

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA-HQ-OAR-2006-0510; FRL-8257-4]

RIN 2060-AN45

**National Emission Standards for Hazardous Air Pollutants for Area Sources: Polyvinyl Chloride and Copolymers Production, Primary Copper Smelting, Secondary Copper Smelting, and Primary Nonferrous Metals: Zinc, Cadmium, and Beryllium**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rules.

**SUMMARY:** EPA is issuing national emission standards for hazardous air pollutants (NESHAP) for four area source categories. These final NESHAP include emissions limits and/or work practice standards that reflect the generally available control technologies (GACT) and/or management practices in each of these area source categories.

**DATES:** These final rules are effective on January 23, 2007. The incorporation by reference of certain publications listed in these rules is approved by the Director of the Federal Register as of January 23, 2007.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2006-0510. All documents in the docket are listed in the Federal Docket Management System index at <http://www.regulations.gov>. Although listed in the index, some

information is not publicly available, e.g., confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

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**SUPPLEMENTARY INFORMATION:**

**Outline**

The information presented in this preamble is organized as follows:

- I. General Information
  - A. Does this action apply to me?
  - B. Where can I get a copy of this document?
  - C. Judicial Review
- II. Background Information for Final Area Source Standards

- III. Summary of Final Rule and Changes Since Proposal
  - A. NESHAP for Polyvinyl Chloride and Copolymers Production Area Sources
  - B. NESHAP for Primary Copper Smelting Area Sources
  - C. NESHAP for Secondary Copper Smelting Area Sources
  - D. NESHAP for Primary Nonferrous Metals—Zinc, Cadmium, and Beryllium Area Sources
- IV. Summary of Comments and Responses
  - A. Existing Area Source Facilities
  - B. Part 63 General Provisions
  - C. Primary Copper Smelters
  - D. Primary Zinc Smelters
  - E. Basis for Area Source Standards
  - F. Compliance Date
- V. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer Advancement Act
  - J. Congressional Review Act

**I. General Information**

*A. Does this action apply to me?*

The regulated categories and entities potentially affected by these final standards include:

Category	NAICS code <sup>1</sup>	Examples of regulated entities
Industry:		
Polyvinyl chloride and copolymers production.	325211	Area source facilities that polymerize vinyl chloride monomer to produce vinyl chloride and/or copolymer products.
Primary copper smelting .....	331411	Area source facilities that produce copper from copper sulfide ore concentrates using pyrometallurgical techniques.
Secondary copper smelting .....	<sup>2</sup> 331423	Area source facilities that process copper scrap in a blast furnace and converter or use another pyrometallurgical purification process to produce anode copper from copper scrap, including low-grade copper scrap.
Primary nonferrous metals—zinc, cadmium, and beryllium.	331419	Area source facilities that produce zinc, zinc oxide, cadmium, or cadmium oxide from zinc sulfide ore concentrates using pyrometallurgical techniques and area source facilities that produce beryllium metal, alloy, or oxide from beryllium ore.
Federal government .....	.....	Not affected.
State/local/tribal government .....	.....	Not affected.

<sup>1</sup> North American Industry Classification System.

<sup>2</sup> This final rule applies only to secondary copper smelters and does not apply to copper, brass, and bronze ingot makers or remelters that may also be included under this NAICS code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility is regulated by this action, you should examine the

applicability criteria in 40 CFR 63.11140 of subpart DDDDDD (NESHAP for Polyvinyl Chloride and Copolymers Production Area Sources), 40 CFR 63.11146 of subpart EEEEEEE (NESHAP for Primary Copper Smelting Area

Sources), 40 CFR 63.11153 of subpart FFFFFFF (NESHAP for Secondary Copper Smelting Area Sources), or 40 CFR 63.11160 of subpart GGGGGG (NESHAP for Primary Nonferrous Metals—Zinc, Cadmium, and Beryllium

Area Sources). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

*B. Where can I get a copy of this document?*

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: <http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

*C. Judicial Review*

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of these final rules is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by March 26, 2007. Under section 307(d)(7)(B) of the CAA, only an objection to these final rules that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by these final rules may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

**II. Background Information for Final Area Source Standards**

Sections 112(c)(3) and 112(k)(3)(B) of the CAA instruct EPA to identify not less than 30 HAP which, as a result of emissions from area sources, present the greatest threat to public health in the largest number of urban areas, and to list sufficient area source categories<sup>1</sup> to ensure that sources representing 90 percent or more of the emissions of each of the 30 listed HAP ("area source HAP") are subject to regulation. Sierra Club sued EPA, alleging a failure to complete standards for the source categories listed pursuant to CAA sections 112(c)(3) and (k)(3)(B) within the timeframe specified by the statute.

<sup>1</sup> Under section 112(a) of the Clean Air Act, an area source is defined as a stationary source that is not a major source. A major source is defined as a stationary source or a group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any HAP or 25 tons per year or more of any combination of HAP.

*See Sierra Club v. Johnston*, No. 01–1537, (D.D.C.). On March 31, 2006, the court issued an order requiring EPA to promulgate standards under CAA section 112(d) for those area source categories listed pursuant to CAA sections 112(c)(3) and (k)(3)(B).

Among other things, the order requires that, by December 15, 2006, EPA complete standards for four of the listed area source categories. On October 6, 2006 (71 FR 59302) we proposed NESHAP for the following four listed area source categories that we have selected to meet the December 15, 2006 deadline: (1) Primary Copper Smelting; (2) Secondary Copper Smelting; (3) Polyvinyl Chloride and Copolymers Production; and (4) Primary Nonferrous Metals—Zinc, Cadmium, and Beryllium. These final NESHAP complete the required regulatory action for four area source categories.

Under CAA section 112(d)(5), the Administrator may, in lieu of standards requiring maximum achievable control technology (MACT) under section 112(d)(2), elect to promulgate standards or requirements for area sources "which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants." Under section 112(d)(5), the Administrator has the discretion to use generally available control technology (GACT) or management practices in lieu of MACT. As mentioned in the proposed NESHAP for these four area source categories, we have decided not to issue MACT standards and concluded that requirements that provide for the use of GACT or generally available management practices are appropriate for these four source categories (71 FR 59302, 59304, October 6, 2006).

**III. Summary of Final Rules and Changes Since Proposal**

*A. NESHAP for Polyvinyl Chloride and Copolymers Production Area Sources*

As proposed, we are adopting the requirements in 40 CFR part 61, subpart F that apply to polyvinyl chloride (PVC) plants as the NESHAP for the Polyvinyl Chloride and Copolymer Production area source category. The only change since the proposed rule is that this final rule does not adopt either the startup, shutdown, and malfunction (SSM) requirements in 40 CFR 63.6(e)(3) or the preconstruction notification requirements in 40 CFR 63.5. As discussed in more detail in section IV.B of this preamble, under the construct of part 61 standards, sources must comply with the standards at all times, including periods of SSM. Because in

this final rule we are adopting the part 61 standards for PVC plants as the area source standard, separate requirements governing SSM are not necessary. We have also determined that the preconstruction notification requirements at 40 CFR 63.5 are not necessary because a comparable preconstruction notification is already required under the part 61 General Provisions (40 CFR part 61, subpart A), which apply to this NESHAP.

**1. Applicability and Compliance Dates**

This final rule applies to both new and existing PVC and copolymer plants that are area sources of HAP. The owner or operator of an existing source must comply with all the requirements of this area source NESHAP by January 23, 2007. The owner or operator of a new source must comply with this area source NESHAP by January 23, 2007 or at startup, whichever is later.

**2. Emissions Limits and Work Practice Standards**

The Polyvinyl Chloride and Copolymers Production area source category was listed for its contribution to the emissions of the area source HAP vinyl chloride. As proposed, we are adopting the requirements in 40 CFR part 61, subpart F that are applicable to PVC plants as the NESHAP for the Polyvinyl Chloride and Copolymer Production area source category. These requirements in subpart F include numerical emissions limits for reactors; strippers; mixing, weighing, and holding containers; monomer recovery systems; emissions sources following the stripper(s); and reactors used as strippers. In addition, they include emissions limits and work practice requirements that apply to discharges from manual vent valves on a PVC reactor and relief valves in vinyl chloride service, fugitive emissions sources, and equipment leaks. Subpart F also requires a new or existing source to comply with the requirements at 40 CFR part 61, subpart V for the control of equipment leaks. As discussed in the proposal preamble, we have determined that these requirements represent GACT for sources in this area source category.

**3. Compliance Requirements**

We are including in this NESHAP the monitoring, testing, recordkeeping, and reporting requirements in 40 CFR part 61, subpart F. This final NESHAP requires a vinyl chloride continuous emissions monitoring system (CEMS) for the regulated emissions sources (except for sources following the stripper) and for any control system to which reactor emissions or fugitive

emissions must be ducted. Plants using a stripper to comply with this NESHAP must also determine the daily average vinyl chloride concentration for each type of resin. The owner or operator must submit quarterly reports containing information on emissions or resin concentrations that exceed the applicable limits. Records are required to demonstrate compliance, including a daily operating log for each reactor. Plants are required to comply with the testing, monitoring, recordkeeping, and reporting requirements in the part 61 General Provisions (40 CFR part 61, subpart A). For the reasons discussed in sections III.A and IV.B of this preamble, this final NESHAP does not require that the owner or operator comply with the SSM requirements at 40 CFR 63.6(e)(3) and the preconstruction notification requirements at 40 CFR 63.5.

#### 4. Exemption From Title V Permit Requirements

Section 502(a) of the CAA provides that EPA may exempt one or more area sources from the requirements of title V if EPA finds that compliance with such requirements is "impracticable, infeasible, or unnecessarily burdensome" on such area sources. EPA must determine whether to exempt an area source from title V at the time we issue the relevant section 112 standard (40 CFR 70.3(b)(2)). For the reasons discussed in the preamble to the proposed rule, we are exempting PVC and copolymers production area sources from the requirements of title V. PVC and copolymers production area sources are not required to obtain title V permits solely as a function of being the subject of the NESHAP; however, if they were otherwise required to obtain title V permits, such requirement(s) would not be affected by this exemption. We received no comments on our proposal to exempt PVC and copolymer production area sources from the requirements of title V.

#### *B. NESHAP for Primary Copper Smelting Area Sources*

The Primary Copper Smelting area source category was listed for its contribution to the emissions of the area source HAP arsenic, cadmium, chromium, lead, and nickel. As discussed in more detail in section IV.C of this preamble, the major change since the proposed rule is that we established a subcategory of primary copper smelters that use the batch converting technology and developed separate standards for this subcategory. At the time of the proposed rule, we were not aware of any area sources using the batch converting technology. Since

then, we received comments indicating that there may or will be primary copper smelting area sources that use the batch converting technology. Because batch technology is quite different from the continuous converting technology we used to develop the proposed standards for the Primary Copper Smelting area source category in terms of process operation, emissions points, and achievable levels of control, we believe that the proposed standards do not represent GACT for existing primary copper smelting area sources that use the batch converting technology. Accordingly, we developed a separate standard for existing sources that use the batch converting technology, and we developed that standard based on the title V permit of one batch converting facility that we have determined to be effectively controlling its HAP emissions by complying with its permit terms and conditions.

In response to comments, we also made several changes to the proposed rule for primary copper smelters that do not use the batch converting technology. As explained in the preamble to the proposed rule, we have determined that certain terms and conditions in the title V permit of the only area source primary smelter of which we are aware provide effective control of HAP emissions and represent GACT for these sources. We made changes in the proposed rule to more accurately capture the relevant terms and conditions in this existing area source's title V permit. Specifically, we clarified that capture and control systems are not required for anode casting and holding operations; that the sampler required for existing sources is a continuous PM sampler; that the emissions limit is expressed as PM less than 10 microns in aerodynamic diameter (PM<sub>10</sub>) rather than PM; and that a single gas collection system could serve multiple process vessels.

As discussed in section IV.B of this preamble, we allow new and existing sources to comply with either the SSM requirements in 40 CFR 63.6(e)(3) or the detailed SSM requirements in the final rule that were developed from the existing sources' title V permits, which are substantially equivalent to the SSM requirements in 40 CFR part 63.

#### 1. Applicability and Compliance Dates

This final rule applies to each new or existing primary copper smelter that is an area source of HAP. The owner or operator of an existing affected source must comply by January 23, 2007. The owner or operator of a new affected source must comply by January 23, 2007 or upon initial startup, whichever is later. An affected source is new if

construction or reconstruction of the affected source was commenced on or after October 6, 2006.

#### 2. Emissions Limits and Work Practice Standards

As previously mentioned, we have developed separate standards for existing sources that use the batch converting technology and for those that do not. However, the standards for new sources apply to all new area source primary copper smelters irrespective of the converting technology utilized.

Under this final rule, the owner or operator of an existing area source using any converting technology is required to control HAP emissions from copper concentrate drying, copper concentrate smelting, copper matte drying and grinding, copper matte converting, and copper anode refining. As discussed in the proposal preamble, we are using PM as a surrogate for HAP metals. Gases and fumes generated by these processes must be captured and vented through one or more PM control devices. For existing primary copper smelters that do not use the batch converting process, the total emissions of PM<sub>10</sub> from the captured gas streams from all of these processes is limited to 89.5 pounds per hour (lb/hr) as determined on a 24-hour average basis.

For existing primary copper smelters using the batch converting technology, the exhaust gases from each smelter vessel and each converter must be collected and sent to a PM control device and to a sulfuric acid plant. A secondary gas collection system must be installed on each smelting vessel and converter, and PM emissions from the secondary capture and control system must not exceed 0.02 grains per dry standard cubic foot (gr/dscf). The PM emissions from each copper concentrate dryer must not exceed 0.022 gr/dscf.

Similarly, the owner or operator of a new area source using any converting technology must control HAP emissions from all primary copper smelting processes, including but not limited to those processes mentioned above that are applicable to the new source's smelter design. Gases and fumes generated by these processes at a new source must be captured and vented through one or more PM control devices. We are requiring a new source to achieve a facility input-based emissions rate for total PM no greater than a daily (24-hour) average of 0.6 pounds per ton (lb/ton) of copper concentrate feed charged to the smelting vessel.

This final rule for new area source primary copper smelters also requires a secondary gas system for each smelting

vessel and converting vessel that collects the gases and fumes released during the molten material transfer operations and conveys the collected gas stream to a control device. Capture systems that collect gas and fumes and convey them to a control device also are required for operations in the anode refining. These capture and control requirements apply to all new and existing area sources using any copper smelting technology.

### 3. Compliance Requirements

In this final rule, we have adopted the testing, monitoring, operation and maintenance, recordkeeping, and reporting requirements for PM emissions that are in the title V permits of the existing area source smelters. Compliance with the emissions limit for existing area sources not using the batch converting technology is based on the daily average PM<sub>10</sub> emissions measured by a continuous PM sampler. For smelters using the batch conversion technology, compliance is based on performance tests at least every 2.5 years and continuous monitoring using continuous opacity monitoring systems (COMS) for electrostatic precipitators and bag leak detection systems for baghouses.

The operation and maintenance requirements in this final rule for existing sources using any converting technology are based on the existing sources' title V permits. At all times, the owner or operator must to the extent practicable, maintain and operate any affected source, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. In addition, all pollution control equipment must be installed, maintained, and operated properly. Instructions from the vendor or established maintenance practices that maximize pollution control must be followed. Maintenance records must be made available to the permitting authority upon request.

This final rule allows any new or existing source to meet the SSM requirements specified in this final rule or the SSM requirements in 40 CFR 63.6(e)(3). The SSM requirements that are specified in this final rule were developed from the existing sources' title V permit requirements, and we believe these requirements are equally applicable to new and existing area sources irrespective of the converting technology used. Sources may nevertheless choose to comply with the SSM provisions in 40 CFR 63.6(e)(3), in lieu of the SSM requirements specified in this final rule. The SSM provisions in

this final rule require that all malfunctions be reported within two working days of the event. The report must include a description of the malfunction, steps taken to mitigate emissions, and corrective actions taken. In addition, the owner or operator must show through signed contemporaneous logs or other relevant evidence that: (1) A malfunction occurred and the probable cause can be identified, (2) the facility was being operated properly at the time the malfunction occurred, and (3) all reasonable steps were taken to minimize emissions that exceeded the emission standards. A malfunction or emergency does not include events caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

The owner or operator of an existing area source using any copper smelting technology must comply with notification requirements in 40 CFR 63.9 of the General Provisions (40 CFR part 63, subpart A). In the notification of compliance status required in 40 CFR 63.9(h), the owner or operator may certify initial compliance with the emissions limit based on monitoring data collected during a previous compliance test. The owner or operator also must certify initial compliance with the work practice standards.

The owner or operator of a new primary copper smelter must install, operate, and maintain a CEMS to measure and record PM concentrations and gas stream flow rates for each emissions source subject to the emissions limit. The standard requires that the PM CEMS meet EPA Performance Specification 11 (40 CFR part 60, appendix B). A device to measure and record the weight of the copper concentrate feed charged to the smelting furnace each day also is required. The owner or operator must continuously monitor PM emissions, determine and record the daily (24-hour) value for each day, and calculate and record the daily average pounds of total PM per ton of copper concentrate feed charged to the smelting furnace. A monthly summary report of the daily averages of PM per ton of copper concentrate feed charged to the smelting vessel also is required. All notification, monitoring, testing, operation and maintenance, recordkeeping, and reporting requirements of the part 63 General Provisions apply to the owner or operator of a new source. This final rule allows a new source to meet the specific SSM requirements that were developed from the title V permit requirements for existing sources or the SSM requirements in 40 CFR 63.6(e)(3).

### C. NESHAP for Secondary Copper Smelting Area Sources

We did not receive any comments on our determination of GACT for secondary copper smelters, and we are promulgating the standard as proposed without any changes.

#### 1. Applicability and Compliance Dates

This final rule applies to each new secondary copper smelter that is an area source of HAP. The owner or operator of a new affected source is required to comply by January 23, 2007 or upon initial startup, whichever is later.

#### 2. Emissions Limit and Work Practice Standards

This final rule does not include requirements for existing area sources of secondary copper smelters. As we explained in the preamble to the proposed rule, currently there are no existing major or area sources of secondary copper smelters. Therefore, there is not any, nor would there ever be, an existing secondary copper smelter that would be subject to this rule. In this circumstance, we are not issuing standards for existing area sources of secondary copper smelters. However, this final rule contains requirements for new area sources of secondary copper smelters. The Secondary Copper Smelting area source category was listed for its contribution to the emissions of the area source HAP cadmium, lead and dioxin. We have established requirements for new sources in this category to ensure that any potential emission of these area source HAP from future secondary copper smelting area sources will be appropriately controlled.

We are requiring that the owner or operator of any new secondary copper smelter operate a capture and control system for PM emissions from any process operation that melts copper scrap, alloys, or other metals or that processes molten material. Emissions of PM from the control device must not exceed 0.002 gr/dscf. The owner or operator must also prepare and follow a written plan for the selection, inspection, and pretreatment of copper scrap to minimize, to the extent practicable, the amount of oil and plastics in the scrap that is charged to smelting or melting furnaces. As we explained in the proposal preamble, we are using PM as a surrogate for establishing standards for metal HAP, which are cadmium and lead in this case. The United Nations Environmental Programme (UNEP) has also recommended using control devices with high efficiency PM removal to reduce dioxin emissions. The pollution

prevention measure described above (i.e., presorting and pretreating materials) is another UNEP recommendation for reducing dioxin emissions. We have determined that these requirements represent GACT for new sources of secondary copper smelters and requested comments on this determination in the proposed rule. We did not receive any comments on this determination.

### 3. Compliance Requirements

Fabric filters (baghouses) are expected to be needed to meet the NESHAP emissions limit. Consequently, the monitoring requirements include bag leak detection systems when baghouses are used. For additional information on bag leak detection systems that operate on the triboelectric effect, see "Fabric Filter Bag Leak Detection Guidance", U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, September 1997, EPA-454/R-98-015, NTIS publication number PB98164676. This document is available from the National Technical Information Service (NTIS), 5385 Port Royal Road, Springfield, VA 22161. The owner or operator must prepare a written plan for the selection, inspection, and pretreatment of copper scrap and keep records to document conformance with the requirements in the written plan. If a control device other than a baghouse is used, the owner or operator must submit a monitoring plan to the permitting authority for approval. The monitoring plan must include performance test results showing compliance with the PM emissions limit, a plan for operation and maintenance of the control device, a list of operating parameters that will be monitored, and operating parameter limits that were established during the performance test.

The owner or operator must conduct a performance test to demonstrate initial compliance with the PM emissions limit and report the results in the notification of compliance status required by 40 CFR 63.9(h) of the General Provisions. If a baghouse is used, the PM concentration is to be determined using EPA Method 5 (for negative pressure baghouses) or Method 5D (for positive pressure baghouses) in 40 CFR part 60, appendix A. Repeat performance tests are required every 5 years to demonstrate compliance with the PM emissions limit. All requirements of the part 63 General Provisions apply to the owner or operator of a new source, including the notification, monitoring, testing, operation and maintenance, SSM, recordkeeping, and reporting requirements.

#### *D. NESHAP for Primary Nonferrous Metals—Zinc, Cadmium, and Beryllium Area Sources*

##### 1. NESHAP for Primary Zinc Production

In this final rule, we have adopted a limit in grains per dry standard cubic foot (gr/dscf) for certain melting furnaces at existing zinc production area sources in addition to the proposed pound per hour (lb/hr) limits for these furnaces at existing sources. This gr/dscf limit is the limit that we proposed for the same furnaces at new sources. Both the gr/dscf limit and the lb/hr limits reflect the level of emission control that can be achieved based on the technology we identified as GACT for these furnaces (i.e., a well-operated and well-maintained baghouse). However, whereas the lb/hr limits were based on the specific operations at the two existing sources of which we are aware, the gr/dscf emission limit is not operation specific and can apply to these furnaces at any primary zinc production area source irrespective of its operation. For this reason, we proposed this gr/dscf emissions limit for these furnaces at new sources. In this final rule, we similarly allow an existing source to meet this gr/dscf limit for these furnaces. This final rule provides existing sources the option of meeting either the lb/hr limits or the gr/dscf limit for these furnaces. We believe that including both the lb/hr and gr/dscf limits in this final rule will ensure effective control of these furnaces at all existing primary zinc production area sources in the event that there are facilities other than the two we know and with very different operations from the two known sources.

In addition, as discussed in section IV.B of this preamble, we allow new and existing sources to comply with either the SSM requirements in 40 CFR 63.6(e)(3) or with the detailed SSM requirements in the final rule that were developed from the existing sources' title V permits, which are substantially equivalent to the SSM requirements in part 63.

*Applicability and compliance dates.* This final rule applies to each new or existing primary zinc production facility that is an area source of HAP. The owner or operator of an existing affected source must comply by January 23, 2007. The owner or operator of a new affected source must comply by January 23, 2007 or upon initial startup, whichever is later.

*Emissions limits and work practice standards.* Primary zinc production facilities were included as part of the Primary Nonferrous Metals area source category due to their contributions to

the emissions of the area source HAP arsenic, cadmium, lead, manganese, and nickel, all of which are metal HAP. As we mentioned in the proposal preamble, cadmium is produced as a by-product of zinc smelting processes. There are no primary cadmium smelters in the United States. Accordingly, the requirements for area sources of zinc production in this final rule also address emissions associated with any cadmium production at these zinc production facilities.

As previously mentioned, we are using PM as a surrogate for establishing standards for metal HAP. Under this final rule, the owner or operator of an area source of zinc production is required to exhaust roaster off-gases to PM removal equipment and a sulfuric acid plant. Bypassing the sulfuric acid plant during charging of the roaster is prohibited.

Emissions limits apply to the different types of melting furnaces at primary zinc production facilities. For existing sources, this NESHAP limit PM emissions to 0.93 lb/hr for zinc cathode melting furnaces; 0.1 lb/hr for furnaces that melt zinc dust, chips, and off-specification zinc materials; and 0.228 lb/hr for the combined exhaust from furnaces that melt zinc scrap and alloys. As an alternative to the lb/hr limits for these furnaces at existing sources, the owner or operator may elect to meet a limit of 0.005 gr/dscf. For new sources, the PM limit is 0.005 gr/dscf for the furnaces mentioned above. Other PM limits are 0.014 gr/dscf for anode casting furnaces and 0.015 gr/dscf for cadmium melting furnaces at new and existing sources.

Emissions limits also apply to any sintering machine at a new or existing area source facility. If there is a sintering machine, the owner or operator must comply with the PM limit at 40 CFR 60.172 and the opacity limit at 40 CFR 60.174(a) of the new source performance standard (NSPS) for primary zinc smelters (40 CFR part 60, subpart Q).

*Compliance requirements.* We are adopting for existing area sources certain monitoring, recordkeeping, and reporting requirements in the title V permits of the two existing facilities that relate to PM emissions control. The owner or operator of an existing area source must monitor baghouse pressure drop, perform routine baghouse maintenance, and keep records to document compliance. In addition, we are requiring repeat performance tests (at least once every 5 years) for existing sources. This final rule also requires a continuous opacity monitoring system (COMS) for any sintering machine in accordance with 40 CFR 60.175.

The owner or operator of an existing area source must comply with initial notification requirements in 40 CFR 63.9 of the General Provisions. In the notification of compliance status required by 40 CFR 63.9(h), the owner or operator may certify initial compliance with the HAP emissions limits based on the results of a PM performance test for each of the regulated emissions sources conducted within the past 5 years. The owner or operator must also certify initial compliance with the work practice standards.

If an existing source has not conducted a performance test to demonstrate compliance with the emissions limits for a furnace, the owner or operator must conduct a test according to the requirements at 40 CFR 63.7 using EPA Method 5 (40 CFR part 60, appendix A) to determine the PM concentration or an alternative method previously approved by the permitting authority. For a sintering machine, the owner or operator must conduct a performance test according to the procedures in 40 CFR 60.176(b) using EPA Method 5 to determine the PM concentration and EPA Method 9 (40 CFR part 60, appendix B) to determine the opacity of emissions.

The operation and maintenance requirements in the final rule for existing sources are based on the sources' title V permits. The owner or operator must maintain all equipment covered under the subpart in such a manner that the performance or operation of the equipment does not cause a deviation from the applicable requirements. A maintenance record must be kept for each item of air pollution control equipment. At a minimum, this record must show the dates of performing maintenance and the nature of preventative maintenance activities.

This final rule allows any existing source to meet the specific SSM requirements that were developed from the title V permit requirements for existing sources or the SSM requirements in 40 CFR 63.6(e)(3). The specific SSM provisions in this final rule require that all malfunctions be reported within two working days of the event. The report must include a description of the malfunction, steps taken to mitigate emissions, and corrective actions taken. In addition, the owner or operator must show through signed contemporaneous logs or other relevant evidence that: (1) A malfunction occurred and the probable cause can be identified, (2) the facility was being operated properly at the time the malfunction occurred, and (3) all

reasonable steps were taken to minimize emissions that exceeded the emission standards. A malfunction or emergency does not include events caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

As required in the existing permits, the owner or operator must submit a notification to the permitting authority of any deviation from the requirements of this final NESHAP. The notification must describe the probable cause of the deviation and any corrective actions or preventative measures taken. Existing facilities are also required to submit semiannual monitoring reports which clearly describe any deviations. Records of baghouse maintenance, all required monitoring data, and support information also are required. The owner or operator of an existing area source must also comply with the notification requirements in 40 CFR 63.9 of the General Provisions.

The owner or operator of a new area source is required to install and operate a bag leak detection system for each baghouse used to comply with a PM emissions limit. For additional information on bag leak detection systems that operate on the triboelectric effect, see "Fabric Filter Bag Leak Detection Guidance", U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, September 1997, EPA-454/R-98-015, NTIS publication number PB98164676. This document is available from the National Technical Information Service (NTIS), 5385 Port Royal Road, Springfield, VA 22161. In addition, we are requiring repeat PM performance tests (once every 5 years) for each furnace at a new source. The owner or operator must also install, operate, and maintain a COMS for each sintering machine according to EPA Performance Specification 1 (40 CFR part 60, appendix B).

The owner or operator of a new affected source must demonstrate initial compliance with the applicable emissions limits by conducting a performance test according to the requirements at 40 CFR 63.7 and using EPA 5 or 5D (40 CFR part 60, appendix A), as applicable, to determine the PM concentration. An initial performance test is also required for a sintering machine according to the methods and procedures in 40 CFR 60.176(b). All of the notification, testing, monitoring, operation and maintenance, recordkeeping, and reporting requirements of the part 63 General Provisions apply to a new area source. This final rule allows a new source to meet the specific SSM requirements in

this final rule or the SSM requirements in 40 CFR 63.6(e)(3).

## 2. NESHAP for Primary Beryllium Production Area Sources

The only change since proposal is that this final rule does not adopt the SSM requirements in 40 CFR 63.6(e)(3) and the preconstruction notification requirements in 40 CFR 63.5. As discussed in more detail in section IV.B of this preamble, we have determined that the SSM requirements are not necessary for standards under part 61 that must be met at all times, and the preconstruction notification is already required under the part 61 General Provisions.

*Applicability and compliance dates.* For this final rule, we are adopting all of the requirements in the National Emission Standard for Beryllium at 40 CFR part 61, subpart C. The owner or operator of an existing area source must comply with this NESHAP by January 23, 2007. The owner or operator of a new area source must comply by January 23, 2007 or at startup, whichever is later.

*Emissions limits.* Primary beryllium production facilities were included as part of the Primary Nonferrous Metals area source category due to their contributions to the emissions of the area source HAP arsenic, cadmium, lead, manganese, and nickel, all of which are metal HAP. As discussed in the proposal preamble, we are using beryllium as a surrogate for HAP metals. We are adopting the 40 CFR part 61, subpart C standard as the requirements for both new and existing primary beryllium production facilities in this final rule. The part 61, subpart C standard limits emissions from extraction plants (i.e., primary beryllium production facilities) to 10 grams (0.022 lb) of beryllium over a 24-hour period. Alternatively, the owner or operator of a beryllium production facility may request to meet an ambient concentration limit instead of the emissions limit. As discussed in the preamble to the proposed rule, the part 61 standard is highly effective in controlling PM and metal HAP emissions from the only existing beryllium production facility known to us at the time of the proposal. We have determined that these requirements reflect GACT for area sources of beryllium production. We did not receive any comments on this determination.

*Compliance requirements.* This final rule requires the owner or operator to comply with the testing, monitoring, recordkeeping, and reporting requirements in 40 CFR part 61, subpart

C. An owner or operator subject to the ambient concentration limit must operate air sampling sites to continuously monitor the concentrations of beryllium in the ambient air according to an EPA-approved plan.

The owner or operator must comply with recordkeeping requirements in 40 CFR part 61, subpart C, as well as the testing, monitoring, recordkeeping, and reporting requirements in the part 61 General Provisions in 40 CFR part 61, subpart A. For the reasons discussed in section IV.B of this preamble, this final rule does not require that the owner or operator comply with the requirements for SSM plans and reports in 40 CFR 63.6(e)(3) or the preconstruction notification requirements in 40 CFR 63.5.

#### IV. Summary of Comments and Responses

##### A. Existing Area Source Facilities

At proposal, we stated that we did not know of any existing sources in the Polyvinyl Chloride and Copolymer area source category, and we requested comments on whether there are or ever will be any area sources in this area source category. We also stated that currently there is only one area source of primary copper production in operation in the United States and that there are no primary beryllium production area sources.

*Comment:* One commenter informed us of an area source PVC plant in Alabama. In addition, two commenters stated that there are a few (at least three) PVC plants that they believe may qualify as area sources. According to the commenters, these were once major sources that have reduced HAP emissions significantly or that are currently shut down but are expected to start up again with significantly less emissions than from previous operations as major sources. The commenters requested that EPA clarify the meaning of "potential to emit" in its definition of an "area source" in the proposed rule, as well as the proposed rule's applicability to plants that have obtained or, for the ones that are not currently operating, will obtain permits that limit emissions to levels below the major source thresholds. In addition, the commenters requested clarification of the proposed rule's applicability to PVC plants co-located at chemical complexes that are major sources.

One commenter notified us of an area source primary beryllium plant in Utah. The commenter sought clarification of the proposed rule's applicability to a primary beryllium plant that is a major

source because of perchloroethylene emissions and that may become an area source in the future by eliminating the use of perchloroethylene.

We also received comments that there are two operating primary copper smelters that are area sources rather than just one, as EPA stated in the proposed rule. The company operating this second source reported that it was an area source (synthetic minor) based on a determination by the permitting authority. The company also stated that it is planning to restart a primary copper smelter in Texas that has been shutdown and under "care and maintenance" for several years. This facility will incorporate feedstock limitations to remain below major source thresholds, and the company expects that this facility will qualify as an area source when the renewed permits are issued. The commenter sought clarification of the applicability of the proposed rule to the two primary copper smelters described above.

*Response:* Section 112(a) of the CAA defines the terms "major source" and "area source." An "area source" is defined as any stationary source that is not a major source. In the proposed rule, we included a definition for "area source" and that definition attempted to summarize the statutory definitions of "major source" and "area source." Commenters sought clarification of the meaning of the term "potential to emit" contained in the proposed definition of "area source." Based on the comment, it appears that the proposed definition of "area source" has caused confusion. Because the proposed definition of "area source" was merely intended to summarize the statutory definitions of "major source" and "area source" and is redundant of the definition of "area source" contained in the General Provisions (40 CFR part 63, subpart A), we have decided not to finalize the proposed "area source" definition. Instead, as noted in the NESHAP for each of these four area source categories, the definitions of "major source," "area source," and "potential to emit" in 40 CFR 63.2 apply to this final rule.<sup>2</sup> To the

<sup>2</sup> In 1995, the Court of Appeals for the District of Columbia Circuit reviewed the definition of "potential to emit" (PTE) contained in 40 CFR in 40 CFR 63.2 (*National Mining Ass'n v. EPA*, 59 F.3d 1351 (D.C. Cir. 1995)). In July 2005, the D.C. Circuit remanded the definition to EPA to the extent the definition required that physical or operational limitations be "federally enforceable" (*National Mining Ass'n v. EPA*, 59 F.3d 1351 (D.C. Cir. 1995)). The court did not vacate the 40 CFR part 63 regulations and therefore the definition of "potential to emit" in 40 CFR part 63 remains in place. EPA is currently in the process of developing a proposed rule that responds to the court's remand. EPA has a transitional policy that relates to PTE. See "Options for Limiting the Potential to Emit

extent the commenters have questions as to whether their facility is a major source or an area source, EPA cannot answer these site-specific applicability questions in the context of this national rulemaking. We refer the commenters to the definitions of "major source," "area source," and "potential to emit" found in 40 CFR 63.2, and recommend that the commenters consult with the relevant permitting authority or submit a request for an applicability determination to the EPA regional office in the region where the source is located.

In addition, we want to clarify that a plant that is co-located with other facilities that together qualify as a major source is part of that major source and not an area source.

##### B. Part 63 General Provisions

*Comment:* One commenter representing the two beryllium plants objected to the part 63 SSM requirements in the proposed NESHAP for the Primary Beryllium Production area source category. The commenter stated that these two beryllium plants are already subject to 40 CFR part 61, subpart C, which EPA has adopted in this final rule, as well as the SSM requirements in State implementation plans (SIP), State laws, and title V permits. According to the comment, because these plants are subject to a strict ambient air standard for beryllium under the part 61 NESHAP, which requires that the plants monitor continuously and meet the required limits under all conditions, the part 63 SSM requirements are not necessary. Commenters representing facilities in the PVC industry provided similar comments. In addition, they stated that by requiring compliance with part 61 and the SSM provisions in 40 CFR 63.6, the proposed rule would impose two different SSM schemes in one standard. It would also impose more burdensome reporting and recordkeeping obligations on the lower emitting (area) sources.

Representatives of two primary copper companies also stated that the SSM requirements are unnecessary and duplicative of existing requirements and should be deleted. Their title V permits contain existing functionally equivalent

(PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)" (Jan. 25, 1995), available at <http://www.epa.gov/Region7/programs/artd/air/title5/t5memos/ptememo.pdf>. EPA has extended the transition policy several times. See "Third Extension of January 25, 1995 Potential to Emit Transition Policy" (December 20, 1999), available at <http://www.epa.gov/Region7/programs/artd/air/title5/t5memos/4thext.pdf>. Under the Third Extension, sources can rely on State-only enforceable PTE limits until we finalize our response to the remand.

SSM provisions, including requirements for timely notification and reporting.

*Response:* We agree that the SSM requirements in the 40 CFR part 63 General Provisions need not be included in the NESHAP for the PVC and Copolymer Production and the Primary Beryllium Production area source categories, both of which adopted the relevant part 61 standards for these categories. Under the construct of the part 61 standards, sources must comply with the standards at all times, including periods of SSM. Therefore, separate requirements governing SSM are not necessary. Accordingly, we have revised the proposed rule to eliminate the part 63 SSM requirements for new and existing primary beryllium and PVC plants.

We also examined the SSM requirements that are in title V permits for other source categories. The primary copper smelters and primary zinc production plants have similar requirements in their permits. Our review indicates that these requirements are substantially equivalent to the part 63 SSM requirements. For example, the title V permits for these plants require that all malfunctions be reported within two working days of the event. The report must include a description of the malfunction, steps taken to mitigate emissions, and corrective actions taken. In addition, the permittee must show through signed contemporaneous logs or other relevant evidence that: (1) A malfunction occurred and the permittee can identify the probable cause, (2) the facility was being operated properly at the time the malfunction occurred, and (3) all reasonable steps were taken to minimize emissions that exceeded the emission standards or other requirements of the permit. The permit also makes it clear that a malfunction or emergency does not include events caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error.

Based on the comments and our review of title V permits, we are including in this final rule alternative SSM requirements that we have formulated based on our review of the title V permits mentioned above. Under this final rule, a new or existing primary copper smelter or primary zinc production facility may choose to meet the SSM requirements in 40 CFR 63.6(e)(3) or the alternative SSM requirements provided in this final rule.

This final rule also includes operation and maintenance requirements for existing sources that are based on the permits. For primary copper smelters, the owner or operator must to the extent

practicable, maintain and operate any affected source, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. In addition, all pollution control equipment must be installed, maintained, and operated properly. Instructions from the vendor or established maintenance practices that maximize pollution control must be followed. All necessary equipment control and operating devices, such as pressure gauges, ampere meters, volt meters, flow rate indicators, temperature gauges, continuous emissions monitoring systems, etc., must be installed, operated properly and easily accessible to compliance inspectors. A copy of all manufacturers' operating instructions for pollution control equipment and pollution emitting equipment must be maintained at the facility site. These instructions must be available to all employees who operate the equipment and must be made available to the permitting authority upon request. Maintenance records must be made available to the permitting authority upon request.

*Comment:* One commenter stated that we should not adopt the preconstruction notification requirements in the part 63 General Provisions (40 CFR part 63, subpart A) because they were unnecessary and duplicate the very similar requirements already in the part 61 General Provisions (40 CFR part 61, subpart A). EPA should not impose the additional burden of submitting and processing two duplicative applications and should just rely on the provisions already in the part 61 General Provisions.

*Response:* We agree that if a preconstruction notification is submitted under the part 61 General Provisions (40 CFR 61.07), it is not necessary to submit another preconstruction notification under the part 63 General Provisions. We have revised the proposed rule to reflect this change.

*Comment:* One commenter stated that EPA should not incorporate any of the part 63 General Provisions into area source standards that adopt the part 61 NESHAP. These provisions, including those in 40 CFR 63.1 (Applicability), are already addressed in the part 61 General Provisions and enhanced by SIP requirements and title V permits.

*Response:* We have previously addressed the SSM requirements and preconstruction notifications for facilities subject to part 61 standards. The only other section of the part 63 General Provisions that we have included for these sources deals with

applicability in 40 CFR 63.1 (§§ 63.1(a)(1) through (10), 63.1(b)(1), 63.1(c), and 63.1(d)). The provisions on applicability impose no burden on the facility and provide clarity and useful information related to the applicability of standards under part 63. Consequently, the final rule includes portions of § 63.1 from the part 63 General Provisions.

### C. Primary Copper Smelters

*Comment:* Two commenters identified two primary copper smelters as area sources in addition to the one smelter identified as an area source in the proposal preamble. One of these smelters is operating, and the company stated that the facility is an area source (i.e., a synthetic minor source). The other smelter has been shut down for several years, but it is in the process of obtaining permits to re-start and expects to be an area source. Both of these smelters use the batch converting process, whereas the smelter that was identified as an area source at proposal and was the basis for GACT uses flash continuous converting technology. The company pointed to the process descriptions in the proposal preamble that noted the numerous differences in the two technologies. The company suggested that their two smelters fit into a separate subcategory (batch converting technology) and should have rule requirements based on that technology. The requirements in the proposed rule are not appropriate for their smelters because the proposed rule is based on the flash continuous converting technology.

*Response:* The commenters asserted that there are two area source primary copper smelters that use the batch converting technology. As we described in the proposal preamble (71 FR 59308, October 6, 2006), there are numerous differences in process operation, emissions points, and achievable levels of control. We believe that our proposed standard for existing sources, which is based on flash continuous converting technology, would not be appropriate for existing sources of primary copper smelting that use the batch converting technology and that separate standards are needed to address the different technology used by these existing smelters. Solely for purposes of this analysis, we accept, as true, the commenter's assertion that there are existing area source facilities that use batch processing. As explained above, to the extent the commenter has any question as to whether the smelters identified above are major or area sources, they should consult with the relevant permitting authority or submit

a request for an applicability determination to the EPA regional office in the region where the source is located.

In developing the requirements for sources using the batch converting technology, we reviewed the title V permit of the currently operating source identified in the comment. The emissions from this facility are controlled as a result of its title V permit requirements to capture and control emissions of PM. The vast majority of the gases from the smelting furnace and converter are collected by a primary capture system, sent to control equipment to remove PM, and then processed in a sulfuric acid plant. Fugitive emissions are collected by a secondary capture system and sent to a baghouse for control of PM emissions. We determined that these current permit requirements represent GACT for existing primary copper smelters using the batch converting process and have included these requirements in this final rule as the requirements for existing primary copper smelting area sources that use batch converting technology.

According to these requirements, plants that use batch converting technology must operate primary capture systems on each smelting vessel and each copper converter. Secondary capture systems must be installed to capture emissions from tapping copper matte and slag from the smelting vessel and emissions from charging, skimming, pouring, and holding when the converter mouth is partially rotated out from the primary collection hood. All of the collected gases must be routed to an emissions control system. In addition, emissions from the primary collection system for the smelting vessel and converter must be routed to a sulfuric acid plant after PM removal.

Emissions from each copper concentrate dryer must be controlled and must not exceed 0.022 gr/dscf. Emissions from secondary capture systems that are not vented to a sulfuric acid plant must not exceed 0.02 gr/dscf.

We also examined the monitoring requirements in the title V permit of this primary smelter using the batch technology and found that they would ensure that control devices are working properly on a continuous basis. We therefore included these monitoring requirements in this final rule as requirements for primary copper smelting area sources that use the batch converting technology. Under these requirements, a COMS meeting Performance Specification 1 (40 CFR part 60, appendix B) must be installed on each electrostatic precipitator. If the

24-hour rolling average opacity exceeds 15 percent, the plant must investigate the cause of the problem and take corrective action. Each baghouse must be equipped with and monitored by a bag leak detection system to ensure proper operation. We have also required performance tests every 2.5 years to determine compliance with PM limits.

*Comment:* A commenter representing the primary copper plant that was the basis for GACT stated that EPA did not properly capture the facility's title V permit requirements in some cases. The commenter supplied additional details and clarifications. Clarification is needed for the requirements for anode casting and holding operations, the emissions limit should not be referred to as "smelter wide" but as the limit for the main stack, the limit should be expressed as PM<sub>10</sub> rather than PM, and the continuous PM sampler should not be referred to as a CEMS. The commenter also asked that EPA modify the proposed rule to clearly state that a single secondary gas collection system can capture and control emissions from multiple processing vessels (i.e., each vessel does not have to have its own separate collection system). The commenter also requested more flexibility in the monitoring requirements so that the permitting authority could approve improved monitoring technology should it become available in the future.

*Response:* We agree with the commenter and will make most of the suggested changes. The facility's title V permit was the basis for our GACT determination, and we intended that the proposed area source rule incorporate the permit requirements of this well-controlled facility. We understand that in some cases, a gas collection system may be applied to multiple process vessels, and we have included this clarification in this final rule. We understand that flexibility in monitoring is important, especially as improved monitoring techniques become commercially available and demonstrated in metallurgical operations. That said, it is not necessary to revise the proposed rule to allow a facility to request approval of an alternative monitoring method because the procedure for making such requests is contained in 40 CFR 63.8, which applies to the NESHAP for the Primary Copper Smelting area source category in this final rule.

*Comment:* One commenter noted that the new source standard for primary copper was based on the newer flash continuous converter technology and would not be appropriate for new plants using the batch converting technology.

The commenter stated that continuous converting has more limited applicability to ore concentrates that have high impurities levels than does batch converting. The commenter stated that because a new smelter could use either of the technologies, the emission standards for new sources should be reflective of the performance of either of these technologies. This can be achieved by providing flexibility in the emission limits that are adopted. The commenter recommended that the standard for new smelters using the batch converting technology be based on the best performing existing facility with the technology. In addition, a provision should be made to allow an alternate emissions limit to be authorized by either EPA or the permitting authority that is equally protective.

*Response:* The emissions limit that we proposed for new primary copper smelters is in lb/ton of copper concentrate feed and is applied on a facility wide basis. The format and requirements of the standard can be applied to and achieved by a facility using any primary copper smelting technology if it is well controlled. The format of the standard also provides flexibility because multiple process vessels can have different levels of emissions as long as they collectively meet the overall lb/ton limit. The limit has been demonstrated as achievable by an existing area source that uses a continuous converting process. Unlike existing sources, new sources using any smelting technology have the opportunity to incorporate state-of-the-art capture and control systems into their design, construction, and operation. Based on our engineering experience with capture and control systems that have been applied to primary copper processes and also those that have been applied to similar processes in other metallurgical industries, we believe that the emissions limit for new sources can be achieved by primary copper smelters using any processing technology, including both the continuous and batch converting processes. The standard for new primary copper smelters represents a level of control that is generally available for new sources. Consequently, we chose to promulgate the limit as proposed as GACT for new primary copper smelters.

*Comment:* Three commenters objected to the requirement of using a PM CEMS for monitoring at new primary copper smelter area sources. Although improvements in PM CEMS have been made as they continue to be developed, there is not sufficient operating history

to prove its feasibility for continuous monitoring at primary copper smelters.

*Response:* The PM CEMS have been demonstrated in many different applications, including processes with exhaust gases similar to those from primary copper smelters (e.g., at electric utilities where the temperatures and exhaust gas compositions are similar). The commenters did not provide any information that the exhaust gases from primary copper smelting are uniquely different. We have included PM CEMS as the monitoring technology for new sources in this final rule.

#### D. Primary Zinc Smelters

*Comment:* One commenter asked if the proposed rule was meant to apply to any zinc refinery that processes any amount of zinc sulfide concentrate. If so, what is the timeframe for using zinc sulfide concentrate and its percentage of the feed that qualifies a facility as a primary zinc smelter? Is EPA really trying to regulate zinc refineries, which produce cathodes in a cathode melting furnace and use zinc sulfide concentrate as a feed material, and not regulate thermal zinc smelters, who do not produce cathodes and do not currently use zinc sulfide concentrate?

*Response:* The commenter is correct in that this final rule applies to any area source facility that produces zinc products from any amount of zinc sulfide ore concentrates using pyrometallurgical processes (i.e., a "primary zinc smelter"). This final rule does not apply to thermal zinc smelters if they do not process zinc sulfide concentrate. (Facilities processing only zinc scrap and residues containing zinc would be classified as secondary zinc smelters.) If a facility meets the definition of primary zinc smelter and is an area source on the compliance date, it is subject to this final rule. If the facility is not processing zinc sulfide concentrate but subsequently begins processing it, meets the definition of primary zinc smelter, and is an area source, it is subject to this final rule when it begins processing the zinc sulfide concentrate. Under these facts, such a facility would be subject to the standards for new sources if construction or reconstruction of the primary zinc smelter (the affected source) commenced on or after October 6, 2006.

We are not making a distinction between zinc refineries and thermal zinc smelters as described by the commenter. Either type of facility is subject to this final rule if it is an area source and meets the definition of primary zinc smelter.

*Comment:* One commenter noted that the proposed rule requires demonstrating compliance by stack testing within 180 days after the compliance date. Their plant has a process that is not operating, it is subject to the rule, but it may not restart until more than 180 days after the compliance date. As the proposed rule reads, they would have to demonstrate compliance by a stack test even though the process is not operating.

*Response:* We have clarified the proposed rule to indicate that if a process subject to this final rule is not operating on the compliance date and subsequently starts up, compliance testing must be performed within 180 days after startup of the process.

*Comment:* One commenter noted that the proposed rule requires that initial compliance must be demonstrated "for each furnace at your facility." A zinc smelter may have other types of furnaces that are not subject to emission limits. The commenter assumes that this requirement will have no impact on these furnaces.

*Response:* The commenter is correct. We have clarified the proposed rule to state that initial compliance must be demonstrated "for each furnace at your facility that is subject to an emissions limit under this subpart."

*Comment:* One commenter stated that the emissions limit of 0.005 gr/dscf for certain furnaces at new sources is greater than the emissions limit for the same furnaces at existing sources. The commenter suggested that the greater of the two values be applied in this case to provide a level playing field for new and existing sources.

*Response:* We disagree with the comment that the emissions limit of 0.005 gr/dscf for certain furnaces at new sources is greater than the emissions limits for the same furnaces at existing sources. The emissions limit of 0.005 gr/dscf for new sources is applied to the exhaust vent of a zinc cathode melting furnace; scrap zinc melting furnace; furnace melting zinc dust, zinc chips, and other materials containing zinc; and alloy melting furnace. For existing sources, the limits are 0.1 lb/hr from the exhaust vent of a furnace that melts zinc dust, zinc chips, and/or other materials containing zinc; and 0.228 lb/hr from the vent for the combined exhaust from a furnace melting zinc scrap and an alloy furnace. Although the limits for the furnaces mentioned above are expressed in different formats for new and existing sources, both formats reflect the level of emission control that can be achieved based on the technology we identified as GACT for these furnaces (i.e., a well-operated and

well-maintained baghouse). However, whereas the lb/hr limits for the above-noted furnaces in the proposed rule were based on the specific operations at the two existing sources of which we are aware, the gr/dscf emission limit is not operation specific and can apply to these furnaces at any primary zinc production area source. We have therefore adopted the gr/dscf limit in addition to the proposed lb/hr limit, and sources can meet either the limit expressed in lb/hr or the limit expressed in gr/dscf.

#### E. Basis for Area Source Standards

*Comment:* We received a comment from the National Association of Clean Air Agencies (NACAA) expressing concern with EPA's establishment of area source standards under section 112 of the CAA by adopting existing Federal and/or State area source standards. In the comment, the NACAA stated that the existence of State and local regulations does not relieve EPA of its obligation to establish area source standards under the CAA. The NACAA expressed concern that some States cannot have requirements more stringent than those of the Federal government and may, therefore, be required to change their regulations of area sources to be consistent with EPA's area source standards. The NACAA stated that, if the permit requirements that make these sources "well controlled" are not contained within the Federal rule, the nonfederal rules could be relaxed. The NACAA further stated that, in the absence of Federal requirements, there would be nothing to prevent "backsliding" by these sources.

The NACAA was particularly concerned with EPA's proposed PVC rule, which adopted the part 61 standards for PVC plants. According to the NACAA, the part 61 standards for PVC plants are outdated and inappropriate as a model for GACT. The NACAA submitted with its comment a recommendation for the standards for area sources of PVC plants. The NACAA previously recommended these limits to EPA as the MACT standards for major sources of PVC plants. The NACAA believes the submittal contains valuable information for EPA in developing PVC regulations for area sources as well.

*Response:* We have traditionally reviewed operating permits and current standards in the standards development process, and we used this approach in developing the NESHAP for the four area source categories in this final rule. The NACAA did not explain why it would be inappropriate for EPA to adopt existing Federal, State or local standards that EPA has determined to be

effective in controlling HAP emissions. Contrary to the commenter's assertions, EPA is setting final area source standards for the four source categories at issue in this rule. The emissions limits and/or work practice standards in each of the four NESHAP in this final rule have been reviewed, determined by EPA to be the appropriate standards for the relevant area source category, and established by EPA in this final rule as the Federal requirements for that category pursuant to section 112 of the CAA.

It is conceivable that for those States with laws that preclude the State from issuing regulations that are more stringent than EPA's regulations, a State may need to change its existing area source regulation in response to this final rule. However, the NACAA has not identified any existing State regulation that would require modification in this regard. Further, as previously mentioned, we established the area source standards in this final rule based on GACT, which may or may not be reflected by more stringent State or local requirements. The NACAA also asserted that the part 61 standards for PVC plants are outdated and inappropriate as GACT for area source PVC plants. NACAA's statement was apparently based on the fact that the part 61 standards were issued prior to the 1990 Amendments to the Clean Air Act and were based on risk. However, the fact that these are risk-based standards are not per se evidence that they do not reflect GACT for area sources of PVC plants. We believe that the record supports our determination as to what constitutes GACT for the four categories at issue here.

Moreover, we reviewed the information submitted by the commenter that contained their "presumptive" determination of MACT that they issued as guidance to State and local agencies. These recommended limits were based on the best-controlled plants, most if not all of which are major sources.<sup>3</sup> We believe that these recommended limits may represent MACT or something beyond MACT, but we do not believe that they are appropriate for these particular area source categories. As previously mentioned, we have decided to establish the standards for the PVC and Copolymer Production area source category based on GACT. We do not believe that NACAA's recommended limits represent GACT for area sources

of PVC plants. Because we expect PVC plants to be operating in accordance with the part 61 standards for PVC plants, we believe that these standards represent a level of control that is generally available and is therefore a reasonable representation of GACT for area sources in this source category.

*Comment:* One commenter stated that area source standards are not needed for primary beryllium plants. All of these plants, including major and area sources, are already subject to NESHAP under 40 CFR part 61. In addition, the proposed area source standard will not achieve any reduction in HAP emissions. A second commenter stated that absent EPA's statutory obligation to establish standards for area sources, there would be no need to regulate PVC and copolymer plants because they are already governed by the existing NESHAP. However, the commenter recognizes EPA's obligation to regulate PVC and copolymer area sources and supports the adoption of the part 61 NESHAP as the area source standard.

*Response:* The second commenter has captured the issue and provides the response to the first commenter: EPA has a statutory obligation to establish area source NESHAP for primary beryllium plants.

#### F. Compliance Date

*Comment:* Two commenters stated that requiring compliance on the date of publication of the final rule in the **Federal Register** does not allow sufficient time for existing sources to develop a SSM plan.

*Response:* We believe that we have addressed the commenter's concern regarding existing sources' abilities to develop SSM plans by the compliance date. With respect to primary copper smelting and primary zinc production area sources, this final rule allows existing sources in these two area source categories to address SSM according to the relevant requirements in their title V permits, which do not require a SSM plan. As previously discussed in our response to the comments on the necessity of the part 63 SSM requirements (section IV.B of this preamble), we have reviewed the SSM requirements in the title V permits for the existing sources of primary copper smelting and primary zinc production area sources and have determined that these provisions are adequate to replace the SSM requirements in the General Provisions, which require a SSM plan. See 40 CFR 63.6(e)(3). We have therefore included in the final NESHAP for primary copper smelting and primary zinc production area sources requirements that are based on these

title V permit terms and conditions. To provide flexibility, sources can comply with the SSM requirements specified in this final rule or comply with the provisions contained in the General Provisions at 40 CFR 63.6(e).

Accordingly, the existing sources in these two area source categories are not required to develop SSM plans and may instead continue to follow their title V permit requirements regarding SSM.

In addition, as previously mentioned, we are not requiring SSM plans and reports in 40 CFR 63.6(e)(3) for area source PVC plants and beryllium production facilities. Because the NESHAP for these source categories in this final rule adopt part 61 standards, which require compliance at all times, specific provisions governing SSM are unnecessary. For all of the reasons stated above, we believe that the concern expressed in this comment has been addressed.

## V. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a "significant regulatory action" because it may raise novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866, and any changes made in response to OMB recommendations have been documented in the docket for this action.

### B. Paperwork Reduction Act

The NESHAP for Polyvinyl and Copolymers Production Area Sources do not impose any new information collection burden. New and existing plants that are area sources are required to comply with the same testing, monitoring, reporting, and recordkeeping requirements as those in the National Emission Standards for Vinyl Chloride (40 CFR part 61, subpart F), to which these area sources are currently subject, and the information collection requirements in the part 61 NESHAP General Provisions (40 CFR part 61, subpart A), which are incorporated into the NESHAP. The OMB has previously approved the information collection requirements in 40 CFR part 61, subpart F, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060-0071, EPA Information Collection Request (ICR) number 0186.10.

A copy of the OMB-approved ICR for the National Emission Standards for

<sup>3</sup> It is not clear whether the one polyvinyl chloride area source plant known to the National Association of Clean Air Agencies (NACAA) was among the plants that the NACAA analyzed in developing the recommended limits.

Vinyl Chloride may be obtained from Susan Auby, Collection Strategies Division, U.S. EPA (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460, by e-mail at [auby.susan@epa.gov](mailto:auby.susan@epa.gov), or by calling (202) 566-1672.

The requirements for primary beryllium production facilities in the NESHAP for Primary Nonferrous Metals Area Sources do not impose any new information collection burden. New and existing plants that are area sources are required to comply with the same testing, monitoring, recordkeeping, and reporting requirements as those in the National Emission Standards for Beryllium (40 CFR part 61, subpart C), to which these area sources are currently subject, and the information collection requirements in the part 61 General Provisions (40 CFR part 61, subpart A), which are incorporated into the NESHAP for these sources. The OMB has previously approved the information collection requirements in 40 CFR part 61, subpart C, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060-0092, EPA ICR number 0193.08.

A copy of the OMB-approved ICR for the National Emission Standards for Beryllium may be obtained from Susan Auby, Collection Strategies Division, U.S. EPA (2822T), 1200 Pennsylvania Ave., NW., Washington, DC 20460, by e-mail at [auby.susan@epa.gov](mailto:auby.susan@epa.gov), or by calling (202) 566-1672.

The information requirements in the NESHAP for Polyvinyl Chloride and Copolymers Production Area Sources, Primary Copper Smelting Area Sources, Secondary Copper Smelting Area Sources, and Primary Nonferrous Metals—Zinc, Cadmium, and Beryllium Area Sources have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information collection requirements for primary copper smelting and primary zinc production are based on the current title V permitting requirements for existing sources and the information collection requirements in the part 63 General Provisions (40 CFR part 63, subpart A), most of which are incorporated into the NESHAP for new sources. The ICR document includes the burden estimates for all applicable General Provisions. These recordkeeping and reporting requirements are mandatory pursuant to section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the information collection

requirements for which a claim of confidentiality is made is safeguarded according to CAA section 114(c) and the Agency's implementing regulations at 40 CFR part 2, subpart B.

The PM testing, monitoring, recordkeeping, and reporting requirements with which existing primary copper smelting and primary zinc smelting area sources must comply are the same as the requirements that are in these facilities' current title V operating permits. The only new information collection requirements that apply to these area sources consist of initial notifications. There are no existing secondary copper smelting facilities, and there are no requirements for existing secondary copper smelting area sources.

Any new primary zinc production facility, primary copper smelter, or secondary copper smelter area source is subject to all information collection requirements in the part 63 General Provisions. No costs or burden hours are estimated for new primary copper smelters, secondary copper smelters, or primary zinc production area sources because no new sources are estimated during the 3-year period of the ICR. No new sources have been constructed in more than 10 years, no new construction has been announced, and we have no indication there will be any new sources in the next 3 years.

The annual burden for this information collection (including all four source categories) averaged over the first 3 years of this ICR is estimated to total 23 labor hours per year at a cost of \$1,948 for the three existing primary copper smelting area sources and 15.4 labor hours per year at a cost of \$1,305 for the two existing primary zinc smelting area sources. No capital/startup costs or operation and maintenance costs are associated with the requirements.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR part 63 are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendments for the approved information collection requirements contained in the final rules.

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule would 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.

For the purposes of assessing the impacts of the area source NESHAP on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses at 13 CFR 121.201 (less than 1,000 employees for primary copper smelting and less than 750 employees for PVC and copolymers production, secondary copper smelting, and primary nonferrous metals manufacturing); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of these final rules on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by these final rules are small businesses. We have determined that existing small businesses in these area source categories will not incur any adverse impacts on existing area sources of PVC and copolymer production facilities, primary copper smelters, and non-ferrous metal production facilities because the rules do not create any new requirements or burdens other than minimal notification requirements. There will be no adverse impacts on existing secondary copper area sources because there are no existing sources in the category. Although these final NESHAP contain emission control

requirements for new area sources in all four source categories, we are not aware of any new sources being constructed now or planned in the near future, and consequently, we did not estimate any impacts for new sources.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. These final rules are designed to harmonize with existing State or local requirements. In addition, we have deleted the proposed requirements for SSM plans and reports.

#### *D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, 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 to 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 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 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 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.

EPA has determined that the final rules 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 one year. The estimated expenditures for the private sector in any one year are less than \$2,500. Thus, the final rules are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the final rules do not significantly or uniquely affect small governments. The final rules contain no requirements that apply to such governments, impose no obligations upon them, and will not result in expenditures by them of \$100 million or more in any one year or any disproportionate impacts on them. Therefore, the final rules are not subject to section 203 of the UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132 (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" are 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 final rules 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. These final rules impose requirements on owners and operators of specified area sources and not State and local governments. Thus, Executive Order 13132 does not apply to these final rules.

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

Executive Order 13175 (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 final rules do 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, as specified in Executive Order 13175. These final rules impose requirements on owners and operators of specified area sources and not tribal governments. Thus, Executive Order 13175 does not apply to these final rules.

#### *G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant," as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, 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 EPA.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. These final rules are not subject to the Executive Order. They are based on control technology and not on health or safety risks.

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

These final rules are not a "significant energy action" as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that these final rules are not likely to have any adverse energy effects because energy requirements would remain at existing levels. No additional pollution controls or other equipment that consume energy are required by these final rules.

#### *I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104-113, section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS

bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency does not use available and applicable VCS.

This rule involves technical standards. The EPA cites the following standards: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, and 9 in 40 CFR part 60, appendix A; and Performance Specifications 1 and 11 in 40 CFR part 60, appendix B. The search identified one VCS as an acceptable alternative to EPA Method 3B. The method ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses,” is cited in two of these final rules for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of the exhaust gas. This part of ASME PTC 19.10–1981 is an acceptable alternative to EPA Method 3B.

The standard ASTM D6216 (1998), “Standard Practice for Opacity Monitor Manufacturers to Certify Conformance with Design and Performance Specifications,” was designated an acceptable alternative for the design specifications given in EPA’s Performance Specification 1. As a result, EPA incorporated ASTM D6216–98 by reference into Performance Specification 1 as the design specifications for opacity monitors in August 2000.

The search for emissions measurement procedures identified 13 other VCS. The EPA determined that these 13 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in these final rules were impractical alternatives to EPA test methods for the purposes of the rules. Therefore, EPA does not intend to adopt these standards for this purpose. The reasons for the determinations for the 13 methods are in the docket for these rules.

For the methods required or referenced by these rules, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures under §§ 63.7(f) and 63.8(f) of subpart A of the General Provisions.

#### J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the United States. The EPA will submit a report containing these final

rules and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the final rules in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). These final rules will be effective on January 23, 2007.

#### List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: December 11, 2006.

**Stephen L. Johnson**,  
*Administrator.*

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

#### PART 63—[AMENDED]

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

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

#### Subpart A—[Amended]

■ 2. Section 63.14 is amended by revising paragraph (i)(1) to read as follows:

#### § 63.14 Incorporations by reference.

\* \* \* \* \*

(i) \* \* \*

(1) ANSI/ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus],” IBR approved for §§ 63.309(k)(1)(iii), 63.865(b), 63.3166(a)(3), 63.3360(e)(1)(iii), 63.3545(a)(3), 63.3555(a)(3), 63.4166(a)(3), 63.4362(a)(3), 63.4766(a)(3), 63.4965(a)(3), 63.5160(d)(1)(iii), 63.9307(c)(2), 63.9323(a)(3), 63.11148(e)(3)(iii), 63.11155(e)(3), 63.11162(f)(3)(iii) and (f)(4), 63.11163(g)(1)(iii) and (g)(2), and Table 5 of subpart DDDDD of this part.

\* \* \* \* \*

■ 3. Part 63 is amended by adding subpart DDDDDD to read as follows:

#### Subpart DDDDDD—National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources

Sec.

#### Applicability and Compliance Dates

63.11140 Am I subject to this subpart?

63.11141 What are my compliance dates?

#### Standards and Compliance Requirements

63.11142 What are the standards and compliance requirements for new and existing sources?

#### Other Requirements and Information

63.11143 What General Provisions apply to this subpart?

63.11144 What definitions apply to this subpart?

63.11145 Who implements and enforces this subpart?

#### Applicability and Compliance Dates

#### § 63.11140 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a plant specified in 40 CFR 61.61(c) that produces polyvinyl chloride (PVC) or copolymers and is an area source of hazardous air pollutant (HAP) emissions.

(b) This subpart applies to each new or existing affected source. The affected source is the collection of all equipment and activities in vinyl chloride service necessary to produce PVC and copolymers. An affected source does not include portions of your PVC and copolymers production operations that meet the criteria in 40 CFR 61.60(b) or (c).

(1) An affected source is existing if you commenced construction or reconstruction of the affected source before October 6, 2006.

(2) An affected source is new if you commenced construction or reconstruction of the affected source on or after October 6, 2006.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act (CAA).

(d) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

#### § 63.11141 What are my compliance dates?

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions in this subpart by January 23, 2007.

(b) If you own or operate a new affected source, you must achieve compliance with the applicable provisions in this subpart by the dates in paragraphs (b)(1) and (2) of this section.

(1) If you start up a new affected source on or before January 23, 2007, you must achieve compliance with the

applicable provisions in this subpart not later than January 23, 2007.

(2) If you start up a new affected source after January 23, 2007, you must achieve compliance with the provisions in this subpart upon startup of your affected source.

### Standards and Compliance Requirements

#### § 63.11142 What are the standards and compliance requirements for new and existing sources?

You must meet all the requirements in 40 CFR part 61, subpart F, except for 40 CFR 61.62 and 40 CFR 61.63.

### Other Requirements and Information

#### § 63.11143 What General Provisions apply to this subpart?

(a) All the provisions in 40 CFR part 61, subpart A, apply to this subpart.

(b) The provisions in 40 CFR part 63, subpart A, applicable to this subpart are specified in paragraphs (b)(1) and (2) of this section.

(1) § 63.1(a)(1) through (10).

(2) § 63.1(b) except paragraph (b)(3), § 63.1(c), and § 63.1(e).

#### § 63.11144 What definitions apply to this subpart?

The terms used in this subpart are defined in the CAA; 40 CFR 61.02; 40 CFR 61.61; and § 63.2 for terms used in the applicable provisions of part 63, subpart A, as specified in § 63.11143(b).

#### § 63.11145 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that Agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency within your State.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the approval authorities contained in paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative means of emissions limitation under 40 CFR 61.12(d).

(2) Approval of a major change to test methods under 40 CFR 61.13(h). A "major change to test method" is defined in § 63.90.

(3) Approval of a major change to monitoring under 40 CFR 61.14(g). A

"major change to monitoring" is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under 40 CFR 61.10. A "major change to recordkeeping/reporting" is defined in § 63.90.

■ 4. Part 63 is amended by adding subpart EEEEEEE to read as follows:

### Subpart EEEEEEE—National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources

Sec.

#### Applicability and Compliance Dates

63.11146 What are the applicability provisions and compliance dates?

#### Standards and Compliance Requirements

63.11147 What are the standards and compliance requirements for existing sources not using batch copper converters?

63.11148 What are the standards and compliance requirements for existing sources using batch copper converters?

63.11149 What are the standards and compliance requirements for new sources?

#### Other Requirements and Information

63.11150 What General Provisions apply to this subpart?

63.11151 What definitions apply to this subpart?

63.11152 Who implements and enforces this subpart?

Table 1 to Subpart EEEEEEE of Part 63—Applicability of General Provisions to Subpart EEEEEEE

#### Applicability and Compliance Dates

#### § 63.11146 What are the applicability provisions and compliance dates?

(a) You are subject to this subpart if you own or operate a primary copper smelter that is an area source of hazardous air pollutant (HAP) emissions.

(b) This subpart applies to each new or existing affected source. The affected source is each primary copper smelter.

(1) An affected source is existing if you commenced construction or reconstruction of the affected source before October 6, 2006.

(2) An affected source is new if you commenced construction or reconstruction of the affected source on or after October 6, 2006.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act (CAA).

(d) If you own or operate an area source subject to this subpart, you must obtain a permit under 40 CFR part 70 or 40 CFR part 71.

(e) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions of this subpart by January 23, 2007.

(f) If you own or operate a new affected source, you must achieve compliance with the applicable provisions of this subpart by the dates in paragraphs (f)(1) and (2) of this section.

(1) If you startup a new affected source on or before January 23, 2007, you must achieve compliance with the applicable provisions of this subpart not later than January 23, 2007.

(2) If you startup a new affected source after January 23, 2007, you must achieve compliance with the applicable provisions of this subpart upon startup of your affected source.

### Standards and Compliance Requirements

#### § 63.11147 What are the standards and compliance requirements for existing sources not using batch copper converters?

(a) *Emissions limits and work practice standards.* (1) You must not discharge to the atmosphere through any combination of stacks or other vents captured process exhaust gases from the copper concentrate dryers, smelting vessels, converting vessels, matte drying and grinding plants, secondary gas systems, and anode refining department that contain particulate matter less than 10 microns in aerodynamic diameter (PM<sub>10</sub>) in excess of 89.5 pounds per hour (lb/hr) on a 24-hour average basis.

(2) You must operate a capture system that collects the gases and fumes released during the transfer of molten materials from smelting vessels and converting vessels and conveys the collected gas stream to a control device.

(3) You must operate one or more capture systems that collect the gases and fumes released from each vessel used to refine blister copper, remelt anode copper, or remelt anode scrap and convey each collected gas stream to a control device. One control device may be used for multiple collected gas streams.

(b) *Compliance requirements.* For purposes of determining compliance with the emissions limit in paragraph (a)(1) of this section, you must comply with the requirements in paragraphs (b)(1) through (7) of this section.

(1) You must calibrate, maintain and operate a system to continuously measure emissions of particulate matter (PM) from the smelter's main stack.

(2) All PM collected by the smelter main stack continuous PM sampling system is reported as PM<sub>10</sub> unless you

demonstrate to the satisfaction of the permitting authority that, due to an infrequent event, the measured PM contains a large fraction of particles greater than 10 microns in diameter.

(3) To determine the mass emissions rate, the PM<sub>10</sub> concentration as determined by the smelter main stack continuous PM sampling system is multiplied by the volumetric flow rate for the smelter main stack and any necessary conversion factors.

(4) Compliance with the PM<sub>10</sub> emissions limit is demonstrated based on the average mass PM<sub>10</sub> emissions rate for each 24-hour period.

(5) The results of the PM monitoring and calculated average mass PM<sub>10</sub> emissions rate for each 24-hour period must be recorded and the records maintained for at least 5 years. Collected data must be available for inspection when the required laboratory analysis is completed.

(6) You must submit to the permitting authority by the 20th day of each month a report summarizing the 24-hour average mass PM<sub>10</sub> emissions rates for the previous month.

(7) You may certify initial compliance with the emissions limit in paragraph (a)(1) of this section based on the results of PM sampling conducted during the previous month.

(c) *Operation and maintenance requirements.* (1) At all times, including periods of startup, shutdown, and malfunction, you must to the extent practicable, maintain and operate any affected source, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the permitting authority which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(2) All pollution control equipment must be installed, maintained, and operated properly. Instructions from the vendor or established maintenance practices that maximize pollution control must be followed. All necessary equipment control and operating devices, such as pressure gauges, amp meters, volt meters, flow rate indicators, temperature gauges, continuous emission monitors, etc., must be installed, operated properly, and easily accessible to compliance inspectors. A copy of all manufacturers' operating instructions for pollution control equipment and pollution emitting

equipment must be maintained at your facility site. These instructions must be available to all employees who operate the equipment and must be made available to the permitting authority upon request. Maintenance records must be made available to the permitting authority upon request.

(3) You must document the activities performed to assure proper operation and maintenance of the air pollution control equipment and monitoring systems or devices.

(4) Except as provided in paragraph (c)(5) of this section, in the event of an emergency situation the owner or operator must comply with the requirements in paragraphs (c)(4)(i) through (iii) of this section. For the purposes of complying with this paragraph, an emergency situation is any situation arising from sudden and reasonably unforeseeable events beyond the control of the facility owner or operator that requires immediate corrective action to restore normal operation, and that causes the affected source to exceed an applicable emissions limitation under this subpart, due to unavoidable increases in emissions attributable to the emergency. An emergency must not include noncompliance to the extent it is caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

(i) During the period of the emergency, you must implement all reasonable steps to minimize levels of emissions that exceed the emissions standards or other applicable requirements in this subpart.

(ii) You must document through signed contemporaneous logs or other relevant evidence that an emergency occurred and you can identify the probable cause, your facility was being operated properly at the time the emergency occurred, and the corrective actions taken to minimize emissions as required by paragraph (c)(4)(i) of this section.

(iii) You must submit a notice of the emergency to the permitting authority within two working days of the time when emissions limitations were exceeded due to the emergency (or an alternate timeframe acceptable to the permitting authority). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(5) As an alternative to the requirements in paragraph (c)(4) of this section, you must comply with the startup, shutdown, and malfunction requirements in 40 CFR 63.6(e)(3).

(d) *Deviations.* You must submit written notification to the permitting

authority of any deviation from the requirements of this subpart, including the probable cause of such deviations and any corrective actions or preventative measures taken. You must submit this notification within 14 days of the date the deviation occurred.

(e) *Reports.* You must submit semiannual monitoring reports to your permitting authority. All instances of deviations from the requirements of this subpart must be clearly identified in the reports.

(f) *Records.* (1) You must retain records of all required monitoring data and support information. Support information includes all calibration and maintenance records, all original strip charts or appropriate recordings for continuous monitoring instrumentation, and copies of all reports required by this subpart. For all monitoring requirements, the owner or operator must record, where applicable, the date, place, and time of sampling or measurement; the date analyses were performed; the company or entity that performed the analyses; the analytical techniques or methods used; the results of such analyses; and the operating conditions existing at the time of sampling or measurement.

(2) You must maintain records of the activities performed to assure proper operation and maintenance of the air pollution control equipment and monitoring systems or devices. Records of these activities must be maintained for at least 5 years.

#### **§ 63.11148 What are the standards and compliance requirements for existing sources using batch copper converters?**

(a) *Emissions limits and work practice standards.* (1) For each copper concentrate dryer, you must not discharge to the atmosphere from the dryer vent any gases that contain total particulate matter (PM) in excess of 0.022 grains per dry standard cubic foot (gr/dscf).

(2) You must exhaust the process off gas from each smelting vessel to a control device according to the requirements in paragraphs (a)(2)(i) and (ii) of this section.

(i) During periods when copper ore concentrate feed is charged to and smelted to form molten copper matte and slag layers in the smelting vessel, you must exhaust the process off gas from the smelting vessel to a gas cleaning system controlling PM and to a sulfuric acid plant prior to discharge to the atmosphere.

(ii) During periods when no copper ore concentrate feed is charged to or molten material tapped from the smelting vessel but the smelting vessel

remains in operation to temporarily hold molten material in the vessel before resuming copper production, you must exhaust the process off gas from the smelting vessel to an electrostatic precipitator or baghouse prior to discharge to the atmosphere.

(3) You must control the process emissions released when tapping copper matte or slag from a smelting vessel according to paragraphs (a)(3)(i) and (ii) of this section.

(i) You must operate a capture system that collects the gases and fumes released when copper matte or slag is tapped from the smelting vessel. The design and placement of this capture system must be such that the tapping port opening, launder, and receiving vessel (e.g., ladle, slag pot) are positioned within the confines or influence of the capture system's ventilation draft during those times when the copper matte or slag is flowing from the tapping port opening.

(ii) You must not cause to be discharged to the atmosphere from the capture system used to comply with paragraph (a)(3)(i) of this section any gases that contain total PM in excess of 0.022 gr/dscf.

(4) For each batch copper converter, you must meet the requirements in paragraphs (a)(4)(i) through (iv) of this section.

(i) You must operate a primary capture system that collects the process off gas vented when one or more batch copper converters are blowing. If you operate a batch copper converter that does not use a "U"-shaped side flue located at one end of the converter, then the capture system design must include use of a primary hood that covers the entire mouth of each batch copper converter vessel when the copper converter is positioned for blowing. The capture system may use multiple intake and duct segments through which the ventilation rates are controlled independently of each other.

(ii) If you operate a batch copper converter that does not use a "U"-shaped side flue located at one end of the converter, then you must operate a secondary capture system that collects gases and fumes released from the batch copper converter when the converter mouth is rotated out partially or totally from within the confines or influence of the primary capture system's ventilation draft during charging, skimming, pouring, or holding. The capture system design must use additional hoods (e.g., sliding secondary hoods, air curtain hoods) or other capture devices (e.g., building evacuation systems). The capture system may use multiple intake and duct segments through which the

ventilation rates are controlled independently of each other, and individual duct segments may be connected to separate PM control devices.

(iii) You must exhaust the process off gas captured by the primary capture system that is used to comply with paragraph (a)(4)(i) of this section to a gas cleaning system controlling PM and to a sulfuric acid plant prior to discharge to the atmosphere.

(iv) For each secondary capture system that is used to comply with paragraph (a)(4)(ii) of this section and is not vented to a gas cleaning system controlling PM and a sulfuric acid plant, you must not cause to be discharged to the atmosphere any gases that contain total particulate matter in excess of 0.02 grains/dscf.

(b) *Monitoring requirements for electrostatic precipitators.* To monitor the performance of each electrostatic precipitator used to comply with the PM emissions limits in paragraph (a) of this section, you must use a continuous opacity monitoring system (COMS) that is installed at the outlet of each electrostatic precipitator or a common duct at the outlet of multiple electrostatic precipitators.

(1) Each COMS must meet Performance Specification 1 in 40 CFR part 60, appendix B.

(2) You must comply with the quality assurance requirements in paragraphs (b)(2)(i) through (v) of this section.

(i) You must automatically (intrinsic to the opacity monitor) check the zero and upscale (span) calibration drifts at least once daily. For a particular COMS, the acceptable range of zero and upscale calibration materials is as defined in the applicable version of Performance Specification 1 in 40 CFR part 60, appendix B.

(ii) You must adjust the zero and span whenever the 24-hour zero drift or 24-hour span drift exceeds 4 percent opacity. The COMS must allow for the amount of excess zero and span drift measured at the 24-hour interval checks to be recorded and quantified. The optical surfaces exposed to the effluent gases must be cleaned prior to performing the zero and span drift adjustments, except for systems using automatic zero adjustments. For systems using automatic zero adjustments, the optical surfaces must be cleaned when the cumulative automatic zero compensation exceeds 4 percent opacity.

(iii) You must apply a method for producing a simulated zero opacity condition and an upscale (span) opacity condition using a certified neutral density filter or other related technique

to produce a known obscuration of the light beam. All procedures applied must provide a system check of the analyzer internal optical surfaces and all electronic circuitry including the lamp and photodetector assembly.

(iv) Except during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments, the COMS must be in continuous operation and must complete a minimum of one cycle of sampling and analyzing for each successive 10 second period and one cycle of data recording for each successive 6-minute period.

(v) You must reduce all data from the COMS to 6-minute averages. Six-minute opacity averages must be calculated from 36 or more data points equally spaced over each 6-minute period. Data recorded during periods of system breakdowns, repairs, calibration checks, and zero and span adjustments must not be included in the data averages. An arithmetic or integrated average of all data may be used.

(3) You must evaluate opacity measurements from the COMS on a 24-hour rolling average excluding periods of startup, shutdown, and malfunction. If the 24-hour rolling average opacity exceeds 15 percent, you must initiate investigation of the relevant controls or equipment within 24 hours of the first discovery of the high opacity incident and, if necessary, take corrective action as soon as practicable to adjust or repair the controls or equipment to reduce the opacity average to below the 15 percent level.

(4) You must log in ink or electronic format and maintain a record of 24-hour opacity measurements performed in accordance with paragraph (b)(3) of this section and any corrective actions taken, if any. A record of corrective actions taken must include the date and time during which the 24-hour rolling average opacity exceeded 15 percent and the date, time and type of the corrective action.

(c) *Monitoring requirements for baghouses.* To monitor the performance of each baghouse used to comply with PM emissions limits in paragraph (a) of this section, you must use a bag leak detection system according to the requirements in paragraphs (c)(1) through (4) of this section.

(1) You must install, calibrate, maintain, and continuously operate a bag leak detection system for the baghouse to monitor the baghouse performance.

(2) The baghouse leak detection system must meet the specifications and requirements in paragraphs (c)(2)(i) through (v) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations that can effectively discern any dysfunctional leaks of the baghouse.

(ii) The bag leak detection system sensor must provide output of relative or absolute particulate matter loadings.

(iii) The bag leak detection system must be equipped with an alarm system that will sound automatically when an increase in relative particulate emissions over a preset level is detected. The alarm must be located where it is easily heard by plant operating personnel.

(iv) The bag leak detection system must be installed downstream of the baghouse.

(v) The bag leak detection system must be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations. The calibration of the system must, at a minimum, consist of establishing the relative baseline output level by adjusting the sensitivity and the averaging period of the device and establishing the alarm set points and the alarm delay time.

(3) If the bag leak detection system alarm sounds, you must initiate investigation of the baghouse within 24 hours of the first discovery of the alarm and, if necessary, take corrective action as soon as practicable to adjust or repair the baghouse to minimize possible exceedances of the applicable PM emissions limits in paragraph (a) of this section.

(4) You must log in ink or electronic format and maintain a record of installation, calibration, maintenance, and operation of the bag leak detection system. If the bag leak detection system alarm sounds, the records must include an identification of the date and time of all bag leak detection alarms, their cause, and an explanation of the corrective actions taken, if any.

(d) *Alternative monitoring requirements for baghouses.* As an alternative to the requirements in paragraph (c) of this section for bag leak detection systems, you must monitor the performance of each baghouse used to comply with a PM emissions limit in paragraph (a) of this section using a COMS that is installed at the outlet on the baghouse or a common duct at the outlet of multiple baghouses. Each COMS must meet the requirements in paragraphs (b)(1) through (4) of this section.

(e) *Performance testing.* (1) You must demonstrate initial compliance with the applicable PM emissions limits in

paragraph (a) of this section based on the results of a performance test for each affected source.

(i) You may certify initial compliance for an affected source based on the results of a previous performance test conducted within the past 12 months before your compliance date.

(ii) If you have not conducted a performance test to demonstrate compliance with the applicable emissions limits within the past 12 months before your compliance date, you must conduct a performance test within 180 days of your compliance date and report the results in your notification of compliance status.

(2) You must demonstrate subsequent compliance with the applicable PM emissions limits in paragraph (a) of this section based on the results of repeat performance tests conducted at least every 2.5 years for each affected source.

(3) You must conduct each performance test according to § 63.7(e)(1) using the test methods and procedures in paragraphs (e)(3)(i) through (v) of this section.

(i) Method 1 or 1A (40 CFR part 60, appendix A) to select sampling port locations and the number of traverse points in each stack or duct. Sampling sites must be located at the outlet of the control device (or at the outlet of the emissions source if no control device is present) prior to any releases to the atmosphere.

(ii) Method 2, 2A, 2C, 2D, 2F, or 2G (40 CFR part 60, appendix A) to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B (40 CFR part 60, appendix A) to determine the dry molecular weight of the stack gas. You may use ANSI/ASME PTC 19.10–1981, "Flue and Exhaust Gas Analyses" (incorporated by reference—see § 63.14) as an alternative to EPA Method 3B.

(iv) Method 4 (40 CFR part 60, appendix A) to determine the moisture content of the stack gas.

(v) Method 5 (40 CFR part 60, appendix A) to determine the PM concentration for negative pressure baghouses or Method 5D (40 CFR part 60, appendix A) for positive pressure baghouses. A minimum of three valid test runs are needed to comprise a PM performance test.

(f) *Operation and maintenance requirements.* (1) At all times, including periods of startup, shutdown, and malfunction, you must to the extent practicable, maintain and operate any affected source, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. Determination of

whether acceptable operating and maintenance procedures are being used will be based on information available to the permitting authority which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(2) All pollution control equipment must be installed, maintained, and operated properly. Instructions from the vendor or established maintenance practices that maximize pollution control must be followed. All necessary equipment control and operating devices, such as pressure gauges, amp meters, volt meters, flow rate indicators, temperature gauges, continuous emissions monitor, etc., must be installed, operated properly and easily accessible to compliance inspectors. A copy of all manufacturers' operating instructions for pollution control equipment and pollution emitting equipment must be maintained at your facility site. These instructions must be available to all employees who operate the equipment and must be made available to the permitting authority upon request. Maintenance records must be made available to the permitting authority upon request.

(3) You must document the activities performed to assure proper operation and maintenance of the air pollution control equipment and monitoring systems or devices. Records of these activities must be maintained as required by the permitting authority.

(4) Except as specified in paragraph (f)(5) of this section, in the event of an emergency situation, you must comply with the requirements specified in paragraphs (f)(4)(i) through (iii) of this section. For the purpose of complying with this paragraph, an emergency situation is any situation arising from sudden and reasonably unforeseeable events beyond the control of the facility owner or operator that requires immediate corrective action to restore normal operation and that causes the affected source to exceed applicable emission limitation under this subpart due to unavoidable increases in emissions attributable to the emergency. An emergency must not include noncompliance to the extent it is caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

(i) During the period of the emergency you must implement all reasonable steps to minimize levels of emissions that exceeded the emission standards or other applicable requirements in this subpart.

(ii) You must document through signed contemporaneous logs or other relevant evidence that an emergency occurred and you can identify the probable cause, your facility was being operated properly at the time the emergency occurred, and the corrective actions taken to minimize emissions as required by paragraph (f)(4)(i) of this section.

(iii) You must submit a notice of the emergency to the permitting authority within two working days of the time when emission limitations were exceeded due to the emergency (or an alternate timeframe acceptable to the permitting authority). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(5) As an alternative to the requirements in paragraph (f)(4) of this section, you must comply with the startup, shutdown, and malfunction requirements in 40 CFR 63.6(e)(3).

(g) *Recordkeeping requirements.* (1) You must maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected source subject to this subpart; any malfunction of the air pollution control equipment; or any periods during which a continuous monitoring system or monitoring device is inoperative.

(2) You must maintain a file of all measurements, including continuous monitoring system, monitoring device, and performance testing measurements; all continuous monitoring system performance evaluations; all continuous monitoring system or monitoring device calibration checks; adjustments and maintenance performed on these systems or devices; and all other information required by this section recorded in a permanent form suitable for inspection. The file must be retained for at least 5 years following the date of such measurements, maintenance, reports.

(h) *Reporting requirements.* (1) You must prepare and submit to the permitting authority an excess emissions and monitoring systems performance report and summary report every calendar quarter. A less frequent reporting interval may be used for either report as approved by the permitting authority.

(2) The summary report must include the information in paragraphs (h)(2)(i) through (iv) of this section.

(i) The magnitude of excess emissions computed, any conversion factor(s) used, and the date and time of commencement and completion of each time period of excess emissions. The

process operating time during the reporting period.

(ii) Specific identification of each period of excess emissions that occurs during startups, shutdowns, and malfunctions of the affected facility. The nature and cause of any malfunction (if known), the corrective action taken or preventative measures adopted.

(iii) The date and time identifying each period during which the continuous monitoring system was inoperative except for zero and span checks and the nature of the system repairs or adjustments.

(iv) When no excess emissions have occurred or the continuous monitoring system(s) have not been inoperative, repaired, or adjusted, such information must be stated in the report.

#### **§ 63.1149 What are the standards and compliance requirements for new sources?**

(a) *Emissions limits and work practice standards.* (1) You must not discharge to the atmosphere exhaust gases that contain total PM in excess of 0.6 pound per ton of copper concentrate feed charged on a 24-hour average basis from any combination of stacks, vents, or other openings on furnaces, reactors, or other types of process vessels used for the production of anode copper from copper sulfide ore concentrates by pyrometallurgical techniques. Examples of such process equipment include, but are not limited to, copper concentrate dryers, smelting flash furnaces, smelting bath furnaces, converting vessels, combined smelting and converting reactors, anode refining furnaces, and anode shaft furnaces.

(2) You must operate a capture system that collects the gases and fumes released during the transfer of molten materials from smelting vessels and converting vessels and conveys the collected gas stream to a baghouse or other PM control device.

(3) You must operate one or more capture systems that collect the gases and fumes released from each vessel used to refine blister copper, remelt anode copper, or remelt anode scrap and convey each collected gas stream to a baghouse or other PM control device. One control device may be used for multiple collected gas streams.

(b) *Monitoring requirements.* (1) You must install, operate, and maintain a PM continuous emissions monitoring system (CEMS) to measure and record PM concentrations and gas stream flow rates for the exhaust gases discharged to the atmosphere from each affected source subject to the emissions limit in paragraph (a)(1) of this section. A single PM CEMS may be used for the combined exhaust gas streams from

multiple affected sources at a point before the gases are discharged to the atmosphere. For each PM CEMS used to comply with this paragraph, you must meet the requirements in paragraphs (b)(1)(i) through (iii) of this section.

(i) You must install, certify, operate, and maintain the PM CEMS according to EPA Performance Specification 11 in 40 CFR part 60, appendix B, and the quality assurance requirements of Procedure 2 in 40 CFR part 60, appendix F.

(ii) You must conduct an initial performance evaluation of the PM CEMS according to the requirements of Performance Specification 11 in 40 CFR part 60, appendix B. Thereafter, you must perform the performance evaluations as required by Procedure 2 in 40 CFR part 60, appendix F.

(iii) You must perform quarterly accuracy determinations and daily calibration drift tests for the PM CEMS according to Procedure 2 in 40 CFR part 60, appendix F.

(2) You must install, operate, and maintain a weight measurement system to measure and record the weight of the copper concentrate feed charged to the smelting vessel on a daily basis.

(c) *Compliance requirements.* (1) You must demonstrate initial compliance with the emissions limit in paragraph (a)(1) of this section using the procedures in paragraph (c)(2) this section within 180 days after startup and report the results in your notification of compliance status no later than 30 days after the end of the compliance demonstration.

(2) You must demonstrate continuous compliance with the emissions limit in paragraph (a)(1) of this section using the procedures in paragraph (c)(2)(i) through (iii) of this section whenever your facility is producing copper from copper concentrate.

(i) You must continuously monitor and record PM emissions, determine and record the daily (24-hour) value for each day, and calculate and record the daily average pounds of total PM per ton of copper concentrate feed charged to the smelting vessel according to the requirements in paragraph (b) of this section.

(ii) You must calculate the daily average at the end of each calendar day for the preceding 24-hour period.

(iii) You must maintain records of the calculations of daily averages with supporting information and data, including measurements of the weight of copper concentrate feed charged to the smelting vessel. Collected PM CEMS data must be made available for inspection.

(d) *Alternative startup, shutdown, and malfunction requirements.* You must comply with the requirements specified in this paragraph as an alternative to the requirements in 40 CFR 63.6(e)(3). In the event of an emergency situation, you must comply with the requirements specified in paragraphs (d)(1) through (3) of this section. For the purpose of complying with this paragraph, an emergency situation is any situation arising from sudden and reasonably unforeseeable events beyond the control of the facility owner or operator that requires immediate corrective action to restore normal operation, and that causes the affected source to exceed an applicable emissions limitation under this subpart, due to unavoidable increases in emissions attributable to the emergency. An emergency must not include noncompliance to the extent it is caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

(1) During the period of the emergency, you must implement all reasonable steps to minimize levels of emissions that exceeded the emission standards or other applicable requirements in this subpart.

(2) You must document through signed contemporaneous logs or other relevant evidence that an emergency occurred and you can identify the probable cause, your facility was being operated properly at the time the emergency occurred, and the corrective actions taken to minimize emissions as required by paragraph (d)(1) of this section.

(3) You must submit a notice of the emergency to the permitting authority within two working days of the time when emissions limitations were exceeded due to the emergency (or an alternate timeframe acceptable to the permitting authority). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(e) *Reports.* You must submit to the permitting authority by the 20th day of each month a summary of the daily average PM per ton of copper concentrate feed charged to the smelting vessel for the previous month.

#### Other Requirements and Information

##### § 63.11150 What General Provisions apply to this subpart?

(a) If you own or operate a new or existing affected source, you must comply with the requirements of the General Provisions (40 CFR part 63, subpart A) as specified in Table 1 to this subpart.

(b) If you own or operate an existing affected source subject to § 63.11147, your notification of compliance status required by § 63.9(h) must include the information specified in paragraphs (b)(1) through (4) of this section.

(1) If you certify initial compliance with the PM emissions limit in § 63.11147(a)(1) based on monitoring data from the previous month, your notification of compliance status must include this certification of compliance, signed by a responsible official: "This facility complies with the PM emissions limit in § 63.11147(a)(1) based on monitoring data that were collected during the previous month."

(2) If you conduct a new performance test to demonstrate initial compliance with the PM emissions limit in § 63.11147(a)(1), your notification of compliance status must include the results of the performance test, including required monitoring data.

(3) Your notification of compliance status must include this certification of compliance, signed by a responsible official, for the work practice standard in § 63.11147(a)(2): "This facility complies with the requirement to capture gases from transfer of molten materials from smelting vessels and converting vessels and convey them to a control device in accordance with § 63.11147(a)(2)."

(4) Your notification of compliance status must include this certification of compliance, signed by a responsible official, for the work practice standard in § 63.11147(a)(3): "This facility complies with the requirement to capture gases from operations in the anode refining department and convey them to a PM control device in accordance with § 63.11147(a)(3)."

(c) If you own or operate an existing affected source subject to § 63.11148, your notification of compliance status required by § 63.9(h) must include the information specified in paragraphs (c)(1) through (4) of this section.

(1) If you certify initial compliance with the PM emissions limit in § 63.11148(a)(1), (a)(3)(ii), and (a)(4)(iv) based on the results of a previous performance test conducted within the past 12 months before your compliance date, your notification of compliance status must include this certification of compliance, signed by a responsible official: "This facility complies with the PM emissions limit in § 63.11148(a)(1) based on the results of a previous performance test."

(2) If you conduct a new performance test to demonstrate initial compliance with the PM emissions limits in § 63.11148(a)(1), (a)(3)(ii), and (a)(4)(iv), your notification of compliance status

must include the results of the performance test, including required monitoring data.

(3) Your notification of compliance status must include this certification of compliance, signed by a responsible official, for the work practice standards in § 63.11148(a)(2), and (a)(4)(iii): "This facility complies with the requirement to vent captured process gases to a gas cleaning system controlling PM and to a sulfuric acid plant in accordance with § 63.11148(a)(2) and (a)(4)(iii)."

(3) Your notification of compliance status must include this certification of compliance, signed by a responsible official, for the work practice standard in § 63.11148(a)(3)(i): "This facility complies with the requirement to operate capture systems to collect gases and fumes released when copper matte or slag is tapped from the smelting vessel in accordance with § 63.11148(a)(3)(i)."

(4) Your notification of compliance status must include this certification of compliance, signed by a responsible official, for the work practice standard in § 63.11148(a)(4): "This facility complies with the requirement to operate capture systems to collect gases and fumes released during batch copper converter operations in accordance with § 63.11148(a)(4)."

(d) If you own or operate a new affected source, your notification of compliance status required by § 63.9(h) must include the information in paragraphs (d)(1) through (3) of this section.

(1) Your notification of compliance status must include the results of the initial performance test and monitoring data collected during the test that demonstrate compliance with the emissions limit in § 63.11149(a)(1).

(2) Your notification of compliance status must include this certification of compliance, signed by a responsible official, for the work practice standard in § 63.11149(a)(2): "This facility complies with the requirement to capture gases from transfer of molten materials from smelting vessels and converting vessels and convey them to a PM control device in accordance with § 63.11149(a)(2)."

(3) Your notification of compliance status must include this certification of compliance, signed by a responsible official, for the work practice standard in § 63.11149(a)(3): "This facility complies with the requirement to capture gases from each vessel used to refine blister copper, remelt anode copper, or remelt anode scrap, and convey them to a PM control device in accordance with § 63.11149(a)(3)."

**§ 63.11151 What definitions apply to this subpart?**

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, and in this section as follows:

*Anode refining department* means the area at a primary copper smelter in which anode copper refining operations are performed. Emissions sources in the anode refining department include anode refining furnaces and anode shaft furnaces.

*Baghouse* means a control device that collects particulate matter by filtering the gas stream through bags. A *baghouse* is also referred to as a "fabric filter."

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

*Batch copper converter* means a converter in which molten copper matte is charged and then oxidized to form blister copper by a process that is performed in discrete batches using a sequence of charging, blowing, skimming, and pouring.

*Capture system* means the collection of components used to capture gases and fumes released from one or more emissions points and then convey the captured gas stream to a control device. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: Duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, and fans.

*Charging* means the operating mode for a batch copper converter during which molten or solid material is added into the vessel.

*Control device* means air pollution control equipment used to remove PM from a gas stream.

*Converting vessel* means a furnace, reactor, or other type of vessel in which copper matte is oxidized to form blister copper.

*Copper concentrate* means copper ore that has been beneficiated to increase its copper content.

*Copper concentrate dryer* means a vessel in which copper concentrates are heated in the presence of air to reduce the moisture content of the material. Supplemental copper-bearing feed materials and fluxes may be added or mixed with the copper concentrates fed to a copper concentrate dryer.

*Copper concentrate feed* means the mixture of copper concentrate, secondary copper-bearing materials, recycled slags and dusts, fluxes, and other materials blended together for feeding to the smelting vessel.

*Copper matte* means a material predominately composed of copper and iron sulfides produced by smelting copper ore concentrates.

*Deviation* means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emissions limitation or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

*Holding* means the operating mode for a batch copper converter or a holding furnace associated with a smelting furnace during which the molten bath is maintained in the vessel but no blowing or smelting is performed nor is material added into or removed from the vessel.

*Matte drying and grinding plant* means the area at a primary copper smelter in which wet granulated matte copper is ground in a mill, dried by blowing heated air through the mill, and then separated from the drying air stream using a control device such as a baghouse.

*Pouring* means the operating mode for a batch copper converter during which molten copper is removed from the vessel.

*Primary copper smelter* means any installation or any intermediate process engaged in the production of copper from copper sulfide ore concentrates through the use of pyrometallurgical techniques.

*Responsible official* means responsible official as defined in 40 CFR 70.2.

*Secondary gas system* means a capture system that collects the gases and fumes released when removing and transferring molten materials from one or more vessels using tapping ports, launders, and other openings in the vessels. Examples of molten material include, but are not limited to: Copper matte, slag, and blister copper.

*Skimming* means the batch copper converter operating mode during which molten slag is removed from the vessel.

*Smelting vessel* means a furnace, reactor, or other type of vessel in which copper ore concentrate and fluxes are smelted to form a molten mass of material containing copper matte and slag. Other copper-bearing materials may also be charged to the smelting vessel.

*Work practice standard* means any design, equipment, work practice, or operational standard, or combination thereof.

**§ 63.11152 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that Agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency within your State.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (5) of this section.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of an alternative opacity emissions standard under § 63.6(h)(9).

(3) Approval of a major change to a test method under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90.

(4) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90.

(5) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

As required in § 63.11150(a), you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) as shown in the following table.

TABLE 1 TO SUBPART EEEEEEE OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART EEEEEEE

Citation	Subject	Applies to sub-part EEEEEEE?	Explanation
63.1(a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(10)–(a)(12) (b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (e).	Applicability .....	Yes.	
63.1(a)(5), (a)(7)–(a)(9), (b)(2), (c)(3), (c)(4), (d).	Reserved .....	No.	
63.2 .....	Definitions .....	Yes.	
63.3 .....	Units and Abbreviations .....	Yes.	
63.4 .....	Prohibited Activities and Circumvention .....	Yes.	
63.5 .....	Preconstruction Review and Notification Requirements.	No.	
63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5).	Compliance with Standards and Maintenance Requirements—Applicability and Compliance Dates.	Yes.	
63.6(e) .....	Operation and Maintenance Requirements.	Yes/No .....	Operation and maintenance requirements do not apply to existing sources except that the startup, shutdown, and malfunction requirements in § 63.6(e)(3) are allowed as an alternative to the rule requirements for emergency situations. Operation and maintenance requirements apply to new sources except that the rule requirements for emergency situations are allowed as an alternative to the startup, shutdown, and malfunction requirements in § 63.6(e)(3).
63.6(f), (g), (i), (j) .....	Compliance with Nonopacity Emission Standards.	Yes.	
63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv).	Reserved .....	No.	
63.6(h)(1)–(h)(4), (h)(5)(i)–(h)(5)(iii), (h)(6)–(h)(9).	.....	Yes/No .....	Requirements apply to new sources but not existing sources.
63.7(a), (e), (f), (g), (h) .....	Performance Testing Requirements .....	Yes.	
63.7(b), (c) .....	.....	Yes/No .....	Notification of performance tests and quality assurance program apply to new sources but not existing sources.
63.8(a)(1), (a)(2), (b), (c), (f), (g) .....	Monitoring Requirements .....	Yes.	
63.8(a)(3) .....	Reserved .....	No.	
63.8(a)(4) .....	.....	No .....	Subpart EEEEEEE does not require flares.
63.8(d), (e) .....	.....	Yes/No .....	Requirements for quality control program and performance evaluations apply to new sources but not existing sources.
63.9(a), (b)(1), (b)(2), (b)(5), (c), (d), (h)(1)–(h)(3), (h)(5), (h)(6), (i), (j).	Notification Requirements .....	Yes.	
63.9(b)(3), (h)(4) .....	Reserved .....	No.	
63.9(b)(4), (f) .....	.....	No.	
63.9(e), (g) .....	.....	Yes/No .....	Notification requirements for performance test and use of continuous monitoring systems apply to new sources but not existing sources.
63.10(a), (b)(1), (d)(1), (d)(2), (d)(4), (d)(5), (f).	Recordkeeping and Reporting Requirements.	Yes/No .....	Recordkeeping requirements apply to new sources but not existing sources.
63.10(b)(2), (b)(3), (c)(1) (c)(5)–(c)(8), (c)(10)–(c)(15), (e)(1), (e)(2).	.....	Yes/No .....	Recordkeeping requirements apply to new sources but not existing sources.
63.10(c)(2)–(c)(4), (c)(9) .....	Reserved .....	No.	
63.10(d)(3), (e)(4) .....	.....	No .....	Reporting requirements apply to new sources but not existing sources.
63.10(e)(3) .....	.....	Yes/No .....	Reporting requirements apply to new sources but not existing sources.
63.11 .....	Control Device Requirements .....	No .....	Subpart EEEEEEE does not require flares.
63.12 .....	State Authorities and Delegations .....	Yes.	
63.13 .....	Addresses .....	Yes.	
63.14 .....	Incorporations by Reference .....	Yes.	
63.15 .....	Availability of Information and Confidentiality.	Yes.	
63.16 .....	Performance Track Provisions .....	Yes.	

■ 5. Part 63 is amended by adding subpart FFFFFFFF to read as follows:

**Subpart FFFFFFFF—National Emission Standards for Hazardous Air Pollutants for Secondary Copper Smelting Area Sources**

Sec.

**Applicability and Compliance Dates**

63.11153 Am I subject to this subpart?

63.11154 What are my compliance dates?

**Standards and Compliance Requirements**

63.11155 What are the standards and compliance requirements for new sources?

63.11156 [Reserved]

**Other Requirements and Information**

63.11157 What General Provisions apply to this subpart?

63.11158 What definitions apply to this subpart?

63.11159 Who implements and enforces this subpart?

Table 1 to Subpart FFFFFFFF of Part 63—  
Applicability of General Provisions to  
Subpart FFFFFFFF

**Applicability and Compliance Dates**

**§ 63.11153 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate a new secondary copper smelter that is an area source of hazardous air pollutant (HAP) emissions.

(b) This subpart applies to each new affected source. The affected source is each secondary copper smelter. Your secondary copper smelter is a new affected source if you commenced construction or reconstruction of the affected source before October 6, 2006.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the CAA.

(d) If you own or operate an area source subject to this subpart, you must obtain a permit under 40 CFR part 70 or 40 CFR part 71.

**§ 63.11154 What are my compliance dates?**

(a) If you startup a new affected source on or before January 23, 2007, you must achieve compliance with the applicable provisions of this subpart not later than January 23, 2007.

(b) If you startup a new affected source after January 23, 2007, you must achieve compliance with the applicable provisions of this subpart upon startup of your affected source.

**Standards and Compliance Requirements**

**§ 63.11155 What are the standards and compliance requirements for new sources?**

(a) You must not discharge to the atmosphere any gases which contain

particulate matter (PM) in excess of 0.002 grains per dry standard cubic foot (gr/dscf) from the exhaust vent of any capture system for a smelting furnace, melting furnace, or other vessel that contains molten material and any capture system for the transfer of molten material.

(b) For each smelting furnace, melting furnace, or other vessel that contains molten material, you must install and operate a capture system that collects the gases and fumes from the vessel and from the transfer of molten material and convey the collected gas stream to a control device.

(c) You must prepare and operate at all times according to a written plan for the selection, inspection, and pretreatment of copper scrap to minimize, to the extent practicable, the amount of oil and plastics in the scrap that is charged to the smelting furnace. Your plan must include a training program for scrap inspectors. You must keep records to demonstrate continuous compliance with the requirements of your plan. You must keep a current copy of your pollution prevention plan onsite and available for inspection.

(d) You must install, operate, and maintain a bag leak detection system on all baghouses used to comply with the PM emissions limit in paragraph (a) of this section according to paragraph (d)(1) of this section, prepare and operate by a site-specific monitoring plan according to paragraph (d)(2) of this section, take corrective action according to paragraph (d)(3) of this section, and record information according to paragraph (d)(4) of this section.

(1) Each bag leak detection system must meet the specifications and requirements in paragraphs (d)(1)(i) through (viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1 milligram per actual cubic meter (0.00044 grains per actual cubic foot) or less.

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

(iii) The bag leak detection system must be equipped with an alarm system that will sound when the system detects an increase in relative particulate loading over the alarm set point established according to paragraph (d)(1)(iv) of this section, and the alarm must be located such that it can be

heard by the appropriate plant personnel.

(iv) In the initial adjustment of the bag leak detection system, you must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(v) Following initial adjustment, you must not adjust the averaging period, alarm set point, or alarm delay time without approval from the Administrator or delegated authority except as provided in paragraph (d)(1)(vi) of this section.

(vi) Once per quarter, you may adjust the sensitivity of the bag leak detection system to account for seasonal effects, including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required by paragraph (d)(2) of this section.

(vii) You must install the bag leak detection sensor downstream of the baghouse and upstream of any wet scrubber.

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

(2) You must develop and submit to the Administrator or delegated authority for approval a site-specific monitoring plan for each bag leak detection system. You must operate and maintain the bag leak detection system according to the site-specific monitoring plan at all times. Each monitoring plan must describe the items in paragraphs (d)(2)(i) through (vi) of this section.

(i) Installation of the bag leak detection system;

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

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

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

(v) How the bag leak detection system output will be recorded and stored; and

(vi) Corrective action procedures as specified in paragraph (d)(3) of this section. In approving the site-specific monitoring plan, the Administrator or delegated authority may allow owners and operators more than 3 hours to alleviate a specific condition that causes an alarm if the owner or operator identifies in the monitoring plan this specific condition as one that could lead to an alarm, adequately explains why it is not feasible to alleviate this specific

condition within 3 hours of the time the alarm occurs, and demonstrates that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(3) For each bag leak detection system, you must initiate procedures to determine the cause of every alarm within 1 hour of the alarm. Except as provided in paragraph (d)(2)(vi) of this section, you must alleviate the cause of the alarm within 3 hours of the alarm by taking whatever corrective action(s) are necessary. Corrective actions may include, but are not limited to the following:

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

(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; or

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

(4) You must maintain records of the information specified in paragraphs (d)(4)(i) through (iii) of this section for each bag leak detection system.

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

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

(iii) The date and time of all bag leak detection system alarms, the time that procedures to determine the cause of an alarm were initiated, whether procedures were initiated within 1 hour of the alarm, the cause of the alarm, an explanation of the actions taken, the date and time the cause of the alarm was alleviated, and whether the alarm was alleviated within 3 hours of the alarm.

(e) You must conduct a performance test to demonstrate initial compliance with the PM emissions limit within 180 days after startup and report the results in your notification of compliance status. You must conduct each PM test according to § 63.7(e)(1) using the test methods and procedures in paragraphs (e)(1) through (5) of this section.

(1) Method 1 or 1A (40 CFR part 60, appendix A) to select sampling port locations and the number of traverse points in each stack or duct. Sampling sites must be located at the outlet of the

control device (or at the outlet of the emissions source if no control device is present) prior to any releases to the atmosphere.

(2) Method 2, 2A, 2C, 2D, 2F, or 2G (40 CFR part 60, appendix A) to determine the volumetric flow rate of the stack gas.

(3) Method 3, 3A, or 3B (40 CFR part 60, appendix A) to determine the dry molecular weight of the stack gas. You may use ANSI/ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses (incorporated by reference—see § 63.14) as an alternative to EPA Method 3B.

(4) Method 4 (40 CFR part 60, appendix A) to determine the moisture content of the stack gas.

(5) Method 5 (40 CFR part 60, appendix A) to determine the PM concentration for negative pressure baghouses and Method 5D (40 CFR part 60, appendix A) for positive pressure baghouses. The sampling time and volume for each run must be at least 60 minutes and 0.85 dry standard cubic meters (30 dry standard cubic feet). A minimum of three valid test runs are needed to comprise a PM performance test.

(f) You must conduct subsequent performance tests to demonstrate compliance with the PM emissions limit at least once every 5 years.

(g) If you use a control device other than a baghouse, you must prepare and submit a monitoring plan to the Administrator for approval. Each plan must contain the information in paragraphs (g)(1) through (5) of this section.

(1) A description of the device;

(2) Test results collected in accordance with paragraph (e) of this section verifying the performance of the device for reducing PM to the levels required by this subpart;

(3) Operation and maintenance plan for the control device (including a preventative maintenance schedule consistent with the manufacturer’s instructions for routine and long-term maintenance) and continuous monitoring system.

(4) A list of operating parameters that will be monitored to maintain continuous compliance with the applicable emission limits; and

(5) Operating parameter limits based on monitoring data collected during the performance test.

#### § 63.11156 [Reserved]

#### Other Requirements and Information

#### § 63.11157 What General Provisions apply to this subpart?

(a) If you own or operate a new affected source, you must comply with

the requirements of the General Provisions in 40 CFR part 63, subpart A as specified in Table 1 to this subpart.

(b) Your notification of compliance status required by § 63.9(h) must include the following:

(1) The results of the initial performance tests and monitoring data collected during the test.

(2) This certification of compliance, signed by a responsible official, for the work practice standard in § 63.1155(b): “This facility complies with the requirement for a capture system for each smelting furnace, melting furnace, or other vessel that contains molten material in accordance with § 63.11155(b).”

(3) This certification of compliance, signed by a responsible official, for the work practice standard in § 63.1155(c): “This facility complies with the requirement for a written plan for the selection, inspection, and pretreatment of copper scrap in accordance with § 63.11155(c).”

(4) This certification of compliance, signed by a responsible official, for the work practice standard in § 63.11155(d)(2): “This facility has an approved monitoring plan in accordance with § 63.11155(d)(2).”

(5) This certification of compliance, signed by a responsible official, for the work practice standard in § 63.11157(g): “This facility has an approved monitoring plan in accordance with § 63.11157(g).”

#### § 63.11158 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, and in this section as follows:

*Anode copper* means copper that is cast into anodes and refined in an electrolytic process to produce high purity copper.

*Capture system* means the collection of components used to capture gases and fumes released from one or more emissions points and then convey the captured gas stream to a control device. A capture system may include, but is not limited to, the following components as applicable to a given capture system design: duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, and fans.

*Melting furnace* means any furnace, reactor, or other type of vessel that heats solid materials and produces a molten mass of material.

*Secondary copper smelter* means a facility that processes copper scrap in a blast furnace and converter or that uses another pyrometallurgical purification process to produce anode copper from copper scrap, including low-grade

copper scrap. A facility where recycled copper scrap or copper alloy scrap is melted to produce ingots or for direct use in a manufacturing process is not a secondary copper smelter.

*Smelting furnace* means any furnace, reactor, or other type of vessel in which copper scrap and fluxes are melted to form a molten mass of material containing copper and slag.

*Work practice standard* means any design, equipment, work practice, or operational standard, or combination thereof.

**§ 63.11159 Who implements and enforces this subpart?**

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA

Administrator has delegated authority to a State, local, or tribal agency, then that Agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A “major change to test method” is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A “major change to monitoring” is defined in § 63.90.

(4) Approval of a major change to recordkeeping/ reporting under § 63.10(f). A “major change to recordkeeping/reporting” is defined in § 63.90.

As required in § 63.11157(a), you must comply with the requirements of the General Provisions (40 CFR part 63, subpart A) as shown in the following table.

TABLE 1 TO SUBPART FFFFFFF OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFFFFF

Citation	Subject	Applies to subpart FFFFFFF?	Explanation
63.1(a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(10)–(a)(12), (b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (e).	Applicability .....	Yes.	
63.1(a)(5), (a)(7)–(a)(9), (b)(2), (c)(3), (c)(4), (d).	Reserved .....	No.	
63.2 .....	Definitions .....	Yes.	
63.3 .....	Units and Abbreviations .....	Yes.	
63.4 .....	Prohibited Activities and Circumvention .....	Yes.	
63.5 .....	Preconstruction Review and Notification Requirements .....	No.	
63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)(3)(i), (e)(3)(iii)–(e)(3)(ix), (f), (g), (i), (j).	Compliance with Standards and Maintenance Requirements .....	Yes.	
63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv).	Reserved .....	No.	
63.6(h)(1)–(h)(4), (h)(5)(i)–(h)(5)(iii), (h)(6)–(h)(9).	.....	No .....	Subpart FFFFFFF does not include opacity or visible emissions standards.
63.7 .....	Performance Testing Requirements .....	Yes.	
63.8(a)(1), (a)(2), (b), (f)(1)–(5) .....	Monitoring Requirements .....	Yes.	
63.8(a)(3) .....	Reserved .....	No.	
63.8(c), (d), (e), (f)(6), (g) .....	.....	No .....	Subpart FFFFFFF does not require a continuous monitoring system.
63.8(a)(4) .....	.....	No .....	Subpart FFFFFFF does not require flares.
63.9(a), (b)(1), (b)(2), (b)(5), (c), (d), (e), (f), (g), (h)(1)–(h)(3), (h)(5), (h)(6), (i), (j).	Notification Requirements .....	Yes.	
63.9(b)(3), (h)(4) .....	Reserved .....	No.	
63.9(b)(4) .....	.....	No.	
63.9(f) .....	.....	No .....	Subpart FFFFFFF does not include opacity or visible emissions standards.
63.9(g) .....	.....	No .....	Subpart FFFFFFF does not require a continuous monitoring system.
63.10(a), (b)(2)(i)–(b)(2)(v), (b)(2)(xiv), (d)(1), (d)(2), (d)(4), (d)(5), (e)(1), (e)(2), (f).	Recordkeeping and Reporting Requirements .....	Yes.	
63.10(c)(2)–(c)(4), (c)(9) .....	Reserved .....	No.	
63.10(b)(2)(vi)–(b)(2)(xiii), (c)(1), (c)(5)–(c)(14), (e)(1)–(e)(2), (e)(4).	.....	No .....	Subpart FFFFFFF does not require a continuous monitoring system.
63.10(d)(3) .....	.....	No .....	Subpart FFFFFFF does not include opacity or visible emissions standards.
63.10(e)(3) .....	.....	Yes.	
63.11 .....	Control Device Requirements .....	No .....	Subpart FFFFFFF does not require flares.
63.12 .....	State Authorities and Delegations .....	Yes.	
63.13 .....	Addresses .....	Yes.	
63.14 .....	Incorporations by Reference .....	Yes.	

TABLE 1 TO SUBPART FFFFFFF OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART FFFFFFF—  
Continued

Citation	Subject	Applies to subpart FFFFFFF?	Explanation
63.15 .....	Availability of Information and Confidentiality.	Yes.	
63.16 .....	Performance Track Provisions .....	Yes.	

■ 6. Part 63 is amended by adding subpart GGGGGG to read as follows:

**Subpart GGGGGG—National Emission Standards for Hazardous Air Pollutants for Primary Nonferrous Metals Area Sources—Zinc, Cadmium, and Beryllium**

Sec.

**Applicability and Compliance Dates**

- 63.11160 Am I subject to this subpart?
- 63.11161 What are my compliance dates?

**Primary Zinc Production Facilities**

- 63.11162 What are the standards and compliance requirements for existing sources?
- 63.11163 What are the standards and compliance requirements for new sources?
- 63.11164 What General Provisions apply to primary zinc production facilities?

**Primary Beryllium Production Facilities**

- 63.11165 What are the standards and compliance requirements for new and existing sources?
- 63.11166 What General Provisions apply to primary beryllium production facilities?

**Other Requirements and Information**

- 63.11167 What definitions apply to this subpart?
- 63.11168 Who implements and enforces this subpart?

Table 1 to Subpart GGGGGG of Part 63—  
Applicability of General Provisions to  
Primary Zinc Production Area Sources

**Applicability and Compliance Dates**

**§ 63.11160 Am I subject to this subpart?**

(a) You are subject to this subpart if you own or operate a primary zinc production facility or primary beryllium production facility that is an area source of hazardous air pollutant (HAP) emissions.

(b) The affected source is each existing or new primary zinc production facility or primary beryllium production facility.

(1) An affected source is existing if you commenced construction or reconstruction of the affected source before October 6, 2006.

(2) An affected source is new if you commenced construction or reconstruction of the affected source on or after October 6, 2006.

(c) If you own or operate a new or existing affected source, you must obtain a permit under 40 CFR part 70 or 71.

**§ 63.11161 What are my compliance dates?**

(a) If you have an existing affected source, you must achieve compliance with applicable provisions in this subpart by January 23, 2007. If you startup a new sintering machine at an existing affected source after January 23, 2007, you must achieve compliance with the applicable provisions in this subpart not later than 180 days after startup.

(b) If you have a new affected source, you must achieve compliance with applicable provisions in this subpart according to the dates in paragraphs (b)(1) and (2) of this section.

(1) If you startup a new affected source on or before January 23, 2007, you must achieve compliance with applicable provisions in this subpart not later than January 23, 2007.

(2) If you startup a new affected source after January 23, 2007, you must achieve compliance with applicable provisions in this subpart upon initial startup.

**Primary Zinc Production Facilities**

**§ 63.11162 What are the standards and compliance requirements for existing sources?**

(a) You must exhaust the off-gases from each roaster to a particulate matter (PM) control device and to a sulfuric acid plant, including during the charging of the roaster.

(b) Except as provided in paragraph (b)(6) of this section, you must not discharge to the atmosphere any gases which contain PM in excess of the emissions limits in paragraphs (b)(1) through (5) of this section.

(1) 0.93 pound per hour (lb/hr) from the exhaust vent of a zinc cathode melting furnace.

(2) 0.1 lb/hr from the exhaust vent of a furnace that melts zinc dust, zinc chips, and/or other materials containing zinc.

(3) 0.228 lb/hr from the vent for the combined exhaust from a furnace melting zinc scrap and an alloy furnace.

(4) 0.014 grains per dry standard cubic foot (gr/dscf) from the exhaust vent of an anode casting furnace.

(5) 0.015 gr/dscf from the exhaust vent of a cadmium melting furnace.

(6) You may elect to meet an emissions limit of 0.005 gr/dscf as an alternative to the emissions limits in lb/hr in paragraphs (b)(1) through (3) of this section.

(c) You must establish an operating range for pressure drop for each baghouse applied to a furnace subject to an emissions limit in paragraph (b) of this section based on the minimum and maximum values recorded during a performance test that demonstrates compliance with the applicable PM emissions limit. Alternatively, you may use an operating range that has been previously established and approved by your permitting authority within the past 5 years. You must monitor the pressure drop daily, maintain the pressure drop for each baghouse within the established operating range, and record the pressure drop measurement in a daily log. You must perform routine maintenance on each baghouse and record maintenance activities in a baghouse maintenance log. Baghouse maintenance logs must include, but are not limited to, inspections, criteria for changing bag filters, and dates on which the bag filters are replaced. Both logs must be maintained in a suitable permanent form and kept available for inspection.

(d) If you own or operate a sintering machine at your facility, you must comply with the PM emissions limit in 40 CFR 60.172(a) and the opacity emissions limit in 40 CFR 60.174(a) for that sintering machine.

(e) If you own or operate a sintering machine at your facility, you must install and operate a continuous opacity monitoring system (COMS) for each sintering machine according to the requirements in 40 CFR 60.175(a). Each COMS must meet Performance Specification 1 (40 CFR part 60, appendix B).

(f) For each furnace at your facility subject to an emissions limit in paragraph (b) of this section, you must demonstrate initial compliance with the applicable PM emissions limit in

paragraph (b) of this section based on the results of a performance test for that furnace. If you own or operate a sintering machine, you must also demonstrate initial compliance with the PM and opacity emissions limits in paragraph (d) of this section based on the results of a performance test for that sintering machine.

(1) You may certify initial compliance for a furnace (and sintering machine, if applicable) based on the results of a previous performance test conducted during the past 5 years.

(2) If you have not conducted a performance test to demonstrate compliance with the applicable emissions limits during the past 5 years, you must conduct a performance test within 180 days of your compliance date and report the results in your notification of compliance status. If a furnace subject to an emissions limit in paragraph (b) of this section is not operating on the compliance date and subsequently resumes operation, you must conduct a performance test within 180 days of startup and report the results in your notification of compliance status.

(3) You must conduct each PM test for a furnace according to § 63.7(e)(1) using the test methods and procedures in paragraphs (f)(3)(i) through (v) of this section.

(i) Method 1 or 1A (40 CFR part 60, appendix A) to select sampling port locations and the number of traverse points in each stack or duct. Sampling sites must be located at the outlet of the control device (or at the outlet of the emissions source if no control device is present) prior to any releases to the atmosphere.

(ii) Method 2, 2A, 2C, 2D, 2F, or 2G (40 CFR part 60, appendix A) to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B (40 CFR part 60, appendix A) to determine the dry molecular weight of the stack gas. You may use ANSI/ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses (incorporated by reference—see § 63.14) as an alternative to EPA Method 3B.

(iv) Method 4 (40 CFR part 60, appendix A) to determine the moisture content of the stack gas.

(v) Method 5 (40 CFR part 60, appendix A) to determine the PM concentration for a negative pressure baghouse, Method 5D (40 CFR part 60, appendix A) for a positive pressure baghouse, or an alternative method previously approved by your permitting authority. A minimum of three valid test runs are needed to comprise a PM performance test.

(4) You must conduct each PM test for a sintering machine according to § 63.7(e)(1) and 40 CFR 60.176(b)(1) using the test methods in paragraph (f)(3) of this section. You must determine the PM concentration using EPA Method 5 (40 CFR part 60, appendix A). You may use ANSI/ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses” (incorporated by reference—see § 63.14) as an alternative to EPA Method 3B.

(5) You must conduct each opacity test for a sintering machine according to the requirements in § 63.6(h)(7). You must determine the opacity of emissions using EPA Method 9 (40 CFR part 60, appendix A).

(g) For each furnace subject to an emissions limit in paragraph (b) of this section, you must conduct subsequent performance tests according to the requirements in paragraph (f)(3) of this section to demonstrate compliance with the applicable PM emissions limit for the furnace every 5 years.

(h) You must submit a notification to your permitting authority of any deviation from the requirements of this subpart within 30 days after the deviation. The notification must describe the probable cause of the deviation and any corrective actions or preventative measures taken.

(i) You must submit semiannual monitoring reports to your permitting authority containing the results for all monitoring required by this subpart. All deviations that occur during the reporting period must be clearly identified.

(j) You must keep records of all required monitoring data and support information. Support information includes all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation and copies of all reports required by this subpart.

(k) You must comply with the operation and maintenance requirements specified in paragraphs (k)(1) and (2) of this section and the requirements for emergency situations specified in paragraph (k)(3) or (4) of this section.

(1) You must maintain all equipment covered under this subpart in such a manner that the performance or operation of such equipment does not cause a deviation from the applicable requirements.

(2) You must keep a maintenance record for each item of air pollution control equipment. At a minimum, this record must show the dates of performing maintenance and the nature of preventative maintenance activities.

(3) Except as specified in paragraph (k)(4) of this section, in the event of an emergency situation you must comply with the requirements in paragraphs (k)(3)(i) through (iii) of this section. For the purpose of complying with this paragraph, an emergency situation is any situation arising from sudden and reasonably unforeseeable events beyond the control of the facility owner or operator that require immediate corrective action to restore normal operation, and that cause the affected source to exceed applicable emission limitation under this subpart, due to unavoidable increases in emissions attributable to the emergency. An emergency must not include noncompliance to the extent it is caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

(i) During the period of the emergency you must implement all reasonable steps to minimize levels of emissions that exceeded the emission standards or other applicable requirements in this subpart.

(ii) You must document through signed contemporaneous logs or other relevant evidence that an emergency occurred and you can identify the probable cause, your facility was being operated properly at the time the emergency occurred, and the corrective actions taken to minimize emissions as required by paragraph (k)(3)(i) of this section.

(iii) You must submit a notice of the emergency to the permitting authority within two working days of the time when emission limitations were exceeded due to the emergency (or an alternative timeframe acceptable to the permitting authority). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

(4) As an alternative to the requirements in paragraph (k)(3) of this section, you must comply with the startup, shutdown, and malfunction requirements in 40 CFR 63.6(e)(3).

#### **§ 63.11163 What are the standards and compliance requirements for new sources?**

(a) You must exhaust the off-gases from each roaster to a PM control device and to a sulfuric acid plant, including the charging of the roaster.

(b) You must not discharge to the atmosphere any gases which contain PM in excess of the emissions limits in paragraphs (b)(1) through (3) of this section.

(1) 0.005 gr/dscf from the exhaust vent of a zinc cathode melting furnace; scrap zinc melting furnace; furnace melting zinc dust, zinc chips, and other

materials containing zinc; and alloy melting furnace.

(2) 0.014 gr/dscf from the exhaust vent of an anode casting furnace.

(3) 0.015 gr/dscf from the exhaust vent of a cadmium melting furnace.

(c) For each melting furnace, you must install and operate a capture system that collects gases and fumes from the melting furnace and from the transfer of molten materials and conveys the collected gases to a control device.

(d) You must install, operate, and maintain a bag leak detection system on all baghouses used to comply with the PM emissions limit in paragraph (b) of this section according to paragraph (d)(1) of this section, prepare and operate by a site-specific monitoring plan according to paragraph (d)(2) of this section, take corrective action according to paragraph (d)(3) of this section, and record information according to paragraph (d)(4) of this section.

(1) Each bag leak detection system must meet the specifications and requirements in paragraphs (d)(1)(i) through (viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1 milligram per actual cubic meter (0.00044 grains per actual cubic foot) or less.

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

(iii) The bag leak detection system must be equipped with an alarm system that will sound when the system detects an increase in relative particulate loading over the alarm set point established according to paragraph (d)(1)(iv) of this section, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(iv) In the initial adjustment of the bag leak detection system, you must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(v) Following initial adjustment, you must not adjust the averaging period, alarm set point, or alarm delay time without approval from the Administrator or delegated authority except as provided in paragraph (d)(1)(vi) of this section.

(vi) Once per quarter, you may adjust the sensitivity of the bag leak detection system to account for seasonal effects,

including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required by paragraph (d)(2) of this section.

(vii) You must install the bag leak detection sensor downstream of the baghouse and upstream of any wet scrubber.

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

(2) You must develop and submit to the Administrator or delegated authority for approval a site-specific monitoring plan for each bag leak detection system. You must operate and maintain the bag leak detection system according to the site-specific monitoring plan at all times. Each monitoring plan must describe the items in paragraphs (d)(2)(i) through (vi) of this section.

(i) Installation of the bag leak detection system;

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

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

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

(v) How the bag leak detection system output will be recorded and stored; and

(vi) Corrective action procedures as specified in paragraph (d)(3) of this section. In approving the site-specific monitoring plan, the Administrator or delegated authority may allow owners and operators more than 3 hours to alleviate a specific condition that causes an alarm if the owner or operator identifies in the monitoring plan this specific condition as one that could lead to an alarm, adequately explains why it is not feasible to alleviate this condition within 3 hours of the time the alarm occurs, and demonstrates that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(3) For each bag leak detection system, you must initiate procedures to determine the cause of every alarm within 1 hour of the alarm. Except as provided in paragraph (d)(2)(vi) of this section, you must alleviate the cause of the alarm within 3 hours of the alarm by taking whatever corrective action(s) are necessary. Corrective actions may include, but are not limited to the following:

(i) Inspecting the baghouse for air leaks, torn or broken bags or filter media, or any other condition that may

cause an increase in particulate emissions;

(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; or

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

(4) You must maintain records of the information specified in paragraphs (d)(4)(i) through (iii) of this section for each bag leak detection system.

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

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

(iii) The date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, if procedures were initiated within 1 hour of the alarm, the cause of the alarm, an explanation of the actions taken, the date and time the cause of the alarm was alleviated, and if the alarm was alleviated within 3 hours of the alarm.

(e) If there is a sintering machine at your primary zinc production facility, you must comply with the PM emissions limit in 40 CFR 60.172(a) and the opacity emissions limit in 40 CFR 60.174(a) for that sintering machine.

(f) If there is a sintering machine at your primary zinc production facility, you must install and operate a COMS for each sintering machine according to the requirements in 40 CFR 60.175(a). Each COMS must meet EPA Performance Specification 1 (40 CFR part 60, appendix B).

(g) For each furnace (and sintering machine, if applicable) at your facility, you must conduct a performance test to demonstrate initial compliance with each applicable PM emissions limit for that furnace (and the PM and opacity limits for a sintering machine, if applicable) within 180 days after startup and report the results in your notification of compliance status.

(1) You must conduct each PM test for a furnace according to § 63.7(e)(1) using the test methods and procedures in paragraphs (g)(1)(i) through (v) of this section.

(i) Method 1 or 1A (40 CFR part 60, appendix A) to select sampling port locations and the number of traverse points in each stack or duct. Sampling

sites must be located at the outlet of the control device (or at the outlet of the emissions source if no control device is present) prior to any releases to the atmosphere.

(ii) Method 2, 2A, 2C, 2D, 2F, or 2G (40 CFR part 60, appendix A) to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B (40 CFR part 60, appendix A) to determine the dry molecular weight of the stack gas. You may use ANSI/ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses” (incorporated by reference—see § 63.14) as an alternative to EPA Method 3B.

(iv) Method 4 (40 CFR part 60, appendix A) to determine the moisture content of the stack gas.

(v) Method 5 (40 CFR part 60, appendix A) to determine the PM concentration for negative pressure baghouses or Method 5D (40 CFR part 60, appendix A) for positive pressure baghouses. A minimum of three valid test runs are needed to comprise a PM performance test.

(2) You must conduct each PM test for a sintering machine according to § 63.7(e)(1) and 40 CFR 60.176(b)(1) using the test methods in paragraph (g)(1) of this section. You must determine the PM concentration using EPA Method 5 (40 CFR part 60, appendix A). You may use ANSI/ASME PTC 19.10–1981, “Flue and Exhaust Gas Analyses” (incorporated by reference—see § 63.14) as an alternative to EPA Method 3B.

(3) You must conduct each opacity test for a sintering machine according to the requirements in § 63.6(h)(7). You must determine the opacity of emissions using EPA Method 9 (40 CFR part 60, appendix A).

(h) You must conduct subsequent performance tests according to the requirements in paragraph (g)(1) of this section for each furnace subject to an emissions limit in paragraph (b) of this section to demonstrate compliance at least once every 5 years.

(i) If you use a control device other than a baghouse, you must prepare and submit a monitoring plan to the Administrator for approval. Each plan must contain the information in paragraphs (i)(1) through (5) of this section.

(1) A description of the device;

(2) Test results collected in accordance with paragraph (g) of this section verifying the performance of the device for reducing PM and opacity to the levels required by this subpart;

(3) Operation and maintenance plan for the control device (including a preventative maintenance schedule consistent with the manufacturer’s

instructions for routine and long-term maintenance) and continuous monitoring system;

(4) A list of operating parameters that will be monitored to maintain continuous compliance with the applicable emission limits; and

(5) Operating parameter limits based on monitoring data collected during the performance test.

(i) As an alternative to the startup, shutdown, and malfunction requirements in 40 CFR 63.6(e)(3), you must comply with the requirements specified in this paragraph. In the event of an emergency situation, you must comply with the requirements in paragraphs (i)(1) through (3) of this section. For the purpose of complying with this paragraph, an emergency situation is any situation arising from sudden and reasonably unforeseeable events beyond the control of the facility owner or operator that require immediate corrective action to restore normal operation, and that cause the affected source to exceed applicable emission limitation under this subpart, due to unavoidable increases in emissions attributable to the emergency. An emergency must not include noncompliance to the extent it is caused by improperly designed equipment, lack of preventive maintenance, careless or improper operation, or operator error.

(1) During the period of the emergency you must implement all reasonable steps to minimize levels of emissions that exceeded the emission standards or other applicable requirements in this subpart.

(2) You must document through signed contemporaneous logs or other relevant evidence that an emergency occurred and you can identify the probable cause, your facility was being operated properly at the time the emergency occurred, and the corrective actions taken to minimize emissions as required by paragraph (i)(1) of this section.

(3) You must submit a notice of the emergency to the permitting authority within two working days of the time when emission limitations were exceeded due to the emergency (or an alternative timeframe acceptable to the permitting authority). This notice must contain a description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

#### **§ 63.1164 What General Provisions apply to primary zinc production facilities?**

(a) If you own or operate an existing affected source, you must comply with the requirements of the General Provisions in 40 CFR part 63, subpart A, according to Table 1 to this subpart and

paragraphs (a)(1) through (3) of this section.

(1) Your notification of compliance status required by § 63.9(h) must include this certification of compliance, signed by a responsible official, for the work practice standards in § 63.11162(a): “This facility complies with the work practice standards in § 63.11162(a).”

(2) If you certify compliance with the PM emissions limits in § 63.11162(b) based on a previous performance test, your notification of compliance status required by § 63.9(h) must include this certification of compliance, signed by a responsible official: “This facility complies with the PM emissions limits in § 63.11162(b) based on a previous performance test.”

(3) If you conduct a new performance test to demonstrate compliance with the PM emissions limits for a furnace in § 63.11162(b), your notification of compliance status required by § 63.9(h) must include the results of the performance test, including required monitoring data.

(b) If you own or operate a new affected source, you must comply with the requirements of the General Provisions (40 CFR part 63, subpart A) as provided in Table 1 to this subpart and paragraphs (b)(1) through (4) of this section.

(1) Your notification of compliance status required in § 63.9(h) must include the results of the initial performance tests, including required monitoring data.

(2) Your notification of compliance status required by § 63.9(h) must include this certification of compliance, signed by a responsible official, for the work practice standard in § 63.11163(a): “This facility complies with the work practice standards in § 63.11163(a).”

(3) Your notification of compliance status required by § 63.9(h) must include this certification of compliance, signed by a responsible official, for the capture system requirements in § 63.11163(c): “This facility has installed capture systems according to § 63.11163(c).”

(4) If you use a baghouse that is subject to the requirements in § 63.11163(d), your notification of compliance status required by § 63.9(h) must include this certification of compliance, signed by a responsible official, for the bag leak detection system requirements in § 63.11163(d): “This facility has an approved monitoring plan in accordance with § 63.11163(d).”

(5) If you use control devices other than baghouses, your notification of compliance status required by § 63.9(h)

must include this certification of compliance, signed by a responsible official for the monitoring plan requirements in § 63.11163(i): "This facility has an approved monitoring plan in accordance with § 63.11163(i)."

### Primary Beryllium Production Facilities

#### § 63.11165 What are the standards and compliance requirements for new and existing sources?

You must comply with the requirements in 40 CFR 61.32 through 40 CFR 61.34 of the National Emission Standards for Beryllium (40 CFR part 61, subpart C).

#### § 63.11166 What General Provisions apply to primary beryllium production facilities?

(a) You must comply with all of the requirements of the General Provisions in 40 CFR part 61, subpart A.

(b) You must comply with the requirements of the General Provisions in 40 CFR part 63, subpart A, that are specified in paragraphs (b)(1) and (2) of this section.

(1) Section 63.1(a)(1) through (10).

(2) Section 63.1(b) except paragraph (b)(3), § 63.1(c), and § 63.1(e).

### Other Requirements and Information

#### § 63.11167 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA; 40 CFR 60.2; 60.171; 61.02; 61.31; 61.61; 63.2; and in this section as follows:

*Alloy furnace* means any furnace used to melt alloys or to produce zinc that contains alloys.

*Anode casting furnace* means any furnace that melts materials to produce the anodes used in the electrolytic process for the production of zinc.

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

*Cadmium melting furnace* means any furnace used to melt cadmium or produce cadmium oxide from the cadmium recovered in the zinc production process.

*Capture system* means the collection of equipment used to capture gases and fumes released from one or more emissions points and then convey the captured gas stream to a control device.

A capture system may include, but is not limited to, the following components as applicable to a given capture system design: duct intake devices, hoods, enclosures, ductwork, dampers, manifolds, plenums, and fans.

*Deviation* means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emissions limitation or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

*Primary beryllium production facility* means any establishment engaged in the chemical processing of beryllium ore to produce beryllium metal, alloy, or oxide, or performing any of the intermediate steps in these processes. A primary beryllium production facility may also be known as an extraction plant.

*Primary zinc production facility* means an installation engaged in the production, or any intermediate process in the production, of zinc or zinc oxide from zinc sulfide ore concentrates through the use of pyrometallurgical techniques.

*Responsible official* means responsible official as defined in 40 CFR 70.2.

*Roaster* means any facility in which a zinc sulfide ore concentrate charge is heated in the presence of air to eliminate a significant portion (more than 10 percent) of the sulfur contained in the charge.

*Sintering machine* means any furnace in which calcines are heated in the presence of air to agglomerate the calcines into a hard porous mass called sinter.

*Sulfuric acid plant* means any facility producing sulfuric acid from the sulfur dioxide (SO<sub>2</sub>) in the gases from the roaster.

*Work practice standard* means any design, equipment, work practice, or operational standard, or combination thereof.

*Zinc cathode melting furnace* means any furnace used to melt the pure zinc from the electrolytic process.

#### § 63.11168 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency, then that Agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraphs (c) and (d) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(c) For primary zinc production facilities subject to this subpart, the authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (5) of this section.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of an alternative opacity emissions standard under § 63.6(h)(9).

(3) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A "major change to test method" is defined in § 63.90

(4) Approval of a major change to monitoring under § 63.8(f). A "major change to monitoring" is defined in § 63.90.

(5) Approval of a major change to recordkeeping/reporting under § 63.10(f). A "major change to recordkeeping/reporting" is defined in § 63.90.

(d) For primary beryllium manufacturing facilities subject to this subpart, the authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (d)(1) through (4) of this section.

(1) Approval of an alternative non-opacity emissions standard under 40 CFR 61.12(d).

(2) Approval of a major change to test methods under 40 CFR 61.13(h). A "major change to test method" is defined in § 63.90.

(3) Approval of a major change to monitoring under 40 CFR 61.14(g). A "major change to monitoring" is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under 40 CFR 61.10. A "major change to recordkeeping/reporting" is defined in § 63.90.

As required in § 63.11164(a) and (b), CFR part 63, subpart A) as shown in the following table. you must comply with the requirements of the NESHAP General Provisions (40

TABLE 1 TO SUBPART GGGGGG OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO PRIMARY ZINC PRODUCTION AREA SOURCES

Citation	Subject	Applies to subpart GGGGGG	Explanation
63.1(a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(10)–(a)(12), (b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (e).	Applicability .....	Yes.	
63.1(a)(5), (a)(7)–(a)(9), (b)(2), (c)(3), (c)(4), (d).	Reserved .....	No.	
63.2 .....	Definitions .....	Yes.	
63.3 .....	Units and Abbreviations .....	Yes.	
63.4 .....	Prohibited Activities and Circumvention .....	Yes.	
63.5 .....	Preconstruction Review and Notification Requirements .....	No.	
63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5).	Compliance with Standards and Maintenance Requirements—Applicability Compliance Dates.	Yes.	
63.6(e) .....	Operation and Maintenance Requirements.	Yes/No .....	Operation and maintenance requirements do not apply to existing sources except that the startup, shutdown, and malfunction requirements in § 63.6(e)(3) are allowed as an alternative to the rule requirements for emergency situations. Operation and maintenance requirements apply to new sources except that the rule requirements for emergency situations are allowed as an alternative to the startup, shutdown, and malfunction requirements in § 63.6(e)(3).
63.6(f), (g), (i), (j) .....	Compliance with Nonopacity Emission Standards.	Yes.	
63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv).	Reserved .....	No.	
63.6(h)(1)–(h)(4), (h)(5)(i)–(h)(5)(iii), (h)(6)–(h)(9).	.....	Yes.	
63.7(a), (e), (f), (g), (h) .....	Performance Testing Requirements .....	Yes.	
63.7(b), (c) .....	.....	Yes/No .....	Notification of performance tests and quality assurance program apply to new sources but not existing sources.
63.8(a)(1), (a)(2), (b), (c), (f), (g) .....	Monitoring Requirements .....	Yes .....	Requirements in § 63.6(c)(4)(i)–(ii), (c)(5), (c)(6), (d), (e), (f)(6), and (g) apply if a COMS is used.
63.8(a)(3) .....	Reserved .....	No.	
63.8(a)(4) .....	.....	No .....	Subpart GGGGGG does not require flares.
63.8(d), (e) .....	.....	Yes/No .....	Requirements for quality control program and performance evaluations apply to new sources but not existing sources.
63.9(a), (b)(1), (b)(2), (b)(5), (c), (d), (f), (g), (h)(1)–(h)(3), (h)(5), (h)(6), (i), (j).	Notification Requirements .....	Yes/No .....	Notification of performance tests and opacity or visible emissions observations apply to new sources but not existing sources.
63.9(b)(3), (h)(4) .....	Reserved .....	No.	
63.9(b)(4) .....	.....	No.	
63.10(a), (b)(1), (b)(2)(i)–(v), (d)(4), (d)(5)(i), (f).	Recordkeeping and Reporting Requirements.	Yes.	
63.10(b)(2), (b)(3), (c)(1), (c)(5)–(c)(8), (c)(10)–(c)(15), (d)(1)–(d)(3), (d)(5)(ii), (e)(1), (e)(2), (e)(4).	.....	Yes/No .....	Recordkeeping and reporting requirements apply to new sources but not existing sources.
63.10(c)(2)–(c)(4), (c)(9) .....	Reserved .....	No.	
63.10(e)(3) .....	.....	Yes/No .....	Reporting requirements apply to new sources but not existing sources.
63.11 .....	Control Device Requirements .....	No .....	Subpart GGGGGG does not require flares.
63.12 .....	State Authorities and Delegations .....	Yes.	
63.13 .....	Addresses .....	Yes.	
63.14 .....	Incorporations by Reference .....	Yes.	

TABLE 1 TO SUBPART GGGGGG OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO PRIMARY ZINC PRODUCTION AREA SOURCES—Continued

Citation	Subject	Applies to sub-part GGGGGG	Explanation
63.15 .....	Availability of Information and Confidentiality.	Yes.	
63.16 .....	Performance Track Provisions .....	Yes.	

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