Fabric Filter Bag Leak Detection Guidance" (EPA-454/R-98-015). The owner or operator shall operate and maintain the bag leak detection system according to the site-specific monitoring plan at all times. The plan shall describe:

(i) Installation of the bag leak detector system;

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

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

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

(v) How the bag leak detection system output shall be recorded and stored.

(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 (if applicable).

(6) Following initial adjustment, the owner or operator shall not adjust the averaging period, alarm set point, or alarm delay time without approval from the Administrator or delegated authority except as provided for in paragraphs (e)(6)(i) and (ii) of this section.

(i) Once per quarter, the owner or operator may adjust the sensitivity of the bag leak detection system to account for seasonal effects including temperature and humidity according to the procedures identified in the site-specific monitoring plan required under paragraph (e)(4) of this section.

(ii) If opacities greater than zero percent are observed over four consecutive 15-second observations during the daily opacity observations required under paragraph (c) of this section and the alarm on the bag leak detection system does not sound, the owner or operator shall lower the alarm set point on the bag leak detection system to a point where the alarm would have sounded during the period when the opacity observations were made.

(7) For negative pressure, induced air baghouses, and positive pressure baghouses that are discharged to the atmosphere through a stack, the bag leak detector sensor must be installed downstream of the baghouse and upstream of any wet scrubber.

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

(f) For each bag leak detection system installed according to paragraph (e) of this section, the owner or operator shall initiate procedures to determine the cause of all alarms within 30 minutes of an alarm. The cause of the alarm must be alleviated within 3 hours of the time the alarm occurred by taking whatever corrective action(s) are necessary. If additional time is required to alleviate the cause of the alarm, the owner or operator shall notify the Administrator or delegated authority. Corrective actions may include, but are not limited to the following:

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

(2) Sealing off defective bags or filter media;

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

(4) Sealing off a defective baghouse compartment;

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

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

(g) The owner or operator shall maintain each baghouse monitored by a bag leak detection system such that the alarm on the bag leak detection system does not sound for more than 3 percent

of the total operating time in a 6-month reporting period.

(h) The percentage of time the alarm on a bag leak detection system sounds shall be determined according to paragraphs (h)(1) through (5) of this section.

(1) An alarm that occurs due solely to a malfunction of the bag leak detection system shall not be included in the calculation.

(2) An alarm that occurs during startup, shutdown, or malfunction shall not be included in the calculation if the owner or operator follows all requirements contained in § 60.11(d).

(3) For each alarm where the owner or operator initiates procedures to determine the cause of an alarm within 1 hour of the alarm, 1 hour of alarm time shall be counted.

(4) For each alarm where the owner or operator does not initiate procedures to determine the cause of the alarm within 1 hour of the alarm, alarm time will be counted as the actual amount of time taken by the owner or operator to initiate procedures to determine the cause of the alarm.

(5) The percentage of time the alarm on the bag leak detection system sounds shall be calculated as the ratio of the sum of alarm times to the total operating time multiplied by 100.

4. Section 60.274 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 60.274 Monitoring of operations.

* * * * *

(c) When the owner or operator of an affected facility is required to demonstrate compliance with the standards under § 60.272(a)(3) and at any other time the Administrator may require that (under section 114 of the CAA, as amended) either: the control system fan motor amperes and all damper positions; the volumetric flow rate through each separately ducted hood; or the volumetric flow rate at the control device inlet and all damper positions shall be determined during all periods in which a hood is operated for the purpose of capturing emissions from the affected facility subject to paragraph (b) of this section. * * *

* * * * *

5. Section 60.275 is amended by revising paragraph (i) to read as follows:

§ 60.275 Test methods and procedures.

* * * * *

(i) If visible emissions observations are made in lieu of using a continuous opacity monitoring system, as allowed for by § 60.273(c), visible emission observations shall be conducted at least once per day for at least three 6-minute

periods when the furnace is operating in the melting and refining period. All visible emissions observations shall be conducted in accordance with Method 9. If visible emissions occur from more than one point, the opacity shall be recorded for any points where visible emissions are observed. Where it is possible to determine that a number of visible emission sites relate to only one incident of the visible emission, only one set of three 6-minute observations will be required. In that case, the Method 9 observations must be made for the site of highest opacity that directly relates to the cause (or location) of visible emissions observed during a single incident. Records shall be maintained of any 6-minute average that is in excess of the emission limit specified in § 60.272(a).

* * * * *

6. Section 60.276 is amended by adding new paragraphs (e) and (f) to read as follows:

§ 60.276 Recordkeeping and reporting requirements.

* * * * *

(e) The owner or operator shall maintain the following records for each bag leak detection system required under § 60.273(e):

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

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

(3) 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, if procedures were initiated within 30 minutes of the alarm, the cause of the alarm, an explanation of the actions taken, the date and time the cause of the alarm was alleviated, and if the alarm was alleviated within 3 hours of the alarm; and

(4) The calculation of the percent of time the alarm on the bag leak detection system sounded during each 6-month reporting period.

(f) In addition to the information required by § 60.7(c), the percent of time the alarm on the bag leak detection system sounded during each 6-month reporting period shall be reported to the Administrator semi-annually.

7. Section 60.271(a) is amended by adding, in alphabetical order, definitions for “Bag leak detection system” and “Operating time” as follows:

§ 60.271a Definitions.

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

* * * * *

Operating time means the period of time in hours that an affected source is in operation beginning at a startup and ending at the next shutdown.

* * * * *

8. Section 60.273a is amended by revising paragraph (c) and adding new paragraphs (e), (f), (g), and (h) to read as follows:

§ 60.273a Emission monitoring.

* * * * *

(c) A continuous monitoring system for the measurement of the opacity of emissions discharged into the atmosphere from the control device(s) is not required on any modular, multi-stack, negative-pressure or positive-pressure fabric filter if observations of the opacity of the visible emissions from the control device are performed by a certified visible emission observer; or on any single-stack fabric filter if visible emissions from the control device are performed by a certified visible emission observer and the owner installs and continuously operates a bag leak detection system according to paragraph (e) of this section. Visible emission observations shall be conducted at least once per day for at least three 6-minute periods when the furnace is operating in the melting and refining period. All visible emissions observations shall be conducted in accordance with Method 9. If visible emissions occur from more than one point, the opacity shall be recorded for any points where visible emissions are observed. Where it is possible to determine that a number of visible emission sites relate to only one incident of the visible emission, only one set of three 6-minute observations will be required. In that case, the Method 9 observations must be made for the site of highest opacity that directly relates to the cause (or location) of visible emissions observed during a single incident. Records shall be maintained of any 6-minute average that

is in excess of the emission limit specified in § 60.272a(a).

* * * * *

(e) A bag leak detection system must be installed and continuously operated on all single-stack fabric filters if the owner or operator elects not to install and operate a continuous opacity monitoring system as provided for under paragraph (c) of this section. In addition, the owner or operator shall meet the visible emissions observation requirements in paragraph (c) of this section. The bag leak detection system must meet the specifications and requirements of paragraphs (e)(1) through (8) of this section.

(1) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligrams per actual cubic meter (0.0044 grains per actual cubic foot) or less.

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

(3) The bag leak detection system must be equipped with an alarm system that will sound when an increase in relative particulate loading is detected over the alarm set point established according to paragraph (e)(4) of this section, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(4) For each bag leak detection system required by paragraph (e) of this section, the owner or operator shall develop and submit, to the Administrator or delegated authority, for approval, a site-specific monitoring plan that addresses the items identified in paragraphs (e)(4)(i) through (v) of this section. For each bag leak detection system that operates based on the triboelectric effect, the monitoring plan shall be consistent with the recommendations contained in the U.S. Environmental Protection Agency guidance document "Fabric Filter Bag Leak Detection Guidance" (EPA-454/R-98-015). The owner or operator shall operate and maintain the bag leak detection system according to the site-specific monitoring plan at all times. The plan shall describe the following:

(i) Installation of the bag leak detector system;

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

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

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

(v) How the bag leak detection system output shall be recorded and stored.

(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 (if applicable).

(6) Following initial adjustment, the owner or operator shall not adjust the averaging period, alarm set point, or alarm delay time without approval from the Administrator or delegated authority except as provided for in paragraphs (e)(6)(i) and (ii) of this section.

(i) Once per quarter, the owner or operator may adjust the sensitivity of the bag leak detection system to account for seasonal effects including temperature and humidity according to the procedures identified in the site-specific monitoring plan required under paragraph (e)(4) of this section.

(ii) If opacities greater than zero percent are observed over four consecutive 15-second observations during the daily opacity observations required under paragraph (c) of this section and the alarm on the bag leak detection system does not sound, the owner or operator shall lower the alarm set point on the bag leak detection system to a point where the alarm would have sounded during the period when the opacity observations were made.

(7) For negative pressure, induced air baghouses, and positive pressure baghouses that are discharged to the atmosphere through a stack, the bag leak detector sensor must be installed downstream of the baghouse and upstream of any wet scrubber.

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

(f) For each bag leak detection system installed according to paragraph (e) of this section, the owner or operator shall initiate procedures to determine the cause of all alarms within 30 minutes of an alarm. The cause of the alarm must be alleviated within 3 hours of the time the alarm occurred by taking whatever corrective action(s) are necessary. If additional time is required to alleviate the cause of the alarm, the owner or operator shall notify the Administrator or delegated authority. Corrective

actions may include, but are not limited to, the following:

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

(2) Sealing off defective bags or filter media.

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

(4) Sealing off a defective baghouse compartment.

(5) Cleaning the bag leak detection system probe, or otherwise repairing the bag leak detection system; and

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

(g) The owner or operator shall maintain each baghouse monitored by a bag leak detection system such that the alarm on the bag leak detection system does not sound for more than 3 percent of the total operating time in a 6-month reporting period.

(h) The percentage of time the alarm on a bag leak detection system sounds shall be determined according to paragraphs (h)(1) through (5) of this section.

(1) An alarm that occurs due solely to a malfunction of the bag leak detection system shall not be included in the calculation.

(2) An alarm that occurs during startup, shutdown, or malfunction shall not be included in the calculation if the owner or operator follows all requirements contained in § 60.11(d).

(3) For each alarm where the owner or operator initiates procedures to determine the cause of an alarm within 1 hour of the alarm, 1 hour of alarm time shall be counted.

(4) For each alarm where the owner or operator does not initiate procedures to determine the cause of the alarm within 1 hour of the alarm, alarm time will be counted as the actual amount of time taken by the owner or operator to initiate procedures to determine the cause of the alarm.

(5) The percentage of time the alarm on the bag leak detection system sounds shall be calculated as the ratio of the sum of alarm times to the total operating time multiplied by 100.

9. Section 60.274a is amended by revising the first sentence of paragraph (b), revising the first sentence of paragraph (c), revising the first sentence of paragraph (d), and revising paragraph (e) to read as follows:

§ 60.274a Monitoring of operations.

* * * * *

(b) Except as provided under paragraph (e) of this section, the owner

or operator subject to the provisions of this subpart shall check and record on a once-per-shift basis the furnace static pressure (if DEC system is in use, and a furnace static pressure gauge is installed according to paragraph (f) of this section) and either: check and record the control system fan motor amperes and damper position on a once-per-shift basis; install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate through each separately ducted hood; or install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate at the control device inlet and check and record damper positions on a once-per-shift basis. * * *

(c) When the owner or operator of an affected facility is required to demonstrate compliance with the standards under § 60.272a(a)(3) and at any other time the Administrator may require that (under section 114 of the CAA, as amended) either: the control system fan motor amperes and all damper positions; the volumetric flow rate through each separately ducted hood; or the volumetric flow rate at the control device inlet and all damper positions shall be determined during all

periods in which a hood is operated for the purpose of capturing emissions from the affected facility subject to paragraph (b) of this section. * * *

(d) Except as provided under paragraph (e) of this section, the owner or operator shall perform monthly operational status inspections of the equipment that is important to the performance of the total capture system (*i.e.*, pressure sensors, dampers, and damper switches). * * *

(e) The owner or operator may petition the Administrator to approve any alternative to either the monitoring requirements specified in paragraph (b) of this section or the monthly operational status inspections specified in paragraph (d) of this section if the alternative will provide a continuous record of operation of each emission capture system. * * *

10. Section 60.276a is amended by adding new paragraphs (h) and (i) to read as follows:

§ 60.276a Recordkeeping and reporting requirements.

* * * * *

(h) The owner or operator shall maintain the following records for each

bag leak detection system required under § 60.273a(e):

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

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

(3) 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, if procedures were initiated within 30 minutes of the alarm, the cause of the alarm, an explanation of the actions taken, the date and time the cause of the alarm was alleviated, and if the alarm was alleviated within 3 hours of the alarm; and

(4) The calculation of the percent of time the alarm on the bag leak detection system sounded during each 6-month reporting period.

(i) In addition to the information required by § 60.7(c), the percent of time the alarm on the bag leak detection system sounded during each 6-month reporting period shall be reported to the Administrator semi-annually.

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