Item—Description of charges	Rate ($)—Montreal to or from Lake Ontario (5 locks)	Rate ($)—Welland Canal—Lake Ontario to or from Lake Erie (8 locks)
1. Subject to item 3, for complete transit of the Seaway, a composite toll, comprising:		
(1) A charge per gross registered ton of the ship, applicable whether the ship is wholly or partially laden, or is in ballast, and the gross registered tonnage being calculated according to prescribed rules for measurement in the United States or under the International Convention on Tonnage Measurement of Ships, 1969, as amended from time to time.	0.0894	0.1453
(2) A charge per metric ton of cargo as certified on the ship's manifest or other document, as follows:		
(a) Bulk cargo	0.9275	0.6145
(b) General cargo	2.2348	0.9834
(c) Steel slab	2.0225	0.7040
(d) Containerized cargo	0.9275	0.6145
(e) Government aid cargo	N/a	N/a
(f) Grain	0.5698	0.6145
(g) Coal	0.5475	0.6145
(3) A charge per passenger per lock	1.3185	1.3185
(4) A charge per lock for transit of the Welland Canal in either direction by cargo ships:		
(a) Loaded	N/a	490.79
(b) In ballast	N/a	362.62
2. Subject to item 3, for partial transit of the Seaway.	20 per cent per lock of the applicable charge under items 1 (1) and (2) plus the applicable charge under items 1 (3) and (4).	13 percent per lock of the applicable charge under items 1 (1) and (2) plus the applicable charge under items 1 (3) and (4).
Minimum charge per ship per lock	16.44	16.44
3. Transited for full or partial transit of the Seaway		
4. A rebate applicable for the 2003 navigation season to the rates of item 1 to 3.	Rebate of 0%	Rebate of 0%.
5. A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable Federal taxes [1].	20.00	20.00

[1] The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is $20 U.S. or $30 Canadian per lock. The applicable charge under item 3 at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) will be collected in U.S. dollars. The other amounts are in Canadian dollars and are for the Canadian share of tolls. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33 U.S.C. 988a(a)).

Issued in Washington, DC on March 12, 2003.

Saint Lawrence Seaway Development Corporation.

Marc C. Owen,

Chief Counsel.

[FR Doc. 03–6347 Filed 3–14–03; 8:45 am]

BILLING CODE 4910–61–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[Docket ID No. OAR–2002–0031; FRL–7465–7]

RIN 2060–AE76

National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: On October 7, 1997, the EPA issued national emission standards for primary aluminum reduction plants under section 112 of the Clean Air Act (CAA). This proposal would amend the existing rule by revising the emission limits for polycyclic organic matter applicable to one potline subcategory. The proposed amendments would also revise the compliance provisions by clarifying the dates by which all plants must meet the rule requirements and adding provisions specifying the time allowed to demonstrate initial compliance for a new or reconstructed potline, anode bake furnace, or pitch storage tank as well as an existing potline or anode bake furnace that has been shutdown and subsequently restarted. We are proposing these amendments to reduce compliance uncertainties and improve understanding of the final rule requirements.

DATES: *Comments.* Submit comments on or before May 16, 2003.

Public Hearing. If anyone contacts the EPA requesting to speak at a public hearing by April 7, 2003, a public hearing will be held on April 14, 2003.

ADDRESSES: *Comments.* Comments must be submitted by mail (in duplicate, if possible) to: Primary Aluminum NESHAP Docket, EPA Docket Center (Air Docket), U.S. EPA West, Mailcode 6102T, Room B–108, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OAR–2002–0031. Comments may also be submitted electronically, by hand delivery, or courier. See **Supplementary Information** for further information on how to submit comments. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC.

Public Hearing. If a public hearing is requested, it will be held at the new EPA facility complex in Research Triangle Park, NC at 10 a.m. Persons interested in attending the hearing or wishing to present oral testimony should notify Dorothy Apple, Policy, Planning and Standards Group (MD–C439–04), U.S. EPA, Research Triangle Park, NC 27711, telephone (919) 541–4487 at least 2 days in advance of the hearing.

FOR FURTHER INFORMATION CONTACT: Steve Fruh, Policy, Planning, and Standards Group (MD–C439–04), Emission Standards Division, Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–2837, electronic mail address, *fruh.steve@epa.gov.*

SUPPLEMENTARY INFORMATION:

Regulated Entities. Categories and entities potentially affected by this action include:

Category	NAICS [1]	Examples of regulated entities
Industry	331312	Establishments primarily engaged in producing primary aluminum by electrolytically reducing alumina.
Federal government.	.....	Not affected.
State/local/tribal government.	.....	Not affected.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 63.840 of the national emission standards for primary aluminum reduction plants. If you have any questions regarding the applicability of these amendments to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0031. The official public docket is the collection of materials that is available for public viewing in the Primary Aluminum NESHAP Docket at the EPA Docket Center (Air Docket), EPA West, Room B–108, 1301 Constitution Avenue, NW., Washington, DC 20004. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the reading room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

Electronic Access. An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as confidential business information (CBI) and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility previously identified in this document.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

Comments. You may submit comments electronically, by mail, by facsimile, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments submitted after the close of the comment period will be marked ''late.'' The EPA is not required to consider these late comments.

Electronically. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. The EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. Once in the system, select ''search'' and then key in Docket ID No. OAR–2002–0031. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Comments may be sent by electronic mail (e-mail) to *air-and-r-docket@epa.gov,* Attention Docket ID No. OAR–2002–0031. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail

address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

You may submit comments on a disk or CD ROM that you mail to the mailing address identified in this document. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

By Mail. Send your comments (in duplicate, if possible) to: Primary Aluminum NESHAP Docket, EPA Docket Center (Air Docket), U.S. EPA West, Mailcode 6102T, Room B–108, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. OAR–2002–0031.

By Hand Delivery or Courier. Deliver your comments (in duplicate, if possible) to: EPA Docket Center, Room B–108, U.S. EPA West, 1301 Constitution Avenue, NW., Washington, DC 20004, Attention Docket ID No. OAR–2002–0031. Such deliveries are only accepted during the Docket Center's normal hours of operation as identified in this document.

By Facsimile. Fax your comments to: (202) 566–1741, Attention Primary Aluminum NESHAP Docket, Docket ID OAR–2002–0031.

CBI. Do not submit information that you consider to be CBI through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer, Mailcode C404–02, U.S. EPA, Research Triangle Park, NC 27709, Attention Docket ID No. OAR–2002–0031. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

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

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

I. Background

Section 112 of the CAA establishes a technology-based program to reduce stationary source emissions of hazardous air pollutants (HAP) from major sources. Major sources of HAP are those that have the potential to emit greater than 10 tons/year of any one HAP or 25 tons/year of any combination of HAP. The CAA requires the national emission standards to reflect the maximum degree of reduction in HAP emissions that is achievable. This level of control is commonly known as the maximum achievable control technology (MACT).

On October 7, 1997, the EPA published final standards (62 FR 52384) for the control of HAP from primary aluminum reduction plants (40 CFR part 63, subpart LL). The rule contains emission limitations and standards applicable to total fluorides (TF), which is a surrogate for hydrogen fluoride, and polycyclic organic matter (POM). These limits apply to each new or existing potline, paste production plant, and anode bake furnace; they also apply to each new pitch storage tank associated with primary aluminum production and located at a major source.

After promulgation, two significant compliance-related issues were identified by the industry. The concerns at issue are:

- Review of the POM emission limit for the vertical stud Soderberg–2 (VSS2) subcategory of existing potlines, based on the availability of additional data; and
- The date by which the owner or operator must conduct a performance test to demonstrate initial compliance for an existing potline or anode bake furnace that has been shut down and subsequently restarted.

We received a petition from the industry requesting a proposed rulemaking to revise the POM emission limits for VSS2 potlines. As part of the request, the petition included additional test data (collected from 1999 through 2000) for all VSS2 potlines. We agreed to analyze the additional data and evaluate the achievability of the existing MACT limit for POM.

II. Summary of Proposed Amendments

A. What Is the Proposed POM Emission Limitation for VSS2 Potlines?

The VSS2 subcategory includes all existing vertical stud Soderberg potlines. Paragraph (a)(2)(i) in § 63.843 of the existing rule limits POM emissions from each existing VSS2 potline to 1.8 kilograms (kg) per Megagram (Mg) or 3.6 pounds per ton (lb/ton) of aluminum produced for each potline. The proposed amendments would change the POM limit to 2.85 kg/Mg (5.7 lb/ton) of aluminum produced. Table 2 of subpart LL gives the POM emission limits for potlines at those plants that comply by emissions averaging. The proposed POM emission averaging limits for VSS2 potlines are:

QUARTERLY POM LIMIT (LB/TON)
[For a given number of potlines]

2 lines	3 lines	4 lines	5 lines	6 lines	7 lines	8 lines
5.0	4.7	4.5	4.4	4.3	4.2	4.1

A justification for the proposed revised limits is discussed further in section III.A of this document.

B. What Are the Proposed Changes to the Compliance Provisions?

Section 63.847(a) of the rule currently requires the owner or operator to demonstrate initial compliance by specified dates. The proposed amendments would clarify the introductory text of paragraph (a) by replacing the phrase ''demonstrate initial compliance'' with the word ''comply.'' This proposed change distinguishes the compliance date of the rule from the date by which a plant must actually conduct their initial performance test.

Section 63.847(c) of the rule currently requires the owner or operator to conduct an initial performance test during the first month following the applicable compliance date. For a new or reconstructed affected source, we are proposing that the owner or operator conduct the initial performance test by:

- The 180th day after startup for a potline (or potroom group). The 180-day period would start when the first pot in a potline (or potroom group) is energized.
- The 45th day after startup for an anode bake furnace. The 45-day period would start at the beginning of the first anode bake cycle.
- The 30th day after startup for a pitch storage tank (if the owner or operator elects to conduct an initial performance test rather than a design evaluation). Today's proposed amendments would not change the timing of the initial performance test for existing affected sources (*i.e.*, the initial performance test must still be conducted during the first month after the compliance date).

We are also proposing to add performance test dates following startup of an existing potline or anode bake furnace that was shut down at the time compliance would have otherwise been required and subsequently restarted. Again, we are proposing 180 days after startup for a potline (or potroom group) and 45 days for an anode bake furnace. In addition, we are proposing to amend the notification requirements in § 63.850(a) of the rule to require advance notice to the Administrator at least 30 days before restart of an affected source that has been shut down.

Appendix A to subpart LL shows the requirements in the General Provisions (40 CFR part 63, subpart A) that do not apply to primary aluminum reduction plants. We are also proposing to amend appendix A to reflect the changes in performance test dates and the new notification requirement. A detailed explanation for the proposed changes to the compliance provisions follows in section III.B of this document.

III. Rationale for the Proposed Amendments

A. Why Are We Proposing To Revise the POM Emission Limitation for VSS2 Potlines?

We received a petition to revise the POM limit for VSS2 potlines, which the petitioner said was not achievable. The petitioner believes that the limited data used to develop the original emission limit did not reflect the normal variability of VSS2 potlines. The petitioner submitted additional test data and requested that we reevaluate the achievability of the original emission limit. We agreed to consider the petition and to analyze the additional data.

When we promulgated the current rule, we based the POM limit for VSS2 potlines on data that consisted of seven performance tests from two potlines. We used data for only two of the potlines in this subcategory because that was the only data available for calculating the MACT floor and determining the MACT level of control. At that time, we assumed that these tests for two potlines represented the performance level achievable by the best performing VSS2 potlines. This assumption was based on the fact that VSS2 potlines are all of the same design, operate in the same manner, use the same feed materials, and employ the same equipment and work practices to control emissions. We had no reason to believe that the original POM limit associated with MACT could not be achieved by the affected sources in the subcategory.

We have subsequently obtained data for the five best-performing potlines in the subcategory from additional testing performed during 1999 and 2000. The database consists of information from 88 runs, which is equivalent to 29 performance tests, because one test is the average of three runs. The new data cover all months of the year, which means that seasonal variations that may affect emission control performance (such as changes in ventilation rates) are included. The original data covered a period of only 4 months, which does not include seasonal variations and does not capture the true variability over time. The expanded database is far superior to the original database and more representative of the VSS2 subcategory.

The expanded database indicates that the two potlines we used to develop the original emission limit are actually the two best-performing potlines in the subcategory. Moreover, the data indicate that the MACT limit in the current rule is not achievable even by these two potlines on a continuing basis. We have revised the MACT floor based on the expanded database which is now available. The revised MACT floor level of control is 5.7 lb/ton of aluminum instead of 3.6 lb/ton. We derived this new MACT floor level of control from the currently available data using the same statistical methodology which we employed in the original rulemaking.

Since the data we originally utilized to establish an emission standard for this subcategory indicate that lower emissions have been attained in some circumstances, we also evaluated the new data to determine whether a level of control beyond the revised MACT floor would be achievable by the sources in this subcategory. We examined the factors affecting the operation of the potlines and the techniques used to control emissions. The VSS2 potlines are all designed and operated in the same manner and use the same raw materials. The same emission controls and work practices are also applied to each of the potlines. We have not identified any obvious reasons for the variability in performance other than the normal variability associated with processes, testing procedures, and temporal variations. In fact, the performance of the various potlines from test to test overlaps, and although there are small differences in average performance, the overall distributions of performance for the VSS2 potlines are similar.

We have identified no changes in processes, work practices, or control strategies that could be implemented to improve the performance of an individual potline. Consequently, we believe it is not practicable for sources in the VSS2 subcategory to achieve levels of control beyond the MACT floor on a consistent basis. Therefore, we are proposing to revise the emission limit to 5.7 lb/ton, to represent the MACT level of control for VSS2 potlines.

The petitioner had requested that we revise the emission limit to 7.2 lb/ton; however, our analysis indicates that the revised emission limit should be 5.7 lb/ton. We discussed with the petitioner what test data should be used to assess emission control performance and what procedures should be used to analyze the data. Our goal was to be consistent with the approach used for the original limit and also for limits developed for other subcategories of potlines. Based on these discussions, we believe that the petitioner understands and accepts our rationale for the new emission limit we are proposing. Although this numerical emission limit differs from the limit

proposed by the petitioner, we construe the issuance of this proposal as a decision to grant the petition.

B. Why Are We Proposing To Amend the Compliance Provisions?

Section 63.847 of the existing rule establishes compliance provisions for affected sources. Section 63.847(a) gives compliance dates but requires the owner or operator to demonstrate initial compliance by the specified dates. Upon review, we believe the phrase ''demonstrate initial performance'' could cause misunderstanding of the rule requirements. For example, regulatory authorities could interpret this provision to require a new or reconstructed affected source to demonstrate initial compliance (*i.e.*, conduct the performance test) at startup. For this reason, we are proposing to revise the introductory text in paragraph (a) to clearly state that ''the owner or operator of a primary aluminum plant must comply with the requirements of this subpart by'' the specified dates in the rule. This clarification would not change any of the compliance dates in the existing rule.

Section 63.847(c) of the existing rule requires the owner or operator to demonstrate initial compliance by conducting a performance test for a potline or anode bake furnace ''during the first month following the compliance date.'' The rule does not address the questions of either when initial compliance must be demonstrated for a new or reconstructed affected source or for an existing affected source that is shut down and subsequently restarted.

Since promulgation of the rule, nearly all primary aluminum plants in northwestern States shut down their potlines as a result of the short supply and high cost of electric power in that region. Some plants may curtail operations through 2003. As the electrical power crisis has eased, primary aluminum plants have begun returning these potlines and anode bake furnaces to active service. In some cases, regulatory authorities have interpreted the rule to require that plants conduct the performance test for these potlines and anode bake furnaces within the first month after startup. While 30 days is sufficient time to conduct a performance test for an existing potline or anode bake furnace which is currently in operation, we believe that 30 days is not sufficient time for startup conditions. A 30-day period would require plants to demonstrate compliance before the startup of a potline could feasibly be completed and to conduct testing under conditions that are not representative of normal operation.

Aluminum potlines are unique emission sources in the sense that the affected source consists of numerous (100 to 150 or more) smelting cells. At the beginning of startup, a small number of cells are charged with raw materials. When they become functional, they provide a molten liquid bath that is used to start up additional cells. All of the cells cannot be started and stabilized simultaneously because the electrolytic chemical process requires a stable equilibrium between the molten bath and cell operating temperatures. Until equilibrium is achieved, the emission rates from the potline are not representative of normal operation. For these reasons, the startup, stabilization, and testing of an existing potline after a long-term shutdown may require as long as 6 months to complete.

Therefore, we are proposing additional time for initial startup of new or reconstructed potlines and startup of existing potlines that have been shut down for long periods. The additional time proposed (180 days) is reasonable and is consistent with § 63.7 of the General Provisions (40 CFR part 63, subpart A), which allows up to 180 days after startup for existing, new, or reconstructed affected sources to come online, complete performance tests, and establish parametric monitoring limits.

Anode bake furnaces do not have the startup complexities associated with the dozens of cells in a potline. Bake furnaces are restarted a few sections at a time and require several days rather than several weeks to stabilize. For this reason, we are proposing to allow 45 days after initial startup of a new or reconstructed anode bake furnace or startup of an existing anode bake furnace that was shut down for a long period and subsequently restarted.

We are proposing that the 180-day period for startup of a potline begin when the first pot is energized. For an anode bake furnace, the 45-day period would start at the beginning of the first anode bake furnace cycle. This approach is consistent with the definition of *startup* in the General Provisions, ''* * * the setting in operation of an affected source for any purpose.''

Existing paste production plants also may have been shut down along with potlines and anode bake furnaces. However, no performance test or other type of compliance demonstration is required for paste plants. Initial compliance with the equipment standard for this affected source is based on inspections and review of their records to ensure that the proper equipment has been installed. Under the rule, unless a compliance extension is granted, an existing paste production plant must comply with the rule by the required date. A new or reconstructed paste production plant must meet the rule requirements upon startup; this also applies if the plant has been shut down and subsequently restarted. However, the owner or operator is required to provide advance notice of the startup.

Section 63.847(g) of the rule allows the owner or operator to demonstrate initial compliance with the requirements for new pitch storage tanks either by conducting a performance test or by a design evaluation. The proposed amendments would require the owner or operator to demonstrate initial compliance within 30 days of the compliance date if the owner or operator elects to conduct a performance test. We are proposing a 30-day period because we believe this is adequate time to complete the emission test.

During startup, the plant must meet all of the EPA requirements for maintaining control equipment and minimizing emissions as much as possible during the startup period. We have not added specific requirements to the rule because this is already required by the operation and maintenance requirements in § 63.6(e) of the General Provisions. Section 63.6(e)(3) also requires the owner or operator to operate and maintain the affected source and control equipment according to the procedures in the startup, shutdown, and malfunction plan.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

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

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

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

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

It has been determined that the proposed amendments are not a ''significant regulatory action'' under the terms of Executive Order 12866 and are therefore not subject to OMB review.

B. Paperwork Reduction Act

The OMB has approved the information collection requirements in the 1997 NESHAP for primary aluminum reduction plants under the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2060–0360. A copy of information collection request (ICR) No. 1767.02 may be obtained from Susan Auby by mail at U.S. EPA, Office of Environmental Information, Collection Strategies Division (2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov,* or by calling (202) 566–1672. A copy may also be downloaded off the internet at *http://www.epa.gov/icr.*

Today's proposed rule amendments will have no impact on the information collection burden estimates made previously. The proposed requirement for advance notification of startup for an existing affected source that has been shut down has no impact because similar advance notification is already required for a new or reconstructed affected source. Consequently, the ICR has not been revised.

C. Regulatory Flexibility Act

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

The U.S. Small Business Administration defines a small entity in this industry sector as: (1) A firm having no more than 1,000 employees; (2) a government jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and that is not dominant in its field.

After considering the economic impacts of today's proposed amendments on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The proposed rule will not impose any requirements on small entities. None of the plants in this industry is classified as a small entity.

D. Unfunded Mandates Reform Act

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

Today's proposed amendments contain no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, or tribal governments. The EPA has determined that the proposed amendments do 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 1 year. Thus, today's proposed amendments are not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' These proposed amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. None of the affected facilities are owned or operated by State governments. Thus, Executive Order 13132 does not apply to the proposed amendments.

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

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

These proposed amendments will not have tribal implications, as specified in Executive Order 13175. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. No tribal governments own facilities subject to the NESHAP. Thus, Executive Order 13175 does not apply to these proposed amendments.

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

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

The EPA interprets Executive Order 13045 as applying only to regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. These proposed amendments are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks.

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

These proposed amendments are not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C 272 note), directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (such as material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

The proposed amendments do not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Primary aluminum reduction plants, Reporting and recordkeeping requirements.

Dated: March 6, 2003.

Christine Todd Whitman,

Administrator.

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

PART 63—[AMENDED]

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

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

Subpart LL—[AMENDED]

2. Section 63.843 is amended by revising paragraph (a)(2)(iii) to read as follows:

§ 63.843 Emission limits for existing sources.

(a) * * *

(2) * * *

(iii) 2.85 kg/Mg (5.7 lb/ton) of aluminum produced for each VSS2 potline.

* * * * *

3. Section 63.847 is amended by:

a. Revising the introductory text of paragraph (a); and

b. Revising paragraph (c).

The revisions read as follows:

§ 63.847 Compliance provisions.

(a) *Compliance dates.* The owner or operator of a primary aluminum plant must comply with the requirements of this subpart by:

* * * * *

(c) *Performance test dates.* Following approval of the site-specific test plan, the owner or operator must conduct a performance test to demonstrate initial compliance according to the procedures in paragraph (d) of this section. If a performance test has been conducted on the primary control system for potlines or for the anode bake furnace within the 12 months prior to the compliance date, the results of that performance test may be used to demonstrate initial compliance. The owner or operator must conduct the performance test:

(1) During the first month following the compliance date for an existing potline (or potroom group) or anode bake furnace;

(2) By the date determined according to the requirements in paragraph (c)(2)(i), (ii), or (iii) of this section for a new or reconstructed potline, anode bake furnace, or pitch storage tank (for which the owner or operator elects to conduct an initial performance test):

(i) By the 180th day following startup for a potline or potroom group. The 180-day period starts when the first pot in a potline or potroom group is energized.

(ii) By the 45th day following startup for an anode bake furnace. The 45-day period starts at the beginning of the first anode bake cycle.

(iii) By the 30th day following startup for a pitch storage tank. The 30-day period starts when the tank is first used to store pitch.

(3) By the date determined according to the requirements in paragraph (c)(3)(i) or (ii) of this section for an existing potline or anode bake furnace that was shut down at the time compliance would have otherwise been required and is subsequently restarted:

(i) By the 180th day following startup for a potline or potroom group. The 180-day period starts when the first pot in a potline or potroom group is energized.

(ii) By the 45th day following startup for an anode bake furnace. The 45-day period starts at the beginning of the first anode bake cycle.

* * * * *

4. Section 63.850 is amended by removing the word ''and'' at the end of paragraph (a)(7) and removing the period at the end of paragraph (a)(8) and replacing it with ''; and'' and by adding new paragraph (a)(9) to read as follows:

§ 63.850 Notification, reporting, and recordkeeping requirements.

(a) * * *

(9) One-time notification of startup of an existing potline or potroom group, anode bake furnace, or paste production plant that was shut down for a long period and subsequently restarted. The owner or operator must provide written notice to the Administrator at least 30 days before the startup.

* * * * *

5. Table 2 to subpart LL is amended by revising the entry for ''VSS2 potlines'' to read as follows:

TABLE 2 TO SUBPART LL.—POTLINE POM LIMITS FOR EMISSION AVERAGING

Type	Quarterly POM limit (lb/ton) [for given number of potlines]						
	2 lines	3 lines	4 lines	5 lines	6 lines	7 lines	8 lines
*	*	*	*	*	*	*	*
VSS2 ...	5.0	4.7	4.5	4.4	4.3	4.2	4.1

6. Appendix A to subpart LL is amended by:

a. Revising the title of Appendix A;

b. Adding a new entry for § 63.7(a)(2)(ii) and (iii) in numerical order; and

c. Adding a new entry for § 63.9(b)(1)–(b)(5) in numerical order.

The revisions and additions read as follows:

APPENDIX A TO SUBPART LL.—APPLICABILITY OF GENERAL PROVISIONS (40 CFR PART 63, SUBPART A)

General provisioins citation	Requirement	Applies to subpart LL	Comment
*	*	*	*
63.7(a)(2) (ii) and (iii)	Performance testing requirements.	No	Subpart LL specifies performance test dates.
*	*	*	*
63.9(b) (1)–(b)(5)	Initial notifications	Yes, except as noted in ''comment'' column.	§ 63.850(a)(9) includes requirement for startup of an existing affected source that has been shut down.
*	*	*	*

[FR Doc. 03–6303 Filed 3–14–03; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[DA 03–622; RM–10666]

National Translation Association's Petition for Rulemaking To Establish a Rural Translator Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; petition for rulemaking.

SUMMARY: The Media Bureau (''Bureau'') seeks comment on a proposal to establish a ''Rural Translator Service.'' The National Translator Association asserts that implementation of this service will help to ensure the delivery of broadcast services to rural areas. According to National Translator Association, the Commission's goals of transitioning broadcast television from analog to digital service, providing for availability and attendant benefits of high definition television, and providing for free over-the-air broadcast television, both commercial and non-commercial, can only be accomplished in rural areas by the use of translator stations.

DATES: Comments due on or before May 16, 2003. Reply comments due on or before June 16, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. *See* **SUPPLEMENTARY INFORMATION** for filing instructions.

FOR FURTHER INFORMATION CONTACT: Brad Lerner (202) 418–7066, Video Division, Media Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Public Notice, RM–10666, released March 6, 2003. The full text of this Public Notice is available for inspection and copying during normal business hours in the FCC Reference Room, Room CY–A257, Portals II, 445 12th Street, SW., Washington, DC, and also may be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY B402, Washington, DC 20554.

Synopsis of Public Notice

The National Translator Association (''NTA'') seeks to establish a ''Rural Translator Service.'' Among other things, NTA proposes that in order for an applicant to apply in this ''Rural Translator Service,'' it must propose a translator that can provide a signal to an area in which its residents are unable to receive at least four ''free'' primary over-the-air television signals, based on a combination of predictive methods. For areas outside the predicted Grade B contour of a television station, the NTA would presume that no service is received. For areas within a predicted Grade B contour, applicants would be permitted to use the ''Longley Rice Terrain Dependant Population Count'' and the methods prescribed in the FCC Office of Engineering and Technology Bulletin 69 (''OET 69'') to show that actual service is not available. NTA also proposes to limit the effective radiated power of these stations to 1 kilowatt for UHF Translators and 100 watts for VHF Translators. The NTA proposes that applications for stations in the Rural Translator Service be processed on an expedited basis using a ''one-day rolling window or day-by-day cutoff procedures for mutually exclusive applications'' in lieu of the Commission's filing window procedures for the Low Power Television Service.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before May 16, 2003, and reply comments on or before June 16, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper