

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[FRL-7168-2]

RIN 2060-AE78

National Emission Standards for Hazardous Air Pollutants From the Portland Cement Manufacturing Industry**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; amendments.

SUMMARY: The EPA is proposing targeted amendments to the national emission standards for the portland cement manufacturing industry promulgated on June 14, 1999 under the authority of section 112 of the Clean Air Act (CAA). This action proposes improvements for implementation of the emission standards, primarily in the areas of applicability, testing, and monitoring to resolve issues and questions raised since promulgation of the rule.

In the Rules and Regulations section of this **Federal Register**, we are making these amendments in a direct final rule, without prior proposal, because we view these revisions as noncontroversial, and we anticipate no adverse comments. We have explained our reasons for these revisions in the preamble to the direct final rule.

If we receive no adverse comments, we will take no further action on this proposed rule. If we receive adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register**. All public comments will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second commenter period on that subsequent final rule. Any parties interested in commenting must do so at this time.

DATES: *Comments.* Written comments must be received by May 6, 2002, unless a hearing is requested by April 15, 2002. If a hearing is requested, written comments must be received by May 20, 2002.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by April 15, 2002, a public hearing will be held on April 19, 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-92-53, 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 A-92-53, Room M-1500, U.S. EPA, 401 M Street SW, Washington, DC 20460. The Agency requests that a separate copy also be sent to the contact person listed below. Comments may also be submitted electronically by following the instructions provided in **SUPPLEMENTARY INFORMATION:**

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina at 10:30 a.m.

Docket. Docket No. A-92-53 contains supporting information used in developing the NESHA. 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 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Wood, P.E., Minerals and Inorganic Chemicals Group, Emission Standards Division (C504-05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5446, facsimile number (919) 541-5600, electronic mail address: wood.joe@epa.gov.

SUPPLEMENTARY INFORMATION: *Comments.* Comments and data may be submitted by 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 A-92-53. 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 Officer, MC-C404-02, Attn: Mr. Joseph Wood, U.S. EPA, Research Triangle Park, North Carolina 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 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. Tanya Medley, Minerals and Inorganic Chemicals Group (C504-05), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone (919) 541-5422, at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. Tanya Medley to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed amendments.

Docket. The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. 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 rules 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 CAA.) The regulatory text and other materials related to this 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.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed rule will also be available through the WWW. Following signature, a copy of this action will be posted on the EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: <http://www.epa.gov/ttn/oarpg>. The TTN at EPA's web site 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 are those that manufacture portland cement. Regulated categories and entities include:

Category	NAICS	SIC	Examples of regulated entities
Industry	32731	3241	Owners or operators of portland cement manufacturing plants.
State	32731	3241	Owners or operators of portland cement manufacturing plants.
Tribal associations	32731	3241	Owners or operators of portland cement manufacturing plants.
Federal agencies	None	None	None.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that the EPA is now aware could potentially be regulated by this action. To determine whether your facility, company, business organization, *etc.* is regulated by this action, you should carefully examine the applicability criteria in § 63.1340 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Direct Final Rule. A direct final rule identical to this proposal is published in the Rules and Regulations section of this **Federal Register**. If we receive relevant adverse comment on one or more distinct amendments in this proposal, we will publish a timely notice in the **Federal Register** informing the public which provisions will become effective and which provisions are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule. If no relevant adverse comments are received, no further action will be taken on this proposal and the direct final rule will become effective as provided in that notice.

The regulatory text for this proposal is identical to that for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For further supplementary information, see the direct final rule.

What Are the Administrative Requirements for This Action?

For information regarding other administrative requirements for this action, please see the direct final rule action that is located in the Rules and Regulations section of this **Federal Register**.

Regulatory Flexibility Act (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 of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

We have determined that it is not necessary to prepare a regulatory

flexibility analysis in connection with this proposed rule. The purpose of the proposed amendments is to clarify the rule and, therefore, will not impose new requirements or compliance costs on industry. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Although the proposed amendments will not have a significant impact on a substantial number of small entities, we worked with the portland cement industry, including small entities, throughout the rulemaking process. Meetings were held on a regular basis with industry representatives to discuss the development of the proposed amendments in connection with the settlement agreement, exchange information, and solicit comments on the proposed requirements.

List of Subjects in 40 CFR Part 63

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

Dated: March 28, 2002.

Christine Todd Whitman,
Administrator.

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