involved, the date on which the device was used, and the reason for the use.

12. Section 814.126 is amended by revising the first sentence in paragraph (a) and by revising paragraph (b) to read as follows:

§ 814.126 Postapproval requirements and reports.

(a) An HDE approved under this subpart shall be subject to the postapproval requirements and reports set forth under subpart E of this part, as applicable, with the exception of § 814.82(a)(7). * * *

(b) In addition to the reports identified in paragraph (a) of this section, the holder of an approved HDE shall prepare and submit the following complete, accurate, and timely reports:

(1) *Annual report.* An HDE applicant is required to submit an annual report on the anniversary date of marketing approval. The annual report shall include:

(i) An update of the information required under § 814.102(a) in a separately bound volume;

(ii) An update of the information required under § 814.102(c)(2), (c)(3), and (c)(5);

(iii) The number of devices that have been shipped or sold since initial marketing approval under this subpart H and, if the number shipped or sold exceeds 4,000, an explanation and estimate of the number of devices used per patient. If a single device is used on multiple patients, the applicant shall submit an estimate of the number of patients treated or diagnosed using the device together with an explanation of the basis for the estimate;

(iv) Information describing the applicant's clinical experience with the device since the HDE was initially approved. This information shall include safety information that is known or reasonably should be known to the applicant, medical device reports made under part 803 of this chapter, any data generated from the postmarketing studies, and information (whether published or unpublished) that is known or reasonably expected to be known by the applicant that may affect an evaluation of the safety of the device or that may affect the statement of contraindications, warnings, precautions, and adverse reactions in the device's labeling; and

(v) A summary of any changes made to the device in accordance with supplements submitted under § 814.108. If information provided in annual reports, or any other information in the possession of FDA, gives the agency reason to believe that a device raises public health concerns or that the criteria for exemption are no longer met, the agency may require the HDE holder to submit additional information to demonstrate continued compliance with the HDE requirements.

(2) *Other.* An HDE holder shall maintain records of the names and addresses of the facilities to which the HUD has been shipped, correspondence with reviewing IRB's, as well as any other information requested by a reviewing IRB or FDA.

Dated: March 31, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–9638 Filed 4–16–98; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5996–7]

RIN 2060–AE97

National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rule; notice of public hearing.

SUMMARY: This action proposes national emission standards for hazardous air pollutants (NESHAP) for new and existing primary lead smelters pursuant to section 112 of the Clean Air Act (Act) as amended in November 1990. Primary lead smelters have been identified by the EPA as significant emitters of lead compounds, and other metal hazardous air pollutants (HAP) including arsenic, antimony, and cadmium. Exposure to lead compounds may result in adverse effects on the blood, central nervous system and kidneys. Chronic exposure to arsenic is associated with skin, bladder, liver and lung cancer and other developmental and reproductive effects. This proposed NESHAP provides protection to the public by requiring all primary lead smelters to meet emission standards that reflect the application of maximum achievable control technology (MACT).

DATES: *Comments.* Comments on the proposed rule must be received on or before June 16, 1998.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by May 8, 1998, a public hearing will be held on May 18, 1998, beginning at 10:00 a.m.

ADDRESSES: *Comments.* Written comments should be submitted (in duplicate, if possible) to: Docket No. A–97–33 at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street, SW., Washington, DC 20460. The EPA requests that a separate copy of the comments also be sent to the contact person listed below.

Electronic comments can be sent directly to EPA's Air and Radiation Docket and Information Center at: ''A-and-R-Docket@epamail.epa.gov.'' Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (A–97–33). No Confidential Business Information (CBI) should be submitted through electronic mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

Docket. Docket No. A–97–33 contains supporting information used in developing the proposed standards. The docket is located at the U. S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 12:00 p.m. and 1:00 to 3:00 p.m., Monday through Friday. The proposed 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.

Public Hearing. If anyone contacts the EPA requesting a public hearing by the required date (see **DATES**), the public hearing will be held at the EPA Office of Administration Auditorium, Research Triangle Park, NC. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should notify the contact person listed below.

FOR FURTHER INFORMATION CONTACT: For information concerning the proposed standards and technical aspects of primary lead smelting emissions and control, contact Mr. Kevin Cavender, Environmental Protection Agency MD–13, Research Triangle Park, NC 27711, telephone number (919) 541–2364, facsimile number (919) 541–5600, electronic mail address ''cavender.kevin@epamail.epa.gov.''.

SUPPLEMENTARY INFORMATION:

Regulated Entities

The regulated category and entities affected by this action include Primary Lead Smelting (SIC 3339). This action will affect three existing primary lead smelting facilities and any new primary lead smelting facilities built in the future.

Technology Transfer Network

The text of today's notice will also be available on the Technology Transfer Network (TTN), one of EPA's electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541–5742 for up to a 14,400 BPS modem. The TTN also is accessible through the Internet at ''http://www.epa.gov/ttn''. If more information on the TTN is needed, call the HELP line at (919) 541–5348. The HELP desk is staffed from 11 a.m. to 5 p.m.; a voice menu system is available at other times.

Outline

The information presented in this preamble is organized as follows:

I. Statutory Authority

The statutory authority for this proposal is provided by sections 101, 112, 114, 116, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7412, 7414, 7416, and 7601).

II. Initial List of Categories of Major and Area Sources

Section 112 of the Act requires that the EPA promulgate regulations requiring the control of HAP emissions from major and area sources. The control of HAP's is achieved through promulgation of emission standards under sections 112 (d) and (f) and work practice standards under section 112(h).

An initial list of categories of major and area sources of HAP's selected for regulation in accordance with section 112(c) of the Act was published in the **Federal Register** on July 16, 1992 (57 *FR* 31576). Primary lead smelting is one of the 174 categories of sources listed. The category consists of smelters that process lead bearing ore concentrates into lead metal. The listing was based on the Administrator's determination that primary lead smelters may reasonably be anticipated to emit several of the 189 listed HAP's in quantities sufficient to designate them as major sources. Information subsequently collected by the EPA as part of this rulemaking confirms that all three operating primary lead smelters have the potential to emit greater than 9.1 megagrams per year (Mg/yr) [10 tons per year (tpy)] of a single HAP or greater than 22.7 Mg/yr (25 tpy) of a combination of HAP's (Docket ID No. II–B–4). Therefore, all three primary lead smelters are major sources.

III. Background

A. Description of Source Category

Primary lead smelters smelt lead bearing ore concentrates producing lead metal. The primary lead smelting source category does not include secondary lead smelters, lead remelters, or lead refiners.

There are three operating primary lead smelters in the United States. The Doe Run Company owns and operates a primary lead smelter in Herculaneum, Missouri (Doe Run). The ASARCO Inc. owns and operates two primary lead smelters, one located in East Helena, Montana (ASARCO–MT), and a second located in Glover, Missouri (ASARCO–MO). No new primary lead smelters have been built in the last 10 years, and one smelter has closed during that time. No new primary smelters are anticipated in the foreseeable future.

Lead sulfide (PbS) ore concentrates are the main feed material to primary lead smelters. The two smelters located in Missouri obtain their concentrates from local mines. The ore concentrates coming from these mines have very high lead contents (about 70%), and low impurities. The ASARCO–Montana smelter buys its concentrates on the world market. These concentrates often have higher impurity contents.

The primary lead smelting process consists of: (1) Concentrate storage and handling, (2) sintering of ore concentrates, (3) sinter crushing and handling, (4) smelting of sinter to lead metal, (5) drossing, refining, and alloying of lead metal, and (6) smelting of drosses.

Lead concentrate, limestone, iron ore, silica and coke are received by truck and/or rail car where they are transferred to storage bins or piles. These materials and other in-process materials (including recycled flue dust) are weighed and mixed prior to charging into the sinter machine.

A sinter machine is essentially a continuous steel pallet conveyor belt. Each pallet consists of perforated or slotted plates. The purpose of sintering is to reduce the sulfur content of the lead sulfide concentrate by oxidizing it to lead oxide and sulfur dioxide, while simultaneously producing a hard porous clinker material (''sinter'') suitable for processing in the blast furnace. The charge is ignited in two stages. In the first stage, the charge is dumped onto the pallets to a depth of approximately 1 inch. Gas burners are directed to the upper surface of the charge. Air and combustion gases are pulled through the top of the charge and are removed from the bottom. This is conducted over the first several feet of the machine. After this layer is completely ignited, a second layer of sinter is placed on top of the first to obtain a total depth of roughly one foot. At the same time the second layer is added, the airflow through the bed is reversed, blowing up through the bottom of the charge, and is removed from the top of the machine. This allows the oxygen and hot combustion gases to ignite and burn the remainder of the charge.

As sinter is discharged from the machine, it falls into a series of crushers and screens where it is reduced and

sized into two fractions, smaller than and greater than 1.5 inches in diameter. The greater than 1.5 inch fraction is transferred to the blast furnace for smelting. The smaller than approximately 1.5 inch fraction is further crushed to a size of less than ¼ inch and is returned to the sinter machine bedding area for reprocessing.

Smelting of the sinter takes place in a blast furnace. The two ASARCO facilities operate two blast furnaces, while the Doe Run facility operates three blast furnaces. At all three facilities one blast furnace is typically shutdown for service at any given time. A blast furnace is a rectangular shaped shaft furnace. Tuyeres through which combustion air is admitted under pressure are located near the bottom, and are evenly spaced on either side of the furnace. The combustion zone of the furnace is at the same level as the tuyeres, and the hot combustion gases filter through the charge, preheat the charge, and are discharged through the top of the furnace.

The furnaces are charged periodically through the top by a charge car as frequently as needed to maintain a constant bed height in the furnace. A typical charge consists of 90 percent sinter and 10 percent coke.

As the smelting reaction takes place, molten metal and slag pool at the bottom of the furnace, where it is continuously tapped into a settling chamber. In this chamber the slag is tapped from the top, and the lead bullion is tapped from the bottom. Bullion is transferred to drossing kettles. Slag is tapped into a chamber where water is injected and the slag is granulated. The granulated slag is then either sent to storage for charge to the sinter machine, or is sent to a ''slag pile'' for disposal.

The bullion is allowed to cool in the drossing kettles. While cooling, copper dross floats to the surface and is periodically skimmed. Once the dross is removed, the bullion is transferred to other kettles for further refining and alloying. Once the desired product is obtained, the lead is cast into various size molds, ranging in size from 65 pounds to 2000 pounds.

The dross obtained from the drossing kettles may be sent off-site for processing, or may be processed on-site in a small reverberatory furnace. The reverberatory furnace, referred to as a dross furnace, uses direct heat supplied by a natural gas burner to further reduce and separate the dross into lead bullion, copper matte, and copper speiss which contains arsenic. The lead bullion is added back to the dross kettles, while the matte and speiss are sent off-site to a copper smelter for copper recovery.

B. Emissions and Factors Affecting Emissions

Hazardous air pollutants (HAPs) are emitted from primary lead smelters as: (1) Process emissions, (2) process fugitive emissions, and (3) fugitive dust emissions. Table 1 summarizes the estimated HAP emissions from each of the primary lead smelters (Docket ID No. II–B–4). These estimates represent potential to emit estimates based on current Federally enforceable emission limits and air pollution controls.

TABLE 1.—SUMMARY OF POTENTIAL TO EMIT HAP EMISSION ESTIMATES FROM PRIMARY LEAD SMELTERS (TPY)

Company	Lead compounds	Total metal HAP	Total organic HAP
ASARCO—MO ..	60	80	6
ASARCO—MT ...	70	90	5
Doe Run—MO ...	90	110	10

1. Process Emissions

Process emissions include emissions associated with the exhaust gases from sinter machines and blast and dross furnaces. Metal HAP emissions from process sources are produced through the volatilization of the metals contained in the feed materials by the elevated smelting temperatures and by the entrainment of metal-containing PM in the furnace exhaust. Both sinter machines and blast furnaces emit substantial quantities of metal HAP. Dross furnaces, being considerably smaller, emit lesser amounts. About 80 percent of metal HAP emissions are lead compounds, with lesser amounts of antimony, arsenic, and other metal compounds.

Organic HAP emissions from blast furnaces result from incomplete combustion of organic-containing materials (coke) in the furnace charge. None of the existing primary lead blast furnaces are equipped with organic emissions controls (e.g., afterburners). Emissions testing was performed by the EPA on the uncontrolled blast furnace exhaust at the Doe Run—MO smelter to determine the magnitude of organic HAP emissions from primary lead blast furnaces (Docket ID No. II–A–1). The emissions data obtained indicate low (part per billion) levels of several organic HAP compounds. The five compounds with the highest measured emission rates were benzene (62 ppb, 0.29 lb/hr), methylene chloride (50 ppb, 0.26 lb/hr), acetaldehyde (60 ppb, 0.15 lb/hr), carbon disulfide (33 ppb, 0.15 lb/hr), and formaldehyde (87 ppb, 0.15 lb/hr). Combined, the measured organic HAP emissions total 2.3 lb/hr, which is equivalent to an annual emission rate approaching 10 tons per year. The EPA believes these levels of organic HAP emissions are not significant enough to warrant regulation.

Furthermore, the organic HAP concentrations measured at primary lead smelters are far below what the EPA has historically considered achievable with add-on controls (e.g., thermal oxidizers). The EPA generally considers thermal oxidizers capable of achieving a 98 percent emission reduction or an outlet concentration of 20 ppm, which ever is greater (Docket ID No. II–B–6). As stated above, organic HAP concentrations at primary lead smelters are on the order of 50 to 60 ppb, or three orders of magnitude less than what the EPA has considered achievable with thermal oxidizers. Therefore, the EPA believes that it is technically infeasible to reduce organic HAP emissions from primary lead blast furnaces through the use of add-on controls.

2. Process Fugitive Emissions

Process fugitive emissions result from sinter machine and furnace charging, sinter crushing and sizing, furnace tapping, drossing, refining, and casting. Process fugitive emissions contain metal HAP's. The majority of process fugitive sources at primary lead smelters are currently hooded and ventilated to control devices. Ventilated enclosures are also used to further reduce process fugitive emissions at some sources.

3. Fugitive Dust Emissions

Fugitive dust emissions result from the entrainment of dust due to material handling, vehicle traffic, and wind erosion from storage piles. Fugitive dust emissions contain metal HAP's. The quantity of fugitive dust emissions is dependent on the size of the facility and the fugitive dust controls and practices in place. These emissions can not be measured directly, and can only be roughly estimated using emission factors and facility-specific data or through indirect monitoring methods. Fugitive dust sources are typically controlled by reducing the potential for entrainment through measures such as wetting, pavement cleaning, use of chemical stabilizers, and protection from wind.

C. Regulatory History

1. New Source Performance Standards

The EPA promulgated new source performance standards (NSPS) for primary lead smelters on January 15, 1976 (40 CFR part 60, subpart R). The NSPS limits emissions of particulate matter (PM) from blast and reverberatory furnaces (including rotary furnaces) to a concentration of 50 milligrams per dry standard cubic meter (mg/dscm) [0.022 grains per dry standard cubic foot (gr/dscf)] and emissions from refining kettles (pot furnaces) to 10 percent opacity. However, none of the primary lead smelters have undergone any major construction or reconstruction since the rule became effective, and are, for the most part, not subject to the NSPS requirements.

2. State Implementation Plans for Lead

On October 5, 1978, the EPA promulgated National Ambient Air Quality Standards (NAAQS) for lead at a level of 1.5 micrograms of lead per cubic meter of air averaged over a calendar quarter. The NAAQS defines levels of air quality that are determined by EPA to be necessary, with an adequate margin of safety, to protect the public health (42 U.S.C. 7409). The areas around all three primary lead smelters were and continue to be designated as nonattainment areas for lead. Since the early 1980's, all three primary lead smelters and states have been involved in an ongoing effort to develop Federally enforceable control strategies to be incorporated into State Implementation Plans (SIP) in order to bring the areas into attainment with the lead NAAQS. The following paragraphs detail the history of the SIP development for the three primary smelters.

ASARCO–MT. Ambient air quality monitoring data collected during the period of 1977–1981 by the state of Montana indicated that there were recorded violations of the NAAQS for lead in the East Helena area. On September 29, 1983, the State of Montana submitted a plan for the control of lead emissions from the ASARCO–MT facility as part of the Montana State Implementation Plan for lead. The EPA published a final approval of the SIP on July 9, 1984 (49 FR 27944).

As of December 31, 1986, all of the control strategies in the 1983 lead SIP were implemented. Ambient monitoring data for the fourth quarter of 1988 indicated that the lead NAAQS was not met. On November 6, 1991, the EPA designated the East Helena area as a nonattainment area for lead (56 FR 56694), effective January 6, 1992. As a result of this designation, Montana was required to submit a revised lead SIP that meets the requirements of the NAAQS. The State of Montana submitted a new SIP proposal to the EPA on August 16, 1996 (Docket ID No. II–I–2). This submittal is still under review by the EPA.

ASARCO–MO. The original Glover lead SIP was approved by EPA in 1981. On November 6, 1991, the EPA designated the Liberty and Arcadia Townships which surround the ASARCO–MO facility as nonattainment for lead. This designation became effective on January 6, 1992. On August 14, 1996, the State of Missouri submitted a revised SIP (Docket ID No. II–I–1). The EPA promulgated final approval of the submittal on March 5, 1997 (62 FR 9970).

Doe Run–MO. On June 3, 1986, the EPA issued a call for a revision to the Missouri SIP in response to violations of the NAAQS for lead near the Doe Run primary lead smelter in Herculaneum, Missouri. The state of Missouri submitted a SIP revision on September 6, 1990, with additional materials submitted on May 8, 1991. Before the EPA acted on the state's submission, the EPA promulgated a nonattainment designation for the area in the vicinity of Doe Run. The designation was published on November 6, 1991 (56 FR 56694), and became effective on January 6, 1992. As a result of the nonattainment designation, the Part D requirements of the act became applicable to the Missouri SIP revision for Doe Run. The EPA granted limited approval for Missouri's 1990 SIP revision on March 6, 1992 (57 FR 8076). The EPA explained that the basis for the limited approval was that the state would be required to submit a supplemental SIP revision meeting the applicable Part D requirements. On July 2, 1993, The state of Missouri submitted a lead attainment plan for the Doe Run–MO facility meeting the Part D requirements. In response to the EPA's comments, the state submitted revisions to the SIP on June 30, 1994, and November 23, 1994 (Docket ID No. II–I–3). The EPA found that these SIP components satisfy the Part D requirements of the Act. The EPA promulgated final approval of the submittals on May 5, 1995 (52 FR 22274).

3. National Emission Standards for Hazardous Air Pollutants

On July 16, 1992, the EPA published an initial list of categories of major and area sources selected for regulation in accordance with section 112(c) of the Act (57 FR 31476). Primary lead smelters were among the listed categories. Today, the EPA is issuing a notice of proposed rulemaking for primary lead smelters and is soliciting comments on the proposed rule.

IV. NESHAP Decision Process

A. Source of Authority for NESHAP Development

Section 112 specifically directs the EPA to develop a list of all categories of all major and such area sources as appropriate emitting one or more of the 189 HAP listed in section 112(b) (section 112(c)). Section 112 of the Act replaces the previous system of pollutant-by-pollutant health-based regulation that proved ineffective at controlling the high volumes and concentrations of HAP in air emissions. The provision directs that this deficiency be redressed by imposing technology-based controls on sources emitting HAP, and that these technology-based standards may later be reduced further to address residual risk that may remain even after imposition of technology-based controls. A major source is any source that emits, or has the potential to emit considering Federally enforceable controls, 10 tons per year or more of any one HAP or 25 tons per year or more of any combination of HAP. The EPA published an initial list of source categories on July 16, 1992 (57 FR 31576), and may amend the list at any time.

B. Criteria for Development of NESHAP

The NESHAP are to be developed to control HAP emissions from both new and existing sources according to the statutory directives set out in section 112, as amended. The statute requires the standard to reflect the maximum degree of reduction of HAP emissions that is achievable taking into consideration the cost of achieving the emission reduction, any non-air quality health and environmental impacts, and energy requirements.

Emission reductions may be accomplished through application of measures, processes, methods, systems, or techniques, including, but not limited to: (1) Reducing the volume of, or eliminating emissions of, such pollutants through process changes, substitution of materials, or other modifications, (2) enclosing systems or processes to eliminate emissions, (3) collecting, capturing, or treating such pollutants when released from a process, stack, storage, or fugitive emissions point, (4) design, equipment, work practice, or operational standards

(including requirements for operator training or certification) as provided in subsection (h) of section 112, or (5) a combination of the above (section 112(d)(2)).

To develop a NESHAP, the EPA collects information about the industry, including information on emission source characteristics, control technologies, data from HAP emissions tests at well-controlled facilities, and information on the costs and other energy and environmental impacts of emission control techniques. The EPA uses this information to analyze possible regulatory approaches.

Although NESHAP are normally structured in terms of numerical emission limits, alternative approaches are sometimes necessary. In some cases, for example, physically measuring emissions from a source may be impossible, or at least impractical, because of technological and economic limitations. Section 112(h) authorizes the Administrator to promulgate a design, equipment, work practice, or operational standard, or a combination thereof, in those cases where it is not feasible to prescribe or enforce an emissions standard.

If sources in the source category are major sources, then a MACT standard is required for those major sources. The regulation of the area sources in a source category is discretionary. If there is a finding of a threat of adverse effects on human health or the environment, then the source category can be added to the list of area sources to be regulated.

C. Determining the MACT Floor

After the EPA has identified the specific source categories or subcategories of major sources to regulate under section 112, it must set MACT standards for each category or subcategory. Section 112 limits the EPA's discretion by establishing a minimum baseline or ''floor'' for standards. For new sources, the standards for a source category or subcategory cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source, as determined by the Administrator (section 112(d)(3)).

The standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent and may be more stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources (excluding certain sources) for categories and subcategories with 30 or more sources, or the best-performing 5 sources for categories or subcategories with fewer than 30 sources (section 112(d)(3)).

After the floor has been determined for a new or existing source in a source category or subcategory, the Administrator must set MACT standards that are no less stringent than the floor. Such standards must then be met by all sources within the category or subcategory.

Section 112(d)(2) specifies that the EPA shall establish standards that require the maximum degree of reduction in emissions of hazardous air pollutants

> * * * that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable * * *.

In establishing standards, the Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory (section 112(d)(1)). For example, the Administrator could establish two classes of sources within a category or subcategory based on size and establish a different emissions standard for each class, provided both standards are at least as stringent as the MACT floor for that class of sources.

The next step in establishing MACT standards is the investigation of regulatory alternatives. With MACT standards, only alternatives at least as stringent as the floor may be selected. Information about the industry is analyzed to develop model plant populations for projecting national impacts, including HAP emission reduction levels, costs, energy, and secondary impacts. Several regulatory alternative levels (which may be different levels of emissions control or different levels of applicability or both) are then evaluated to select the regulatory alternative that best reflects the appropriate MACT level.

The selected alternative may be more stringent than the MACT floor, but the control level selected must be technically achievable. In selecting a regulatory alternative that represents MACT, the EPA considers the achievable emission reductions of HAP (and possibly other pollutants that are co-controlled), cost, and economic impacts, energy impacts, and other environmental impacts. The objective is to achieve the maximum degree of emissions reduction without unreasonable economic or other impacts (section 112(d)(2)). The regulatory alternatives selected for new and existing sources may be different because of different MACT floors, and separate regulatory decisions may be made for new and existing sources.

The selected regulatory alternative is then translated into a proposed regulation. The regulation implementing the MACT decision typically includes sections on applicability, standards, test methods and compliance demonstration, monitoring, reporting, and recordkeeping. The preamble to the proposed regulation provides an explanation of the rationale for the decision. The public is invited to comment on the proposed regulation during the public comment period. Based on an evaluation of these comments, the EPA reaches a final decision and promulgates the standard.

V. Summary of the Proposed Standards

A. Sources to be Regulated

Standards are being proposed to limit metal HAP emissions from: (1) Process sources, (2) process fugitive sources, and (3) fugitive dust sources at primary lead smelters. Process source emissions are discharged as the main exhaust of a sinter machine or smelting furnace through a chimney, flue, or ductwork. Process sources that would be regulated include sinter machines, blast furnaces, and dross furnaces.

Process fugitive emission sources that would be regulated include sinter machine charging and discharging, sinter crushing and sizing, blast furnace tapping, and dross furnace charging and tapping.

Fugitive dust sources that would be regulated include plant yards and roadways subject to wind and vehicle traffic, process areas, and materials handling and storage areas.

B. Proposed Standards for Process and Process Fugitive Sources

A ''plant wide'' emission limit is being proposed for lead compounds from process and process fugitive emission sources. The lead compound emission limit is being proposed as a surrogate for all metal HAP's and will apply to both existing and new sources. The aggregated lead emissions from the following process and process fugitive sources would be limited to 500 mg/Mg of lead produced (1.0 lb/ton of lead produced):

(1) Sinter machine;
(2) Blast furnace;
(3) Dross furnace;
(4) Dross furnace charging location;
(5) Blast and dross furnace tapping locations;
(6) Sinter machine charging location;
(7) Sinter machine discharge end;
(8) Sinter crushing and sizing equipment; and

(9) Sinter machine area.

In addition to the emission limit, work practice standards are proposed for the above listed fugitive sources (items 4 through 9). The proposed rule requires that the charging, tapping, and sinter handling sources identified above (items 4 through 8) be equipped with a hood ventilated to a control device. The hood design and ventilation rate shall be consistent with the American Conference of Governmental Industrial Hygienists (ACGIH) recommended practices. In addition, the proposed rule requires that the sinter machine and sinter crushing and sizing equipment be located in a building ventilated to a baghouse or equivalent device at a rate that maintains the building at a lower than ambient pressure, ensuring in-draft through any doorway opening.

C. Proposed Standards for Fugitive Dust Sources

The proposed standards for fugitive dust sources are in the form of work practice and operating standards. The EPA is proposing work practice and operating standards based on the determination in accordance with § 112 (h)(2)(A) that the HAPs controlled by those standards cannot be emitted through a conveyance designed and constructed to emit or capture those HAP. Again, the standards apply to fugitive dust sources at both new and existing smelters. Each primary lead smelter would be required to develop a Standard Operating Procedures (SOP) manual for fugitive dust sources that details procedures to limit fugitive dust emissions. Each smelter's SOP manual would be reviewed and subject to approval by the Administrator. Existing manuals developed as part of a facilities SIP control strategy may be used to meet this requirement if the existing manuals address the identified fugitive dust sources.

D. Compliance Dates

Compliance with the standards would be achieved within 24 months of promulgation for existing primary lead smelters, and upon startup for new and reconstructed smelters.

E. Compliance Test Methods

Testing of lead compound emissions from process and process fugitive emission control devices would be conducted according to EPA reference method 12 (40 CFR part 60, appendix A). Sampling locations for all compliance tests would be determined by EPA reference method 1. Stack gas velocity and volumetric flow rate would be determined by EPA reference method 2. Gas analysis would be conducted according to EPA reference method 3 for CO_2, oxygen, excess air, and molecular weight on a dry basis. The previous 12 calender months worth of production data will be used to calculate lead production based on the mass produced, and the lead content of lead products, copper speiss, and copper matte.

F. Monitoring Requirements

Each owner or operator subject to the proposed NESHAP would be required to develop and operate according to a SOP manual for operation and maintenance of the control devices used to comply with the emission limits. Each smelter's SOP manual would be reviewed and subject to approval by the Administrator. The minimum SOP requirements identified in the proposed rule would serve as the criteria by which the Administrator would decide whether to approve a smelter's SOP.

As proposed, the owner or operator must install a bag leak detection system for each fabric filter used on a process or process fugitive source. The bag leak detection system would be equipped with an audible alarm that automatically sounds when an increase in particulate emissions above a predetermined level is detected. The proposed rule requires that the monitor be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.004 grains per actual cubic foot) and provide an output of relative PM emissions. Such a device would serve as an indicator of the performance of the fabric filter and would provide an indication of when maintenance of the fabric filter is needed. An alarm by itself does not indicate noncompliance with the lead limit, but would indicate an increase in PM emissions and trigger an inspection of the fabric filter to determine the cause of the alarm. The owner or operator would initiate corrective actions according to the procedures in their operation, maintenance, and monitoring plan. The owner or operator would be considered out of compliance upon failure to initiate corrective actions within 1 hour of the alarm.

G. Notification Requirements

The owner or operator of a primary lead smelter would be required to submit the notifications described in section 63.9 of the General Provisions to part 63, (40 CFR part 63, subpart A). These would include the initial notification, notifications of performance tests, and the notification of compliance status. In addition, each owner or operator would be required to submit the baghouse operation and maintenance SOP manual and the fugitive dust control SOP manual along with a notification to the Administrator requesting review and approval of the smelter's SOP manuals.

H. Recordkeeping and Reporting Requirements

The owner or operator of a primary lead smelter would be required to comply with the recordkeeping and reporting requirements described in section 63.10 of the General Provisions to part 63, (40 CFR part 63, subpart A). In addition, the owner or operator of a primary lead smelter would be required to retain for 5 years records of: (1) production data of the weight and lead content of lead products, copper matte, and copper speiss, (2) an identification of the date and time of all bag leak detection system alarms, their cause, and an explanation of the corrective actions taken, (3) records demonstrating implementation of the baghouse SOP, and (4) records demonstrating implementation of the fugitive dust controls contained in the smelter's SOP manual.

In addition to the information required by the General Provisions to part 63, (40 CFR part 63, subpart A), the owner or operator of a primary lead smelter would be required to submit semi-annual reports containing (1) records of all alarms from the bag leak detection system including a description of the procedures taken following each bag leak detection system alarm, (2) a summary of the records maintained as part of the practices described in the baghouse SOP, and (3) a summary of the fugitive dust control measures performed during the required reporting period.

VI. Summary of Environmental, Energy, and Economic Impacts

There are only three existing primary lead smelters that would be subject to the proposed standards, and no new facilities are anticipated in the next 5 years. The proposed levels of control are based on existing SIP emission limits for lead. No additional emission controls would be required to comply with the proposed standards. Therefore, no quantifiable emission reduction or other environmental impacts are anticipated to result from this rulemaking. However, it is anticipated that improved baghouse operation and maintenance procedures coupled with continuous bag leak detection may result in unquantifiable reductions in emissions of lead compounds and other metal HAP.

Similarly, cost and economic impacts are expected to be minimal. The only costs associated with the proposed standards are those required to perform

compliance assurance activities such as performance testing, monitoring, reporting, and recordkeeping. These costs are minimal, and will not result in any significant economic impact.

VII. Rationale for Selecting the Proposed Standards

This section describes the rationale for the decisions made by the Administrator in selecting the proposed standards.

A. Selection of Pollutants and Source Category

Primary lead smelters emit several of the 189 HAP's listed in section 112(b) of the Act. Metal HAP's emitted include primarily compounds of lead, antimony, and arsenic, with lesser quantities of compounds of chromium, nickel, manganese, mercury, and cadmium. Organic HAP's are emitted at insignificant levels by primary lead smelters. Criteria pollutants emitted include lead, PM, SO_2, No_X, CO, and hydrocarbons.

All three primary lead smelters in the United States are major sources of HAP's, based on potential-to-emit estimates that take into account air pollution control measures currently in place at each smelter. Although no new primary lead smelters are anticipated, any new primary lead smelter would certainly be a major source of metal HAP emissions. As such, area sources are not addressed by this proposed standard.

The emission, equipment, and work practice standards being proposed today are based on existing SIP requirements that substantially limit emissions of metal HAP's from primary lead smelters. The lead emission limit being proposed is a surrogate for individual metal HAP compounds. Strong correlations exist between lead emissions and other metal HAP emissions. In addition, the technologies identified for the control of metal HAP's are the same as those used to control lead emissions. Therefore, emissions standards requiring good control of lead will also achieve good control of the other metal HAP's emitted from primary lead smelters. Further, establishing emission limits for each of the numerous metal HAP compounds emitted from primary lead smelters is considered impractical because measuring each compound would be too costly and would pose unreasonable compliance and monitoring costs while achieving little, if any, emission reduction above the surrogate pollutant approach.

B. Selection of Affected Sources

Nearly all activities at a primary lead smelter have the potential to emit metal HAP. In selecting the affected sources for this subpart, the EPA attempted to identify all operations that have the potential to emit appreciable quantities of HAP. As a result, the proposed standards apply to three types of emission sources at primary lead smelters: (1) Process sources, (2) process fugitive sources, and (3) fugitive dust sources.

Process source emissions are discharged as the main exhaust of a sinter machine or smelting furnace through a chimney, flue, or ductwork. Process sources that would be regulated include sinter machines, blast furnaces, and dross furnaces. Process sources have the potential to emit significant amounts of metal HAP.

Process fugitive emission sources that would be regulated include sinter machine charging and discharging, sinter crushing and sizing, blast furnace tapping, and dross furnace charging and tapping. Process fugitive sources are also a significant source of metal HAP.

Fugitive dust sources that would be regulated include plant yards and roadways subject to wind and vehicle traffic, process areas, and materials handling and storage areas. Fugitive dust sources emit appreciable quantities of metal HAP.

C. Selection of Basis and Level for the Proposed Standards for New and Existing Sources

Each of the three primary lead smelters are subject to federally enforceable SIP emission limitations and work practice requirements for the control of lead. In developing a SIP, the State and facility work together to develop an emission inventory which includes process, process fugitive, and fugitive dust sources. Once the emission inventory is developed, dispersion modeling is performed to identify the emission sources contributing to NAAQS violations. Emission control options are identified and evaluated for each of the sources contributing to the NAAQS violation. The combination of controls, including contingency measures, found to be technically feasible and that bring the modeled air concentrations below the NAAQS are selected for the ''Control Strategy''. The facilities and the State agree to a Consent Order which legally binds them to implement the Control Strategy. The Consent Order also sets forth the administrative requirements for the implementation of the control measures. The state then submits a revision to the existing SIP to the EPA for approval.

As part of this rulemaking, the EPA has reviewed the proposed SIP requirements and Control Strategies for each of the three facilities, and has determined that the SIP emission limits and work practice requirements represent MACT for this industry. As such, the EPA's goal in this rulemaking is to develop MACT limitations compatible with the SIP requirements. The following paragraphs provide the rationale and supporting information for selection of MACT for the primary lead smelting source category.

1. Selection of MACT for Process and Process Fugitive Sources

Metal HAP emissions from all of the major process and process fugitive sources are well controlled at the three primary lead smelters and all three facilities have SIP lead emission limits for the process and main process fugitive emission sources (Tables 2–4). Baghouses are used to control emissions from all existing blast furnace exhausts. ASARCO–MO uses a baghouse to control emissions from their sinter machine exhausts, while the other two facilities send the sinter machine strong gasses to an acid plant for SO_2 control, and the weak gasses to a baghouse. Due to the extensive cooling and precleaning associated with an acid plant, it is believed that an acid plant provides a higher level of control of metal HAP emissions as compared to baghouses alone.

TABLE 2.—SUMMARY OF SIP EMISSION LIMITS FOR ASARCO—MO

Emission point	Sources included	Lead emission limits (lb/day)
Main Stack	Sinter Machine Sinter Machine Charging Sinter Machine Discharge Sinter Crushing	184.2

TABLE 2.—SUMMARY OF SIP EMISSION LIMITS FOR ASARCO—MO—Continued

Emission point	Sources included	Lead emission limits (lb/day)
Ventilation Stack	Sinter Machine Area Ventilation Blast Furnace Tapping	125.4
Blast Furnace Stack	Blast Furnace Sinter Sizing	82.3

TABLE 3. SUMMARY OF SIP EMISSION LIMITS FOR ASARCO—MT

Emission point	Sources included	Lead emission limits (lb/day)
Blast Furnace Baghouse Stack	Blast Furnaces Blast Furnace Charge Location Blast Furnace Tap Location	89.1
Dross Plant Baghouse Stack	Dross Furnace Dross Furnace Charge Location Dross Furnace Tap Location Lead Granulator Kettle Covers Sinter Storage Blast Furnace Charge Car Pneumatic Flue Dust Handling	83.8
Sinter Plant Baghouse Stack	Sinter Machine Weak Gas Sinter Machine Charge Location Sinter Machine Discharge Sinter Crushing and Sizing Pneumatic Flue Dust Handling Flue Dust Storage	43.6
Acid Plant Stack	Sinter Machine Strong Gas	1.7
Crushing Mill #1 Baghouse Stack	Sinter Machine Area Ventilation	1.35
Crushing Mill #2 Baghouse Stack	Sinter Machine Area Ventilation	1.35
CSHB Baghouse Stack	Concentrate Storage/Handling Pneumatic Flue Dust Handling Sinter Crushing and Sizing	98.1

TABLE 4.—SUMMARY OF SIP EMISSION LIMITS FOR DOE RUN

Emission point	Sources included	Lead emission limits (lb/day)
Main Stack	Blast Furances Blast Furnace Tap Location Sinter Machine Sinter Crushing	446.6
Cooler/Crusher Baghouse	Sinter Crushing and Sizing Sinter Cooling	21.8
Sinter Plant Southend Baghouse	Sinter Machine Area	2.6
Smooth Rolls Baghouse	Sinter Crushing Sinter Machine Area	2.2
Mixing Drum Baghouse	Sinter Charge Mixing Drum	10.2
Dross Plant Baghouse	Dross Furnace Dross Furnace Talling Dross Kettle Ventilation	36.2

All of the process fugitive sources identified at primary lead smelters are hooded, and ventilated to a baghouse with the exception of blast furnace charging and drossing and refining kettles. At the ASARCO—MT facility, the drossing and refining kettles are located in a totally enclosed building ventilated to a baghouse, and the blast furnace charging location is hooded and ventilated to a baghouse. At the other two facilities, the blast furnace charging location and the drossing and refining kettles are located in partially enclosed buildings which are not ventilated to a baghouse. The sinter machine and sinter crushing and sizing equipment at all three smelters are housed in buildings which are ventilated to an air pollution control device.

Several approaches were identified and evaluated for determining MACT for process and process fugitive sources at primary lead smelters. One common regulatory approach is to establish emission limits for each individual source (sinter machine, blast furnace, etc.). For the primary lead smelting category, this approach has several disadvantages. Due to the manner in

which many of the process and process fugitive sources are ''commingled'' into a single stack, emission from individual sources can not be isolated. As a result, it would not be possible to monitor compliance with emission limits for individual sources. In addition, this approach would result in emission limits inconsistent with the existing SIP, where emission limits are set for stacks rather than for individual emission sources.

The EPA proposes to establish MACT for process and process fugitive sources at primary lead smelters based on a ''plant wide'' approach (Docket ID No. II–B–5). Using this approach, the emissions from all of the process and process fugitive sources are aggregated, and then divided by the facility's lead production rate to provide a production based lead emission rate in units of grams of lead emitted per megagram of lead produced. The plant wide emission limit approach has several advantages. It is very compatible with the existing SIPs, and it provides facilities with more flexibility in complying with the MACT standard. Furthermore, the plant wide production based emission limit helps promote pollution prevention within the facilities by giving each facility the ability to meet the emission limit through any combination of source reduction and control technology options. Table 5 summarizes the calculations used to derive the production based MACT floor.

TABLE 5.—SUMMARY OF PLANT WIDE LEAD EMISSION RATES

Company	Lead SIP emission limit [Mg/day(lb/day)]	Lead production capacity [Mg/day(ton/day)]	Plant wide emission rate [g/Mg(lb/ton)]
ASARCO—MO	0.178(392)	357(394)	500(1.0)
ASARCO—MT	0.145(319)	279(307)	520(1.0)
Doe Run	0.236(520)	559(616)	420(0.84)

The median value was selected to represent the MACT floor—500 grams lead per megagram of lead produced (1.0 pounds of lead per ton of lead produced).

In addition to the lead emission limit, the EPA is proposing equipment standards for several process fugitive sources at primary lead smelters including dross furnace charging and tapping locations, blast furnace tapping locations, sinter machine charge and discharge points, and sinter crushing and sizing equipment. The proposed standard would require that each of these sources be hooded and ventilated to a baghouse or equivalent control device. The hood design and ventilation rate shall be consistent with ACGIH recommended practices. In addition, the rule will require that sinter machines and sinter crushing and sizing equipment be located in a building which is ventilated to a baghouse or equivalent control device at a rate that would maintain the building at a lower than ambient pressure. Based on observations at operating primary lead smelters (Docket ID No.'s II–B–1, II–B–2, and II–B–3), the EPA believes that the capture and ventilation systems currently installed and operated at primary lead smelters are consistent with the proposed requirements. These controls consequently establish the MACT floor. Therefore, the EPA is proposing to incorporate these specifications into the proposed MACT for new and existing process fugitive sources.

2. Selection of MACT for Fugitive Dust Sources

The EPA is proposing that each smelter develop and submit to the Administrator for approval an SOP manual that would describe the controls and work practices that would be implemented to control fugitive dust emissions. The EPA is proposing to require the implementation of work practices based on its determination in accordance with § 112(h)(2)(A) that the HAPs controlled by those practices cannot be emitted through a conveyance designed and constructed to emit those HAPs. The use of a site-specific SOP manual is being proposed, rather than a list of required work practices, because there are several equivalent control options available for fugitive dust. The flexibility of the SOP approach is needed because the best control option for a particular smelter would be determined by the physical layout of the smelter and the control measures that are already in place. These two factors vary greatly among smelters.

All three facilities currently operate according to SOP manuals, required as part of their SIP control strategy, that address the control of fugitive dust from these sources. Existing manuals developed as part of a facilities SIP control strategy may be used to meet this requirement provided the existing manuals address the fugitive dust sources identified in this proposed rule.

D. Reconstruction Considerations

Section 112(a) of the Act defines a new source as a stationary source, the construction or reconstruction of which is commenced after the proposal date of a relevant regulation. An existing source is defined as any stationary source other than a new source.

Reconstructed sources are considered to be new sources. Reconstruction means the replacement of components of an existing source to such an extent that: (1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost that would be required to construct a comparable new source, and (2) it is technologically and economically feasible for the reconstructed source to meet all relevant promulgated standards for new sources.

Some changes can be made at primary lead smelters that may be deemed reconstructions under section 63.5 of the General Provisions. However, the proposed standards for primary lead smelters are the same for both existing and new sources. As a result, the designation of a change as a ''reconstruction'' has limited practical significance.

E. Selection of Compliance Dates

The proposed regulation would require owners or operators of existing primary lead smelters to achieve compliance with the proposed standards within 24 months of promulgation. This schedule would allow the affected sources the time necessary to modify existing processes and control equipment; design, fabricate, and install new control equipment as needed; develop and implement the SOP for equipment and work practice standards; and complete installation of all required continuous monitoring systems. The EPA believes that a 2-year period is realistic and practical to accomplish these required tasks. The proposed standard is also

consistent with compliance deadlines allowed by section 112(i) of the Act, which allows existing sources up to 3 years to achieve compliance.

Owners or operators of new or reconstructed primary lead smelters would be required to achieve compliance upon startup or promulgation of this NESHAP (whichever is later) and must perform compliance testing within 6 months of startup or promulgation, pursuant to sections 63.6 and 63.7 of the General Provisions.

F. Selection of Emission Test Methods and Schedule

Testing requirements are being proposed for lead emissions and total enclosure pressure.

1. Lead Emissions

Lead emissions would be measured using EPA reference method 12. EPA reference method 1 would be used to determine the number and locations of sampling points, method 2 would be used to determine stack gas velocity and volumetric flow rate, method 3 would be used for flue gas analysis, and method 4 would be used to determine the volume percent moisture content in the stack gas.

Each test would consist of three runs conducted under representative operating conditions. The average of the three runs would be used to determine compliance.

The lead emission rates from the affected sources would be summed, and the sum divided by the average daily lead production rate for the previous 12 calender months. The lead production rate would be calculated based on the sum of the lead contained in the lead products, copper matte, and copper speiss produced.

The proposed standard would require initial and annual tests of lead emissions from the identified process and process fugitive sources.

2. Total Enclosure Pressure

Compliance with the ventilation requirements for total enclosures would be determined using a hand-held anemometer capable of demonstrating that air flow is into the building at all openings. Alternatively, a differential pressure gauge installed on the leeward wall of the enclosure can be used to demonstrate that the building is maintained at a negative pressure as compared to the outside of the building of no less than 0.02 mm Hg when all doors are in the position they are in during normal operation.

VIII. Administrative Requirements

A. Solicitation of Comments

The EPA seeks full public participation in arriving at its final decisions, and strongly encourages comments on all aspects of this proposal from all interested parties. Full supporting data and detailed analyses should be submitted with comments to allow the EPA to make maximum use of the comments. All comments should be directed to the Air and Radiation Docket and Information Center, Docket No. A–97–33 (see **ADDRESSES**). Comments on this notice must be submitted on or before the date specified in **DATES**.

Commenters wishing to submit proprietary information for consideration should clearly distinguish such information from other comments, and clearly label it ''Confidential Business Information'' (CBI). Submissions containing such proprietary information should be sent directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Kevin Cavender, c/o Ms. Melva Toomer, U.S. EPA Confidential Business Information Manager, OAQPS (MD–13); Research Triangle Park, NC 27711. Information covered by such a claim of confidentiality will be disclosed by the EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies the submission when it is received by the EPA, the submission may be made available to the public without further notice to the commenter.

B. Public Hearing

If a request to speak at a public hearing is received, a public hearing on the proposed standards will be held in accordance with section 307(d)(5) of the Act. Persons wishing to present oral testimony or to inquire as to whether a hearing is to be held should contact EPA (see **ADDRESSES**). To provide an opportunity for all who may wish to speak, oral presentations will be limited to 15 minutes each.

Any member of the public may file a written statement on or before June 16, 1998. Written statements should be addressed to the Air and Radiation Docket and Information Center (see **ADDRESSES**) and refer to Docket No. A–97–33. A verbatim transcript of the hearing and written statements will be placed in the docket and be available for public inspection and copying, or mailed upon request, at the Air and Radiation Docket and Information Center.

C. 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 development. 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 Act.]

D. Executive Order 12866

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 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 this rule is not a ''significant regulatory action'' because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

E. Enhancing the Intergovernmental Partnership Under Executive Order 12875

In compliance with Executive Order 12875, the EPA has involved State regulatory experts in the development of this proposed rule. No tribal governments are believed to be affected by this proposed rule. Although not directly impacted by the rule, State

governments will be required to implement the rule by incorporating the rule into permits and enforcing the rule upon delegation. They will collect permit fees that will be used to offset the resources burden of implementing the rule. Comments have been solicited from state partners and have been carefully considered in the rule development process. In addition, all states are encouraged to comment on this proposed rule during the public comment period, and the EPA intends to fully consider these comments in the development of the final rule.

F. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 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 aggregate, or by the private sector, of $100 million or more in any one 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 this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today's rule is not subject to the requirements of section 203 of the UMRA.

G. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act

As amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, as well as take other actions intended to minimize the rule's potential impact on small entities, 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 not-for-profit enterprises, and small government jurisdictions.

The EPA has determined that none of the existing primary lead smelters are small entities, and has concluded that this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

H. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An information collection request (ICR) document has been prepared by EPA, and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division, U.S. Environmental Protection Agency (2137), 401 M Street SW., Washington, DC 20460, or by calling (202) 260–2740.

The proposed information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP general provisions (40 CFR part 63, subpart A), which are mandatory for all owners or operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the Act (42 U.S.C. § 7414). All information submitted to the EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

The proposed rule would require maintenance inspections of the control devices but would not require any notifications or reports beyond those required by the general provisions. The proposed recordkeeping requirements require only the specific information needed to determine compliance.

The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the rule) is estimated to be 1,000 labor hours per year at a total annual cost of $64,000. This estimate includes a one-time performance test and report (with repeat tests where needed); one-time purchase and installation of bag leak detection systems; one-time submission of a startup, shutdown, and malfunction plan with semiannual reports for any event when the procedures in the plan were not followed; semiannual excess emission reports; maintenance inspections; notifications; and recordkeeping. Total capital/startup costs associated with the monitoring requirements over the 3-year period of the ICR are estimated at $93,000, with operation and maintenance costs of $4,500/yr.

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; 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 respond to a request for the 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 request for the 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.

Comments are requested on the EPA's need for this information, the accuracy

of the provided burden estimates, any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137), 401 M Street SW., 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. Because OMB is required to make a decision concerning the ICR between 30 and 60 days after April 17, 1998, comment to OMB is best assured of having its full effect if OMB receives it by May 18, 1998. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

I. Clean Air Act

In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. This regulation will be reviewed 8 years from the date of promulgation. This review will include an assessment of such factors as evaluation of the residual health risks, any overlap with other programs, the existence of alternative methods, enforceability, improvements in emission control technology and health data, and the recordkeeping and reporting requirements.

J. Pollution Prevention Considerations

The Pollution Prevention Act of 1990 (42 U.S.C. 13101 *et seq.*, Pub. L. 101–508, November 5, 1990) establishes the national policy of the United States for pollution prevention. This act declares that: (1) Pollution should be prevented or reduced whenever feasible; (2) pollution that cannot be prevented or reduced should be recycled or reused in an environmentally-safe manner wherever feasible; (3) pollution that cannot be recycled or reused should be treated; and (4) disposal or release into the atmosphere should be chosen only if none of the other options is available.

The plant wide emission limit approach proposed by the EPA promotes the use of pollution prevention alternatives by giving facilities full credit for source reduction in determining compliance with the emission limit. Furthermore, the focus of the fugitive dust requirements is on work practice and operating standards that reduce emission potential, rather than capture and treatment options.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements, Primary lead smelters.

Dated: April 9, 1998.

Carol M. Browner,

Administrator.

For reasons set out in the preamble, it is proposed that 40 CFR part 63 be amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

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

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

2. Part 63 is amended by adding subpart TTT, to read as follows:

Subpart TTT—National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelters.

Sec.

Subpart TTT—National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelters

§ 63.1541 Applicability.

(a) The provisions of this subpart apply to the following affected sources at primary lead smelters: sinter machine, blast furnace, dross furnace, process fugitive sources, and fugitive dust sources. The provisions of this subpart do not apply to secondary lead smelters, lead refiners, or lead remelters.

(b) Table 1 of this subpart specifies the provisions of subpart A that apply and those that do not apply to owners and operators of primary lead smelters. The following sections of part 63 apply to this subpart as stated in subpart A and Table 1: § 63.1 (Applicability), § 63.2 (Definitions), § 63.3 (Units and abbreviations), § 63.4 (Prohibited activities and circumvention), § 63.5 (Construction and reconstruction), § 63.7 (Performance testing requirements), § 63.12 (State authority and delegations), § 63.13 (Addresses of State air pollution control agencies and EPA Regional Offices), § 63.14 (Incorporations by reference), and § 63.15 (Availability of information and confidentiality). The following sections of part 63 apply to the extent specified in this subpart and Table 1: § 63.6 (Compliance with standards and maintenance requirements), § 63.8 (Monitoring requirements), § 63.9 (Notification requirements), and § 63.10 (Recordkeeping and reporting requirements). Sections § 63.11 (Control device requirements) does not apply to this subpart.

TABLE 1.—GENERAL PROVISIONS APPLICABILITY TO SUBPART TTT

	Reference	Applies to subpart TTT	Comment
63.1		Yes	
63.2		Yes	
63.3		Yes	
63.4		Yes	
63.5		Yes	
63.6	(a), (b), (c), (e), (f), (g), (i) and (j).	Yes	
63.6	(d) and (h)	No	No opacity limits in rule.
63.7		Yes	
63.8		Yes	
63.9	(a), (b), (c), (d), (e), (g), (h)(1–3), (h)(5–6), (i), and (j).	Yes	
63.9	(g)	No	No CMS required by rule.

TABLE 1.—GENERAL PROVISIONS APPLICABILITY TO SUBPART TTT—Continued

	Reference	Applies to subpart TTT	Comment
63.9	(f) and (h)(4)	No	No opacity or visible emission limits in rule.
63.10		Yes	
63.11		No	Flares will not be used to comply with the emission limits.
63.12 to 63.15		Yes	

§ 63.1542 Definitions.

Terms used in this subpart are defined in the Act, in subpart A of this part, or in this section as follows:

Blast furnace means any reduction furnace to which sinter is charged and which forms separate layers of molten slag and lead bullion.

Charging location means the physical opening through which raw materials are introduced into a sinter machine, blast furnace, or dross furnace.

Dross furnace means any smelting furnace to which drosses are charged and which chemically and physically separates lead from other impurities.

Drossing and refining kettle means an open-top vessel that is constructed of cast iron or steel and is indirectly heated from below and contains molten lead for the purpose of drossing, refining, or alloying lead. Included are pot furnaces, receiving kettles, and holding kettles.

Fugitive dust source means a stationary source of hazardous air pollutant emissions at a primary lead smelter resulting from the handling, storage, transfer, or other management of lead-bearing materials where the source is not associated with a specific process, process vent, or stack. Fugitive dust sources include roadways, storage piles, materials handling transfer points, and materials transport areas.

Furnace area means any area of a primary lead smelter in which a blast furnace or dross furnace is located.

Materials storage and handling area means any area of a primary lead smelter in which lead-bearing materials (including ore concentrate, sinter, granulated lead, dross, slag, and flue dust) are stored or handled between process steps, including areas in which materials are stored in piles, bins, or tubs, and areas in which material is prepared for charging to a sinter machine or smelting furnace.

Plant roadway means any area of a primary lead smelter that is subject to vehicle traffic, including traffic by fork lifts, front-end loaders, or vehicles carrying ore concentrates or cast lead ingots. Excluded from this definition are employee and visitor parking areas, provided they are not subject to traffic by vehicles carrying lead-bearing materials.

Primary lead smelter means any facility engaged in the production of lead metal from lead sulfide ore concentrates through the use of pyrometallurigal techniques.

Process fugitive source means a source of hazardous air pollutant emissions at a primary lead smelter that is associated with lead smelting or refining but is not the primary exhaust stream and is not a fugitive dust source. Process fugitive sources include sinter machine charging locations, sinter machine discharge locations, sinter crushing and sizing equipment, furnace charging locations, furnace taps, drossing kettles, and refining kettles.

Refining and casting area means any area of a primary lead smelter in which drossing or refining operations occur, or casting operations occur.

Sinter machine means any device in which a lead sulfide ore concentrate charge is heated in the presence of air to eliminate sulfur contained in the charge and to agglomerate the charge into a hard porous mass called sinter.

Sinter machine area means any area of a primary lead smelter where a sinter machine, or sinter crushing and sizing equipment is located.

Sinter machine discharge end means the physical opening at the end of a sinter machine where the sinter exits the sinter machine.

Tapping location means the opening thru which lead and slag are removed from the furnace.

Total enclosure means a roofed and walled building with limited openings to allow access and egress for people and vehicles.

§ 63.1543 Standards for process and process fugitive sources.

(a) No owner or operator of any existing, new, or reconstructed primary lead smelter shall discharge or cause to be discharged into the atmosphere lead compounds in excess of 500 grams of lead per megagram of lead metal produced (1.0 pounds of lead per ton of lead metal produced) from the aggregation of emissions discharged from the air pollution control devices used to control emissions from the sources listed in paragraphs (a)(1) through (a)(9) of this section.

(1) Sinter machine;

(2) Blast furnace;

(3) Dross furnace;

(4) Dross furnace charging location;

(5) Blast furnace and dross furnace tapping location;

(6) Sinter machine charging location;

(7) Sinter machine discharge end;

(8) Sinter crushing and sizing equipment; and

(9) Sinter machine area.

(b) The process fugitive sources listed in paragraphs (a)(4) through (a)(8) of this section shall be equipped with a hood and shall be ventilated to a baghouse or equivalent control device. The hood design and ventilation rate shall be consistent with American Conference of Governmental Industrial Hygienists recommended practices.

(c) The sinter machine area shall be enclosed in a building that is ventilated to a baghouse or equivalent control device at a rate that maintains the building at a lower than ambient pressure to ensure in-draft through any doorway opening.

(d) Following the initial test to demonstrate compliance with paragraph (a) of this section, the owner or operator of a primary lead smelter shall conduct a compliance test for lead compounds on an annual basis (no later than 12 calendar months following the previous compliance test).

§ 63.1544 Standards for fugitive dust sources.

(a) Each owner or operator of a primary lead smelter shall prepare, and at all times operate according to, a standard operating procedures manual that describes in detail the measures that will be put in place to control fugitive dust emissions from the sources listed in paragraphs (a)(1) through (a)(5) of this section:

(1) Plant roadways;

(2) Material storage and handling area;

(3) Sinter machine area;

(4) Furnace area; and

(5) Refining and casting area.

(b) The standard operating procedures manual shall be submitted to the Administrator or delegated authority for review and approval.

(c) Existing manuals that describe the measures in place to control fugitive emission sources required as part of a State Implementation Plan for lead shall satisfy the requirements of paragraph (a) of this section provided they address the sources listed in paragraphs (a)(1) through (a)(5) of this section.

§ 63.1545 Compliance dates.

(a) Each owner or operator of an existing primary lead smelter shall achieve compliance with the requirements of this subpart no later than [*date 24 months after publication of the final rule*].

(b) Each owner or operator of a primary lead smelter that commences construction or reconstruction after April 17, 1998 shall achieve compliance with the requirements of this subpart by [*Insert date of publication of final rule*] or upon startup of operations, whichever is later.

§ 63.1546 Test methods.

(a) The following procedure shall be used to determine compliance with the emissions standard for lead compounds under § 63.1543(a):

(1) The lead compound emission rate, in units of grams of lead per hour, for each source listed in § 63.1543(a)(1) through (9) shall be determined according to the following test methods in appendix A of part 60 of this chapter:

(i) Method 1 shall be used to select the sampling port location and the number of traverse points.

(ii) Method 2 shall be used to measure volumetric flow rate.

(iii) Method 3 shall be used for gas analysis.

(iv) Method 4 shall be used to determine moisture content of the stack gas.

(v) Method 12 shall be used to measure the lead emission rate of the stack gas. The minimum sample volume shall be 0.85 dry standard cubic meters (30 dry standard cubic feet) and the minimum sampling time shall be 60 minutes for each run. Three runs shall be performed and the average of the three runs shall be used to determine compliance.

(2) The lead production rate, in units of megagrams per hour, shall be determined based on production data for the previous 12 calender months according to the procedure detailed in paragraphs (a)(2)(i) through (v) of this section:

(i) Total lead products production multiplied by the fractional lead content shall be determined in units of megagrams.

(ii) Total copper matte production multiplied by the fractional lead content shall be determined in units of megagrams.

(iii) Total copper speiss production multiplied by the fractional lead content shall be determined in units of megagrams.

(iv) Total lead production shall be determined by summing the values obtained in paragraphs (a)(2)(i) through (iii) of this section.

(v) The lead production rate, in units of megagrams per hour, shall be calculated based on the total lead production obtained in paragraph (a)(2)(iv) of this section divided by 8760 hours.

(3) The sum of lead compound emission rates for the sources in § 63.1543(a)(1) through (9) obtained in paragraph (a)(1) of this section shall be divided by the lead production rate obtained in paragraph (a)(2)(v) of this section to obtain a production based lead compound emission rate in units of grams of lead per megagram of lead metal produced. The production based lead compound emission rate shall be used to determine compliance with the emissions standard for lead compounds under § 63.1543(a).

(b) Owners and operators shall determine compliance with the doorway in-draft requirement for buildings in § 63.1543(b) and § 63.1544(c) using the procedures in paragraphs (b)(1) or (b)(2) of this section.

(1)(i) Owners and operators shall use a propeller anemometer or equivalent device.

(ii) Doorway in-draft shall be determined by placing the anemometer in the plane of the doorway opening near its center.

(iii) Doorway in-draft shall be demonstrated for each doorway that is open during normal operation with all remaining doorways in their customary position during normal operation.

(2)(i) Owners and operators shall install a differential pressure gage on the leeward wall of the building to measure the pressure difference between the inside and outside of the building.

(ii) The pressure gage shall be certified by the manufacturer to be capable of measuring pressure differential in the range of 0.02 to 0.2 mm Hg.

(iii) Both the inside and outside taps shall be shielded to reduce the effects of wind.

(iv) Owners and operators shall demonstrate the inside of the building is maintained at a negative pressure as compared to the outside of the building of no less than 0.02 mm Hg when all doors are in the position they are in during normal operation.

§ 63.1547 Monitoring requirements.

(a) Owners and operators of primary lead smelters shall prepare, and at all times operate according to, a standard operating procedures manual that describes in detail procedures for inspection, maintenance, and bag leak detection and corrective action for all baghouses that are used to control process, process fugitive, or fugitive dust emissions from any source subject to the lead emission standards in §§ 63.1543 and 63.1544 including those used to control emissions from building ventilation.

(b) The standard operating procedures manual for baghouses required by paragraph (a) of this section shall be submitted to the Administrator or delegated authority for review and approval.

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

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

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

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

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

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

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

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

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

(9) Except as provided in paragraphs (g) and (h) of this section, continuous operation of a bag leak detection system.

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

(e) The bag leak detection system required by paragraph (c)(9) of this section, shall meet the specifications

and requirements of paragraphs (e)(1) through (e)(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 milligram 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.

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

(4) The bag leak detection system shall be installed and operated in a manner consistent with available written guidance from the U.S. Environmental Protection Agency or, in the absence of such written guidance, the manufacturer's written specifications and recommendations for installation, operation, and adjustment of the system.

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

(6) Following initial adjustment, the owner or operator shall not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in the approved SOP required under paragraph (a) of this section. In no event shall the sensitivity be increased by more than 100 percent or decreased more than 50 percent over a 365 day period unless such adjustment follows a complete baghouse inspection which demonstrates the baghouse is in good operating condition.

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

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

(f) The standard operating procedures manual required by paragraph (a) of this section shall include a corrective action plan that specifies the procedures to be followed in the event of a bag leak detection system alarm. The corrective action plan shall include, at a minimum, the procedures used to determine and record the time and cause of the alarm as well as the corrective actions taken to correct the control device malfunction or minimize emissions as specified in paragraphs (f)(1) and (f)(2) of this section.

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

(2) The cause of the alarm must be alleviated by taking the necessary corrective action(s) which may include, but not be limited to, paragraphs (f)(2)(i) through (f)(2)(vi) of this section.

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

(ii) Sealing off defective bags or filter media.

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

(iv) Sealing off a defective baghouse compartment.

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

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

(g) Baghouses equipped with HEPA filters as a secondary filter used to control process or process fugitive sources subject to the lead emission standards in § 63.1543 are exempt from the requirement in paragraph (c)(9) of this section to be equipped with a bag leak detector. The owner or operator of an affected source that uses a HEPA filter shall monitor and record the pressure drop across the HEPA filter system daily. If the pressure drop is outside the limit(s) specified by the filter manufacturer, the owner or operator must take appropriate corrective measures, which may include, but not be limited to, those set forth in paragraphs (g)(1) through (g)(4) of this section.

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

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

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

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

(h) Baghouses that are used exclusively for the control of fugitive dust emissions from any source subject to the lead emissions standard in § 63.1544 are exempt from the requirement in paragraph (c)(9) of this section to be equipped with a bag leak detector.

§ 63.1548 Notification requirements.

(a) *Initial notifications.* As required by § 63.9(b) of subpart A, the owner or operator shall submit the following written notifications to the Administrator:

(1) The owner or operator of an area source that subsequently becomes subject to the requirements of the standard shall provide notification to the applicable permitting authority as required by § 63.9(b)(1) of subpart A.

(2) As required by § 63.9(b)(2) of subpart A, the owner or operator of an affected source that has an initial startup before [the effective date of the final rule] shall notify the Administrator that the source is subject to the requirements of the standard. The notification shall be submitted not later than 120 calendar days after [the effective date of the final rule] (or within 120 calendar days after the source becomes subject to this standard) and shall contain the information specified in § 63.9(b)(2)(i) through (b)(2)(v) of subpart A.

(3) As required by § 63.9(b)(3) of subpart A, the owner or operator of a new or reconstructed affected source, or a source that has been reconstructed such that it is an affected source, that has an initial startup after [the effective date of the final rule] and for which an application for approval of construction or reconstruction is not required under § 63.5(d) of subpart A, shall notify the Administrator in writing that the source is subject to the standards no later than 120 days after initial startup. The notification shall contain the information specified in § 63.9(b)(2)(i) through (b)(2)(v) of subpart A, delivered or postmarked with the notification required in § 63.9(b)(5) of subpart A.

(4) As required by § 63.9(b)(4) of subpart A, the owner or operator of a new or reconstructed major affected source that has an initial startup after [the effective date of the final rule] and for which an application for approval of construction or reconstruction is required under § 63.5(d) of subpart A shall provide the information specified in § 63.9(b)(4)(i) through (b)(4)(v) of subpart A.

(5) As required by § 63.9(b)(5) of subpart A, the owner or operator who, after [the effective date of the final rule], intends to construct a new affected source or reconstruct an affected source subject to this standard, or reconstruct a source such that it becomes an affected source subject to this standard, shall notify the Administrator, in writing, of the intended construction or reconstruction.

(b) *Request for extension of compliance.* As provided by § 63.9(c) of subpart A, if the owner or operator of an affected source cannot comply with this standard by the applicable compliance date for that source, or if the owner or operator has installed BACT or technology to meet LAER consistent

with § 63.6(i)(5) of subpart A, they may submit to the Administrator (or the State with an approved permit program) a request for an extension of the applicable compliance date as specified in § 63.6(i)(4) through (i)(6) of subpart A.

(c) *Notification that source is subject to special compliance requirements.* As required by § 63.9(d) of subpart A, an owner or operator of a new source that is subject to special compliance requirements as specified in § 63.6(b)(3) and (b)(4) of subpart A shall notify the Administrator of his/her compliance obligations not later than the notification dates established in § 63.9(b) of subpart A for new sources that are not subject to the special provisions.

(d) *Notification of performance test.* As required by § 63.9(e) of subpart A, the owner or operator of an affected source shall notify the Administrator in writing of his or her intention to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin to allow the Administrator to review and approve the site-specific test plan required under § 63.7(c) of subpart A, if requested by the Administrator, and to have an observer present during the test.

(e) *Notification of compliance status.* The owner or operator of an affected source shall submit a notification of compliance status as required by § 63.9(h) of subpart A when the source becomes subject to this subpart.

(f) *Additional notification requirements.* The owner or operator of a primary lead smelter shall submit the fugitive dust control standard operating procedures manual required under § 63.1544(a) and the standard operating procedures manual for baghouses required under § 63.1547(a) to the Administrator or delegated authority along with a notification that the smelter is seeking review and approval of these plans and procedures. Owners or operators of existing primary lead smelters shall submit this notification no later than [*Insert date 18 months after publication of final rule*]. The owner or operator of a primary lead smelter that commences construction or reconstruction after April 17, 1998, shall submit this notification no later than 180 days before startup of the constructed or reconstructed primary lead smelter, but no sooner than [*Insert date 90 days after publication of final rule*].

§ 63.1549 Recordkeeping and reporting requirements.

(a) *General recordkeeping requirements.* As required by § 63.10(b)(2) of subpart A, the owner or operator shall maintain the following records for five years from the date of each record:

(1) The occurrence and duration of each startup, shutdown, or malfunction of process equipment;

(2) The occurrence and duration of each malfunction of the source or air pollution control equipment;

(3) All maintenance performed on the air pollution control equipment;

(4) Actions taken during periods of startup, shutdown, and malfunction (including corrective actions to restore malfunctioning process and air pollution control equipment to its normal or usual manner of operation) when such actions are different from the procedures specified in the startup, shutdown, and malfunction plan;

(5) All information necessary to demonstrate conformance with the startup, shutdown, and malfunction plan when all actions taken during periods of startup, shutdown, and malfunction (including corrective actions) are consistent with the procedures specified in such plan. This information can be recorded in a checklist or similar form [see § 63.10(b)(2)(v) of subpart A.];

(6) All required measurements needed to demonstrate compliance with the standard and to support data that the source is required to report, including, but not limited to, performance test measurements (including initial and any subsequent performance tests) and measurements as may be necessary to determine the conditions of the initial test or subsequent tests;

(7) All results of initial or subsequent performance tests;

(8) If the owner or operator has been granted a waiver from recordkeeping or reporting requirements under § 63.10(f) of subpart A, any information demonstrating whether a source is meeting the requirements for a waiver of recordkeeping or reporting requirements;

(9) If the owner or operator has been granted a waiver from the initial performance test under § 63.7(h) of subpart A, a copy of the full request and the Administrator's approval or disapproval;

(10) All documentation supporting initial notifications and notifications of compliance status required by § 63.9 of subpart A; and

(11) Records of any applicability determination, including supporting analyses.

(b) *Subpart TTT records.* In addition to the general records required by paragraph (a) of this section, each owner or operator of a primary lead smelter shall maintain for a period of 5 years, records of the information listed in paragraphs (b)(1) through (b)(4) of this section.

(1) Production records of the weight and lead content of lead products, copper matte, and copper speiss.

(2) An identification of the date and time of all bag leak detection system alarms, their cause, and an explanation of the corrective actions taken.

(3) Any recordkeeping required as part of the practices described in the standard operating procedures manual required under § 63.1544(a) for the control of fugitive dust emissions.

(4) Any recordkeeping required as part of the practices described in the standard operating procedures manual for baghouses required under § 63.1547(a).

(c) General records and subpart TTT records for the most recent two years of operation must be maintained on site. Records for the previous three years may be maintained off site.

(d) *General reporting requirements.* As required by subpart A, the owner or operator shall submit the following reports to the Administrator or delegated authority:

(1) As required by § 63.10(d)(2) of this part, the owner or operator of an affected source shall report the results of the initial and any subsequent performance tests.

(2) The owner or operator of an affected source who is required to submit progress reports under § 63.6(i) of subpart A shall submit such reports to the Administrator (or the State with an approved permit program) by the dates specified in the written extension of compliance.

(3) Section 63.6(e) of subpart A requires the owner or operator of an affected source to operate and maintain each affected emission source and associated air pollution control equipment in a manner consistent with good air pollution control practices for minimizing emissions (at least to the level required by the standard) at all times, including during any period of startup, shutdown, or malfunction. Malfunctions must be corrected as soon as practicable after their occurrence in accordance with the startup, shutdown, and malfunction plan.

(i) As required by § 63.6(e)(3) of subpart A, the owner or operator shall develop and implement a written startup, shutdown, and malfunction plan that provides a detailed description of the procedures for operating the emission source or control system during a period of startup, shutdown, or malfunction and a program of corrective action for malfunctioning process and

air pollution control equipment. The plan shall be submitted to the Administrator for review and approval no later than the compliance date given in § 63.1545 of this subpart.

(ii) As required by § 63.10(d)(5)(i) of subpart A, if actions taken by an owner or operator during a startup, shutdown, or malfunction of an affected source (including actions taken to correct a malfunction) are consistent with the procedures specified in the startup, shutdown, and malfunction plan, the owner or operator shall state such information in a semiannual report. The report, to be certified by the owner or operator or other responsible official, shall be submitted semiannually and delivered or postmarked by the 30th day following the end of each calendar half; and

(iii) Any time an action taken by an owner or operator during a startup, shutdown, or malfunction (including actions taken to correct a malfunction) is not consistent with the procedures in the startup, shutdown, and malfunction plan, the owner or operator shall comply with all requirements of § 63.10(d)(5)(ii) of subpart A.

(e) *Subpart TTT Reports.* In addition to the information required under § 63.10 of the General Provisions, the owner or operator shall provide semi-annual reports containing the information specified in paragraphs (e)(1) through (e)(4) of this section to the Administrator or designated authority.

(1) The reports shall include records of all alarms from the bag leak detection system specified in § 63.1547(e).

(2) The reports shall include a description of the procedures taken following each bag leak detection system alarm pursuant to § 63.1547(f)(1) and (2).

(3) The reports shall contain a summary of the records maintained as part of the practices described in the standard operating procedures manual for baghouses required under § 63.1547(a), including an explanation of the periods when the procedures were not followed and the corrective actions taken.

(4) The reports shall contain a summary of the fugitive dust control measures performed during the required reporting period, including an explanation of any periods when the procedures outlined in the standard operating procedures manual required by § 63.1544(a) were not followed and the corrective actions taken. The reports shall not contain copies of the daily records required to demonstrate compliance with the requirements of the standard operating procedures manuals required under §§ 63.1544(a) and 63.1547(a).

§ 63.1550 Delegation of Authority.

(a) In delegating implementation and enforcement authority to a state under section 112(d) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the administrator and not transferred to a state.

(b) Authorities which will not be delegated to States: no restrictions.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 68

[FRL–5997–2]

RIN 2050–AE46

Accidental Release Prevention Requirements: Risk Management Programs Under Clean Air Act Section 112(r)(7); Amendments

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On June 20, 1996, EPA published risk management program regulations, mandated under the accidental release prevention provisions of the Clean Air Act (CAA). These regulations require owners and operators of stationary sources subject to the regulations to submit risk management plans (RMPs) by June 21, 1999, to a central location specified by EPA. EPA is proposing amendments to these rules to reflect the government's adoption of a new industrial classification system, to add some data elements to the RMP, to establish explicit procedures for protecting confidential information, and to clarify certain items. These changes will bring the rule up to date with the new industrial classification system, provide information in the RMP that will make the data more useful, and clarify procedures and requirements. The proposed amendments in this rule address the submission of RMP information to EPA; the amendments do not address the means by which the public could access RMP information.

DATES: Comments are due on June 1, 1998. Anyone requesting a public hearing must contact EPA no later than May 4, 1998. If a hearing is held, EPA will publish the date, time and location in the **Federal Register**.

ADDRESSES: Comments should be mailed to the U.S. Environmental Protection Agency, Attn: Docket A–98–08, Room 1500, 401 M St. SW, Washington, DC 20460. E-mail comments should be sent to: A-AND-R-DOCKET@epamail.epa.gov; if comments are filed as an attachment to an e-mail, the attachment must be in WordPerfect 6.1 or an ASCII file. Paper comments should be submitted in triplicate; comments may be submitted on disk in WordPerfect 6.1 or an ASCII file.

Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should notify the person listed in **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Chemical Engineer, Chemical Emergency Preparedness and Prevention Office, Environmental Protection Agency (5101), 401 M Street SW, Washington, DC 20460, (202) 260–7249, or the Emergency Planning and Community Right-to-Know Hotline at 1–800–424–9346 (in the Washington, DC metropolitan area, (703) 412–9810).

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those stationary sources that have more than a threshold quantity of a regulated substance in a process. Regulated categories and entities include:

Category	Examples of regulated entities
Chemical Manufacturers.	Basic chemical manufacturing, petrochemicals, resins, agricultural chemicals, pharmaceuticals, paints, cleaning compounds.
Petroleum	Refineries.
Other Manufacturing.	Paper, electronics, semiconductors, fabricated metals, industrial machinery, food processing.
Agriculture	Agricultural retailers.
Public Sources	Drinking water and wastewater treatment systems.
Utilities	Electric and gas utilities.
Other	Propane retailers and users, cold storage, warehousing and wholesalers.
Federal Sources	Military and energy installations.

This table is not meant to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. The table lists the types of entities that EPA is aware