Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Ms. Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9042. Ms. Harder can also be reached via electronic mail at *harder.stacy@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: September 4, 2008.

Russell L. Wright, Jr.,

Acting Regional Administrator, Region 4.

[FR Doc. E8–21313 Filed 9–12–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[EPA–R07–OAR–2008–0614; FRL–8713–9]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a revision to the Missouri State Implementation Plan (SIP) and Operating Permits Program. EPA proposes to approve a revision to the Missouri rule entitled ''Submission of Emission Data, Emission Fees, and Process Information.'' These revisions will establish emission fees for the Missouri facilities as required annually, align state rule reporting requirements with the Federal Consolidated Emission Reporting Rule, and decrease the required Emissions Inventory Questionnaire reporting frequency for affected installations.

DATES: Comments on this proposed action must be received in writing by October 15, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2008–0614, by mail to Amy Algoe-Eakin, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin at (913) 551–7942, or by e-mail at *algoe-eakin.amy@epa.gov*.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision and Title V revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: September 4, 2008.

John B. Askew,

Regional Administrator, Region 7.

[FR Doc. E8–21183 Filed 9–12–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2008–0154; FRL–8715–8]

RIN 2060–AO13

Revision of Source Category List for Standards Under Section 112(k) of the Clean Air Act; and National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is revising the area source category list by changing the name of the ferroalloys production category to clarify that it includes all types of ferroalloys. We are also adding two additional products (calcium carbide and silicon metal) to the source category. Because calcium carbide and silicon metal production involve the use of equipment and processes similar to those employed in ferroalloy production, we are proposing to address these two products as part of the ferroalloys production category. EPA is also proposing national emissions standards for control of hazardous air pollutants for area source ferroalloys production facilities. The proposed emissions standards for new and existing sources are based on EPA's proposed determination as to what constitutes the generally available control technology (GACT) or management practices for the source category. We are proposing to exempt the ferroalloys production area source categories from title V permitting requirements.

DATES: Comments must be received on or before October 15, 2008, unless a public hearing is requested by September 25, 2008. If a hearing is requested on these proposed rules, written comments must be received by October 30, 2008. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by the Office of Management and Budget (OMB) on or before October 15, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2008–0154. 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* or in hard copy at the Area Source National Emission Standards for Hazardous Air Pollutants (NESHAP) for Ferroalloys Production Facilities Docket, EPA/DC, 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.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2008–0154. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT: Mr. Conrad Chin, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243–02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–1512; fax number: (919) 541–3207; e-mail address: *chin.conrad@epa.gov.*

SUPPLEMENTARY INFORMATION: *Outline.* The information in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. What should I consider as I prepare my comments to EPA?
C. Where can I get a copy of this document?
D. When would a public hearing occur?
II. Background Information for Proposed Area Source Standards.
A. What is the statutory authority and regulatory approach for these proposed standards?
B. What source category is affected by these proposed standards?
C. What are the production operations, emission sources, and available controls?
D. What existing federal standards apply to ferroalloys production?
III. Revision to the Source Category List
IV. Summary of Proposed Requirements
A. Do these proposed standards apply to my source?
B. When must I comply with these proposed standards?
C. What are these proposed standards?
D. What are the initial and subsequent testing requirements?
E. What are the monitoring requirements?
F. What are the notification, recordkeeping, and reporting requirements?
V. Rationale for this Proposed Rule
A. How did we select the source category?
B. How did we select the affected source?
C. How did we address the ferroalloys production metal HAP in this proposed rule?
D. How was GACT determined?
E. How did we select the compliance requirements?
F. How did we decide to exempt this are source category from title V permit requirements?
VI. Summary of Impacts of these Proposed Standards
VII. 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. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

I. General Information

A. Does this action apply to me?

The regulated categories and entities potentially affected by the proposed standards include:

Category	NAICS code [1]	Examples of regulated entities
Industry:		
Electrometallurgical Ferroalloy Product Manufacturing	331112	Area source facilities that manufacture ferroalloys.
Primary Smelting and Refining of Nonferrous Metal (except Copper and Aluminum).	331419	Area source facilities that manufacture silicon metal.
All Other Basic Inorganic Chemical Manufacturing	325188	Area source facilities that manufacture calcium carbide.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this proposed action. To determine whether your facility would be regulated by this proposed action, you should examine the applicability criteria in 40 CFR 63.11393 of subpart YYYYYY (National Emission Standards for Hazardous Air Pollutants (NESHAP) for Area Sources: Ferroalloys Production Facilities). 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. What should I consider as I prepare my comments to EPA?

Do not submit information containing CBI to EPA through *www.regulations.gov* or e-mail. Send or deliver information identified as CBI only to the following address: Roberto Morales, OAQPS Document Control Officer (C404–02), Office of Air Quality Planning and Standards, Environmental

Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID EPA–HQ–OAR–2008–0154. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

C. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this proposed action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this proposed 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.

D. When would a public hearing occur?

If anyone contacts EPA requesting to speak at a public hearing concerning these proposed rules by September 25, 2008, we will hold a public hearing on September 30, 2008. If you are interested in attending the public hearing, contact Ms. Pamela Garrett at (919) 541–7966 to verify that a hearing will be held. If a public hearing is held, it will be held at 10 a.m. at the EPA's Environmental Research Center Auditorium, Research Triangle Park, NC, or an alternate site nearby.

II. Background Information for Proposed Area Source Standards

A. What is the statutory authority and regulatory approach for these proposed standards?

Section 112(d) of the Clean Air Act (CAA) requires us to establish NESHAP for both major and area sources of hazardous air pollutants (HAP) that are listed for regulation under CAA section 112(c). A major source emits or has the potential to emit 10 tons per year (tpy) or more of any single HAP or 25 tpy or more of any combination of HAP. An area source is a stationary source that is not a major source.

Section 112(k)(3)(B) of the CAA calls for EPA to identify at least 30 HAP which, as the result of emissions from area sources, pose the greatest threat to public health in the largest number of urban areas. EPA implemented this provision in 1999 in the Integrated Urban Air Toxics Strategy, (64 FR 38715, July 19, 1999). Specifically, in the Strategy, EPA identified 30 HAP that pose the greatest potential health threat in urban areas, and these HAP are referred to as the ''30 urban HAP.'' Section 112(c)(3) requires EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation. We also implemented these requirements through the Strategy. A primary goal of the Strategy is to achieve a 75 percent reduction in cancer incidence attributable to HAP emitted from stationary sources.

Under CAA section 112(d)(5), we may elect to promulgate standards or requirements for area sources ''which provide for the use of GACT or management practices by such sources to reduce emissions of hazardous air pollutants.'' Additional information on GACT is found in the Senate report on the legislation (Senate Report Number 101–228, December 20, 1989), which describes GACT as:

> * * * methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems.

Consistent with the legislative history, we can consider costs and economic impacts in determining GACT, which is particularly important when developing regulations for source categories like this one that have a majority of small businesses.

Determining what constitutes GACT involves considering the control technologies and management practices that are generally available to the area sources in the source category. We also consider the standards applicable to major sources in the same industrial sector to determine if the control technologies and management practices are transferable and generally available to area sources. In appropriate circumstances, we may also consider technologies and practices at area and major sources in similar categories to determine whether such technologies and practices could be considered generally available for the area source category at issue. Finally, as noted above, in determining GACT for a particular area source category, we consider the costs and economic impacts of available control technologies and management practices on that category.

We are proposing these national emission standards in response to a court-ordered deadline that requires EPA to issue standards for 10 source categories listed pursuant to section 112(c)(3) and (k) by December 15, 2008 (Sierra Club v. Johnson, no. 01–1537, D.D.C., March 2006). Other rulemakings will include standards for the remaining source categories that are due in December 2008.

B. What source categories are affected by these proposed standards?

We listed the ferroalloys source category under CAA section 112(c)(3) in one of a series of amendments (November 22, 2002, 67 FR 70427) to the original source category list included in the 1999 Integrated Urban Strategy. The inclusion of this source category on the section 112(c)(3) area source category list is based on 1990 emissions data, as EPA used 1990 as the baseline year for that listing. Ferroalloys production was listed for its contributions toward meeting the 90 percent requirement of chromium compounds, manganese compounds, and nickel compounds.

Based on current information, we believe that there are 10 facilities currently operating that would be subject to the proposed area source standards. Seven of these facilities are considered bulk ferroalloy producers, meaning that they use large electric arc furnaces (EAF) and typically produce anywhere from 8,000 tpy of product per furnace up to over 100,000 tpy of product per furnace. Two of these facilities currently produce ferrosilicon; three produce silicon metal; and two produce calcium carbide. There are also three specialty ferroalloy producers. These producers use small EAF or other small reaction vessels with lower throughput rates, typically around 10,000 tpy or less for total plant-wide production of ferrovanadium and/or ferromolybdenum. All of these facilities are well controlled as a result of State standards and permitting requirements and regulations issued under other sections of the CAA.

C. What are the production operations, emission sources, and available controls?

Bulk ferroalloys are produced using submerged EAF, which are furnaces in which the electrodes are submerged into the charge. Submerged EAF are

predominately characterized by their energy rating and design-type. Furnace design capacities typically range from 10 megawatts (MW) to 50 MW. Submerged EAF are classified as open, semi-sealed, or sealed, depending on their cover configuration.

The submerged arc process is a reduction smelting operation. The reactants consist of metallic ores (e.g., ferrous oxides, silicon oxides, manganese oxides, chrome oxides) and a carbon-source reducing agent, usually in the form of coke, charcoal, high- and low-volatility coal, or wood chips. Limestone may also be added as a flux material. In the case of calcium carbide production, the raw materials are coke and lime. The raw materials are charged to the furnace and then smelted in the furnace. The molten product is tapped from the furnace periodically or continuously and then cast and allowed to harden before being crushed and sized to fit customer specifications.

Specialty ferroalloys such as ferromolybdenum and ferrovanadium use an exothermic (metallothermic) process to produce high-grade alloys with low-carbon content. The intermediate molten alloy used in the process may come directly from a submerged EAF (such as the case in ferrovanadium production at one plant) or from another type of heating device. Silicon or aluminum combines with oxygen in the molten alloy, resulting in a sharp temperature rise and strong agitation of the molten bath. Aluminum reduction is used to produce ferrovanadium and a mixed alumino/silico thermal process is used for producing ferromolybdenum. Exothermic processes are generally carried out in open vessels and tend to occur very quickly—sometimes within 5 to 10 minutes and up to 25 minutes. Once the reaction is initiated, it is self-perpetuating until all of the charge is used up.

The electrometallurgical operation is the primary source of potential metal HAP emissions at the plant, and all processes have capture systems to capture the emissions, which are ducted to control devices. Emission points are primary emissions (from the combustion zone at the top of the furnace or other vessel), tapping emissions when molten product is poured into a ladle for transfer to the casting area, and fugitive emissions from the furnace.

The metallic HAP and any condensable organics are controlled by particulate matter (PM) control devices, primarily fabric filters and scrubbers.

D. What existing federal standards apply to ferroalloys production?

As described in 40 CFR 60.260, subpart Z, the new source performance standards (NSPS) for ferroalloys production facilities apply to the following sources: ''Electric submerged arc furnaces which produce silicon metal, ferrosilicon, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon, or calcium carbide; and dust-handling equipment.'' Any new or reconstructed sources constructed after October 21, 1974, are subject to this proposed rule.

As described in 40 CFR 63.1650, subpart XXX, the major source NESHAP applies to the following sources: ''All new and existing ferromanganese and silicomanganese production facilities that manufacture ferromanganese or silicomanganese and are major sources, or are co-located at major sources of hazardous air pollutant emissions.''

Sources that would be subject to this proposed area source rule are subject to the NSPS if they have a new or reconstructed furnace. However, sources that are subject to the major source NESHAP would not be covered by this proposed area source rule.

III. Revision to the Source Category List

This proposed rule announces a revision to the area source category list developed under our Integrated Urban Air Toxics Strategy pursuant to CAA section 112(c)(3). The revision includes changing the name of the source category to clarify that it includes all types of ferroalloys and adding two additional products (calcium carbide and silicon metal) to the source category.

Specifically, the revision changes the name of the listed area source category, from ''Ferroalloys Production: Ferromanganese and Silicomanganese.'' to ''Ferroalloys Production Facilities.'' We are making this revision to clarify that the source category includes all types of ferroalloys. This is simply a change in the name of the source category and does not change the universe of sources that were the basis of the area source inventory. The underlying 1990 emissions inventory was based on data derived from the Toxics Release Inventory for the standard industrial classification (SIC) 3313, Electrometallurgical Products, except Steel. The U.S. Department of Labor defines this SIC as follows:

> Establishments primarily engaged in manufacturing ferro and nonferrous metal additive alloys by electrometallurgical or metallothermic processes, including high percentage ferroalloys and high percentage nonferrous additive alloys.

This SIC definition lists several products, including ferromanganese, ferromolybdenum, ferrosilicon, ferrotitanium and ferrovanadium. Therefore, this name change is being made to be consistent with the scope of facilities that formed the basis of the original listing.

The source category list should be clarified regarding ferrotitanium production, however. There are two processes available to produce ferrotitanium. One is properly covered by SIC 3313, because it is an electrometallurgical and metallothermic process. This process produces 35 percent ferrotitanium, but is only used today in Russia, China, Brazil, and India. There are no known domestic producers. This 35 percent grade product is produced using rutile ore and/or illmenite ore, and aluminum is used as the reductant. It is an endothermic reaction that requires external heat such as from an EAF. In summary, this process would be covered by SIC 3313 since it is an electrometallurgical and metallothermic operation that purifies and reduces a metal compound.

In contrast, the two existing domestic ferrotitanium producers use an induction melting process to produce a 70 percent grade ferrotitanium. This process uses scrap metal and is neither a reduction nor a purification process. These facilities were not intended to be covered in the section 112(k) inventory under this SIC code. Similarly, the same induction melting process is used to produce ferroaluminum, and this production process is not considered part of the ferroalloy production source category.

As described below, after examining the 1990 inventory and the metallurgical operations included in the inventory, we concluded that silicon metal production and calcium carbide production are appropriately covered by the ferroalloys production source category.

Silicon metal producers are covered by SIC 3339, Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum. Sources reporting to SIC 3339 were addressed in the section 112(k) inventory for the following metal HAP: Arsenic, cadmium, lead, manganese, and nickel. However, when the Primary Smelting and Refining of Nonferrous Metals, Except Copper and Aluminum source

category was listed, its scope was limited to zinc, cadmium and beryllium smelting.[1] The subsequent area source standards that were proposed and promulgated only address these sources. See 40 CFR part 63, Subpart GGGGGG–NESHAP for Primary Nonferrous Metals Area Sources-Zinc, Cadmium, and Beryllium. Silicon metal production uses virtually the same equipment and processes as ferroalloys, and was included in the NSPS. Because silicon metal production was not included in the Primary Nonferrous Metals NESHAP and because it was historically included in the ferroalloys production source category, we are proposing to include silicon metal production sources in the ferroalloys production source category.

Similarly, calcium carbide producers report to SIC code 2819, Industrial Inorganic Chemicals, Not Elsewhere Classified, which includes calcium carbide manufacturing. These data also formed the basis for the section 112(k) inventory and included several HAP metals: Arsenic, cadmium, chromium, lead, manganese, mercury, and nickel. An area source NESHAP for various operations in this source category is currently under development, but most of the sources in the category are defined by SIC 2819, which covers more traditional chemical industry production operations. Calcium carbide production uses virtually the same equipment and processes as ferroalloys, and was included in the NSPS. Because of the similarities between calcium carbide production and ferroalloys production, we are proposing to address calcium carbide production in this proposed rule, as opposed to the inorganic chemicals area source NESHAP.

IV. Summary of Proposed Requirements

A. Do these proposed standards apply to my source?

The proposed subpart YYYYYY standards would apply to each existing or new electrometallurgical operation located at an area source that produces silicon metal, ferrosilicon, ferrotitanium using the aluminum reduction process, ferrovanadium, ferromolybdenum, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon, calcium carbide or other ferroalloy products. These proposed standards do not apply to research and development facilities, as defined in section 112(c)(7) of the CAA.

B. When must I comply with these proposed standards?

All existing area source facilities subject to this proposed rule would be required to comply with the rule requirements no later than 180 days after the date of publication of the final rule in the **Federal Register**. We believe that 180 days would provide sufficient time for existing sources to comply with the requirements of the final rule. To our knowledge, there is no existing facility that would be required to install or modify emission control equipment to meet the requirements of the final rule. New sources would be required to comply with these rule requirements upon the date of publication of the final rule in the **Federal Register** or upon startup of the facility, whichever is later.

C. What are the proposed standards?

1. Electrometallurgical Operation Visible Emissions Limit

These proposed standards establish a limit, as measured by Method 22, on the duration of visible emissions (VE) from the control device(s) on the electrometallurgical operations. The Method 22 test is designed to measure the amount of time that any VE are observed during an observation period. The owner or operator must demonstrate that the control device outlet emissions do not exceed 3 percent of accumulated occurrences in a 60-minute observation period. We refer to this as the 3 percent limit throughout this document.

2. Furnace Building Opacity Limit

These proposed standards establish a limit for fugitive emissions, as determined by Method 9, from the furnace building due solely to electrometallurgical operations. The owner or operator must demonstrate that the furnace building emissions do not exhibit opacity greater than 20 percent (6-minute average), except for one 6-minute average per hour that does not exceed 40 percent during the 1-hour observation period. The observation period must include product tapping.

D. What are the initial and subsequent testing requirements?

1. Electrometallurgical Operations VE Limit

For each control device on an electrometallurgical operation, the owner or operator would be required to conduct an initial Method 22 (Appendix A–7 of 40 CFR part 60) VE test for at least 60 minutes. A semiannual Method 22 test is required thereafter. In the case of a fabric filter control device, emissions would be observed at the monovent or outlet stack(s), as applicable. For ferroalloy facilities using wet scrubbers for PM control, the observations would be conducted at the scrubber outlet stack. For example, scrubber outlet emissions may be directed to a flare or to another combustion source such as a dryer. In this case the outlet of the downstream device or process would be observed.

2. Furnace Building Opacity

In order to demonstrate compliance with the furnace building opacity requirements, the owner or operator would be required to conduct an initial 60-minute (ten 6-minute averages) opacity test for fugitive emissions from the furnace building according to the procedures in § 63.6(h) (subpart A of the 40 CFR part 63 General Provisions) and Method 9 of Appendix A–4 of 40 CFR part 60. The owner or operator would then conduct a follow up Method 9 test every 6 months.

In order to provide flexibility to sources and reduce the costs of demonstrating compliance, we are proposing to allow sources to monitor visible emissions using a Method 22 test in place of the semiannual Method 9 test. The Method 22 test is successful if no visible emissions are observed for 90 percent of the readings over the furnace cycle (tap to tap) or 60 minutes, whichever is more. If VE are observed greater than 10 percent of the time over the furnace cycle or 60 minutes, whichever is more, then the facility must conduct a Method 9 performance test as soon as possible, but no later than 15 calendar days after the Method 22 test.

E. What are the monitoring requirements?

For existing ferroalloy facilities, the owner or operator would be required to conduct and record daily visual inspection of the control device outlet. In the case of a fabric filter, the source would observe the monovent or fabric filter outlet stack(s) for any VE. In the case of a wet scrubber, the source would observe the scrubber outlet stack. Should any of the daily observations reveal any visible emissions, the owner or operator must conduct a Method 22 test as described earlier within 24 hours.

The owner or operator of a new electrometallurgical operation equipped with a new fabric filter would be required to install and operate a bag leak detection system and prepare a site-specific monitoring plan instead of

[1] Memorandum from Barbara Driscoll, EPA, to Urban Strategy Docket. Expanded Description of Source Categories Listed in June 2002 for Future Regulatory Development. November 18, 2002.

complying with the daily visual inspection requirements for existing sources. In addition, existing sources would have the option of complying with the bag leak detection system requirements as an alternative to the daily visual inspections.

In case of bag leak detection system alarm, the source would be required to conduct a visual inspection within 1 hour. If the visual monitoring reveals the presence of any VE, the source would be required to conduct a Method 22 test within 24 hours of determining the presence of any VE.

The owner or operator of a new sealed EAF equipped with a wet scrubber[2] would be required to install, operate and maintain a continuous parameter monitoring system (CPMS) to measure and record the 3-hour average pressure drop and scrubber water flow rate instead of complying with the daily visual inspection requirements. Existing sources would have the option of conducting CPMS monitoring in place of the daily visual inspection requirements, as well.

When operating a CPMS, if the 3-hour average pressure drop or scrubber water flow rate is below the minimum levels that indicate normal operation of the control device, the source would be required to conduct visual monitoring of the outlet stack(s) within 1 hour. Manufacturer's specifications will be used to provide the values for normal operation. If the visual monitoring reveals the presence of any VE, the source would be required to conduct a Method 22 test within 24 hours of determining the presence of any VE.

F. What are the notification, recordkeeping, and reporting requirements?

The affected new and existing sources would be required to comply with certain requirements of the General Provisions (40 CFR part 63, subpart A), which are identified in Table 1 of this proposed rule. The General Provisions include specific requirements for notifications, recordkeeping, and reporting, including provisions for a startup, shutdown, and malfunction plan and reports required by 40 CFR 63.6(e). Each facility would be required to submit an Initial Notification and a Notification of Compliance Status according to the requirements in 40 CFR 63.9 in the General Provisions. The owner or operator would be required to submit the Initial Notification within 120 days after publication of the final rule in the **Federal Register**. The owner or operator would be required to submit a Notification of Compliance Status within 90 days after the applicable compliance date to demonstrate initial compliance with these proposed standards.

In addition to the records required by 40 CFR 63.10, owners and operators would also be required to maintain records of all monitoring data including:

- Date, place, and time of the monitoring event
- Person conducting the monitoring
- Technique or method used
- Operating conditions during the activity
- Results, including the date, time, and duration of the period from the time the monitoring indicated a problem to the time that monitoring indicated proper operation.

V. Rationale for This Proposed Rule

A. How did we select the source category?

As described in section II.B, we listed the ferroalloys production source category under CAA section 112(c)(3) on November 22, 2002 (67 FR 70427). The inclusion of this source category on the area source category list was based on data from the CAA section 112(k) inventory, which represents 1990 urban air information. Ferroalloys production was listed for its contributions toward meeting the 90 percent requirement of chromium compounds, manganese compounds, and nickel compounds.

For this source category, we solicited information on the production operations, emission sources, and available controls for both area and major sources using written facility surveys, reviews of published literature, information gathered during the major source NESHAP, and reviews of operating permits. We also held discussions with industry representatives, State permitting organizations, and EPA experts. This research confirmed that the ferroalloys production source category emits the above-noted urban HAP, although we found that current emissions of such HAP are lower than the amounts estimated in the section 112(k) inventory.

B. How did we select the affected source?

Affected source means the collection of equipment and processes in the source category or subcategory to which the subpart applies. In selecting the affected source for regulation, we identified the ferroalloys production metal HAP emitting operations and the quantity of metal HAP emissions from the individual or groups of emissions points. We concluded that designating the electrometallurgical operation (including EAF or other reactions vessels such as crucibles) as the affected source was the most appropriate approach and consistent with existing ferroalloys regulations (i.e., the major source NESHAP and the NSPS). This proposed rule includes requirements for the control of primary, tapping, and fugitive emissions from electrometallurgical operations.

C. How did we address the ferroalloys production metal HAP in this proposed rule?

For this proposed rule, we have selected PM as a surrogate for ferroalloys production metal HAP. We decided that it was not practical to establish individual standards for each specific type of metallic HAP that could be present in the emissions (e.g., separate standards for manganese emissions, chromium emissions, and nickel emissions) because the types and quantities of metal HAP can vary widely in the raw materials. Further, and more significantly, when released, each of the metallic HAP compounds behaves as PM. The control technologies used for the control of PM emissions achieve comparable levels of performance for these metallic HAP emissions, i.e., when PM is captured, HAP metals are captured nonpreferentially as part of the PM. Therefore, emission standards requiring control of PM will also achieve comparable control of metallic HAP emissions.

D. How was GACT determined?

As provided in CAA section 112(d)(5), we are proposing standards representing GACT for the ferroalloys production source HAP emissions. As noted in section II.A of this preamble, the statute allows the Agency to establish standards for area sources listed pursuant to section 112(c) based on GACT. The statute does not set any condition precedent for issuing standards under section 112(d)(5) other than that the area source category or subcategory at issue must be one that EPA listed pursuant to section 112(c), which is the case here.

Moreover, all of the facilities in this source category have good operational controls in place. We evaluated the control technologies that are generally available for the ferroalloys production area source category. We also considered costs and economic impacts in determining GACT. We believe the consideration of costs and economic impacts is especially important for the

[2] The exhaust gases from the sealed EAF can be captured using lower airflows than from an open EAF, but the temperature is higher, precluding the use of fabric filters. Such sources use wet scrubbers as the primary emissions control.

well-controlled ferroalloys production area sources because, given current well-controlled levels, requiring additional controls would result in only marginal reductions in emissions at very high costs for modest incremental improvement in control for this area source category. We explain below in detail our proposed GACT determinations.

1. Electrometallurgical Operation Visible Emission Limit

All of the known area source electrometallurgical operations are equipped with either fabric filters or wet scrubbers to control PM emissions. Major source ferroalloy producers also utilize similar PM controls on EAF. Most of these control devices and their associated furnaces or other reaction vessels have been in operation for many years and are custom-designed and -built. In addition, the majority of EAF in this industry are controlled with large, positive pressure fabric filters because of the large volume of air that is used to capture the primary (and typically tapping emissions) from the open furnaces that are the predominate EAF-type in the U.S. In other cases, negative pressure fabric filters are used to control PM emissions from the smaller specialty ferroalloy operations and/or tapping emissions, because lower airflow rates are needed to capture these emissions. One existing facility that has a sealed EAF uses a scrubber as the primary means of emission control. We reviewed the existing permit limits to evaluate whether the control devices exhibit a similar level of control and determined that they do. (See technical memorandum in the docket for more details on EAF permit requirements and estimated PM emissions).

Based on the existing operating permit requirements for EAF at ferroalloys production facilities, we found a variety of formats and units, e.g., percent opacity, allowable PM or PM_{10} emission rates (pounds per hour, tpy, or pound per megawatt-hour), and outlet concentrations (grains per dry standard cubic foot (gr/dscf)). However, as discussed below, there are technical, cost, and implementation issues associated with demonstrating compliance with a PM numerical emission limit such that it does not constitute GACT for this source category.

A traditional approach to demonstrating compliance with a numerical emissions limit is to conduct a PM emissions performance test and then monitor parameters of the control device that indicate whether the control device is operating at least as well as it was during the test. This approach is particularly effective if there are conditions that can produce variable outlet emissions levels. However, fabric filters that are commonly used at ferroalloy production operations are essentially constant concentration devices. This means that fabric filters are very effective (i.e., 99 percent or more), at removing PM of all particle sizes when properly designed and operated. The variability of the uncontrolled pollutant loading has very little effect on the concentration of PM in the exhaust of the device (see document at *http://www.epa.gov/ttnchie1/mkb/documents/ff-pulse.pdf)*. Based on an evaluation of existing permit limits in this industry, we believe that a fabric filter control device would need to achieve an outlet concentration of less than 0.01 gr/dscf to ensure that the control device is well operated and maintained.

We have concerns about the economic effect of PM emissions testing for smaller facilities. The typical EPA Method 5 PM emissions test on a stack costs between $3,000 and $10,000. A positive pressure fabric filter device typical of those used at the bulk ferroalloys producers does not have a stack of the type for which Method 5 is designed. Instead, these control devices emit essentially straight from the bags to the atmosphere through multiple stub stacks or a long roof vent. Conducting representative emissions testing on such devices requires a modified approach, which we have described in EPA Method 5D. The cost of conducting a test with Method 5D is driven by the design and size of the fabric filter outlet. Method 5D tests on fabric filters will cost from 3 to 10 times more than a Method 5 test on a stack. The $10,000 to over $40,000 cost per test per control device become a significant economic burden for these area sources.

Given these control device characteristics, we considered whether an opacity or VE standard would be GACT for this industry. There is a correlation between PM concentration and opacity in the fabric filter outlet stream, and studies have shown that particulate concentrations are approximately zero at an opacity of zero.[3] For example, a test at a wet cement kiln with a fabric filter showed that when outlet concentrations were less than 0.009 gr/dscf, opacity was less than 2 percent. This opacity is low enough that it would probably be observed as zero under most conditions. This in turn would result in a very low incidence of VE during any observation period. A search of permits found several examples of venturi scrubbers also being subject to zero VE tests.

Therefore, we propose a very low (e.g., 3 percent accumulation of VE during the observation period) VE limit as GACT. As described above, data support a conclusion that a 3 percent accumulation or less VE limit will provide assurance that the control device is properly designed and operated. Further, the cost of VE testing (less than $125 for Method 22) is significantly less than the cost of PM emissions testing. It is also less than the cost of conducting a Method 9 test (approximately $2,000 for a contractor to conduct the test), which is why we did not select an opacity limit as GACT. A rule that specifies a very low VE limit can afford to include more frequent testing than one that has a PM emissions limit that may require only an initial test or at best a test only every several years.

2. Furnace Building Opacity

In addition to control requirements, maintaining capture efficiency is also important in determining GACT. All of the ferroalloys production electrometallurgical operations are equipped with capture systems. We lack empirical data on their actual performance; however, there is precedent for establishing a VE limit from the EAF (NSPS) or furnace building (major source NESHAP, 20 percent opacity) as a surrogate for performance of the capture systems. Establishing a 20 percent opacity limit is common in State regulations (including Indiana, Kentucky, Michigan, Ohio, and West Virginia) that address foundries, smelters, EAF, and other combustion sources. For example, Michigan rule 336.1358 for roof monitor VE at steel manufacturing facilities from electric arc furnaces and blast furnaces states:

> Rule 358. (1) A person shall not cause or permit to be discharged to the outer air, at a steel manufacturing facility, from a roof monitor source of emission of an electric arc furnace, or a blast furnace, a visible emission with a density of more than 20% opacity.

Therefore, we have determined that a 20 percent furnace building (e.g., shop) limit is GACT for this source category.

Existing permits and regulations also tend to provide an upper bound opacity limit to account for variation in building operations that could result in fugitive emissions during the Method 9 observation period. These upper limits range from 27 percent (Michigan

[3] Study of Benefits of Opacity Monitors Applied to Portland Cement Kilns. Prepared by Ronald Meyers, U.S. EPA, May 15, 1991, pp. 3–1, 3–6.

permits for similar sources (foundries)) to 60 percent (major source ferroalloys NESHAP, see 40 CFR 63.1653(a)). The existing title V permit for a ferrosilicon producer allows a single 6-minute average not to exceed 40 percent during the Method 9 observation period. For this proposed area source rule, we propose to establish an upper limit opacity of 40 percent, limited to a single 6-minute average opacity determination.

In addition to establishing an upper limit, we considered whether upset or malfunction conditions such as blowing taps, poling, and oxygen lancing of the tap hole should be excluded from the observation period. For example, blowing taps are a malfunction and occur when the pressure in the furnace is not balanced. Similarly, both oxygen lancing and poling are considered to be ''failures of the process to operate in a normal or usual manner'', as described in the March 1976 EPA document ''Supplemental Information on Standards of Performance or Ferroalloy Production Facilities''. We determined that the General Provisions requirements (40 CFR 63.6(e)) to develop and operate according to a startup, shutdown, and malfunction plan would adequately address these and other types of malfunctions that might occur during the VE observation period. Therefore, we do not believe it is necessary to provide such exclusions in this proposed rule.

E. How did we select the compliance requirements?

We are proposing testing, monitoring, notification, and recordkeeping requirements to ensure compliance with this proposed rule. These provisions are based, in part, on requirements that have been applied to several industries in other rulemakings and an understanding of how control devices perform and can be effectively monitored. In selecting these requirements, we identified the information necessary to ensure emissions controls are maintained and operated properly on a continuing basis. We also evaluated more enhanced monitoring requirements, such as the use of bag leak detection systems, which were required in 40 CFR part 63, subpart XXX for new sources. We believe the proposed requirements will assure compliance without posing a significant additional burden for facilities that must implement them.

1. Electrometallurgical Operation Equipment Standards

We are proposing that compliance with the VE limit would be established through an initial and then semiannual observation of VE using EPA Method 22. Method 22 results record the accumulation of time that any VE is observed. We are proposing a 60-minute observation period to ensure that observations occur during representative conditions. We are seeking comment on whether a different observation period might be appropriate.

Monitoring would consist of a daily VE observation. As described above, properly operated and maintained fabric filters and scrubbers should normally operate with no VE at the outlet. If any VE are observed, a possible problem is indicated and a Method 22 test must be conducted within 24 hours. If the Method 22 test shows that the control device emissions are above the 3 percent limit, the source would be required to report an exceedance. This compliance format will encourage sources to correct control device operational problems as soon as possible.

For new sources equipped with fabric filters, we are proposing use of bag leak detection systems for monitoring. Bag leak detection systems are typical requirements for new sources (e.g., new sources subject to the major source NESHAP are required to install them) and represent state-of-the art continuous compliance by providing early notice of leaking bags. These systems can be incorporated into the design and operation for new sources and would not require retrofitting or duplicative monitoring as would be the case if they were applied to existing sources. Existing sources also might opt to install bag leak detection systems to monitor performance. Sources using bag leak detection systems would not be subject to the daily VE requirements. Instead, a system alarm would trigger a VE observation within 1 hour. If any VE are observed, the source would be required to conduct a Method 22 test within 24 hours. Sources desiring to install a PM emissions monitoring system (e.g., PM continuous emissions monitoring system) or other monitoring method can request the Administrator's approval of such a plan on a case-by-case basis under the authority of the part 63 General Provisions (§ 63.8(f)(4)(i)).

We are proposing that new sealed EAF sources with wet scrubbers install, maintain and operate a CPMS to monitor pressure drop and scrubber liquid flow rate. These systems represent state-of-the-art continuous compliance and can be designed into the unit at installation. Existing sources would be allowed to adopt CPMS as well. Similar to bag leak detection system monitoring, the CPMS would be used to provide an indication that the wet scrubber is operating properly instead of a required daily check of VE. We are proposing that if the 3-hour average pressure drop or scrubber water flow rate is below the minimum levels that indicate normal operation of the control device, the source would be required to conduct visual monitoring of the outlet stack(s) within 1 hour. Manufacturer's specifications will be used to provide the values for normal operation. If the visual monitoring reveals the presence of any VE, the source must conduct a Method 22 test within 24 hours.

2. Furnace Building Opacity

Compliance with an opacity limit for fugitive emissions is commonly demonstrated using a Method 9 test. Therefore, we are proposing that initial compliance must be demonstrated using a certified Method 9 observer to perform this test. We recognize that not all facilities have a certified observer on staff, and we are proposing that sources would have the option of monitoring VE using Method 22 for the subsequent semi-annual compliance demonstration. The test is successful if no VE are observed for 90 percent of the readings over the furnace cycle (tap to tap) or 60 minutes, whichever is more. If VE are observed greater than 10 percent of the time over the furnace cycle or 60 minutes, whichever is more, then the facility must conduct a Method 9 test as soon as possible, but no later than 15 calendar days after the Method 22 test.

We are proposing this compliance alternative because we are trying to reduce the potential compliance burden on sources. To the extent that sources have certified Method 9 observers already on staff for other reasons, they might choose to continue to demonstrate semiannual compliance with Method 9 observation. Other sources might choose to hire a contractor to conduct both the initial Method 9 and the subsequent observations rather than devote in-house resources. However, we have assumed that some sources would choose to hire a contractor to do the initial compliance observation, but might want to conduct the semiannual observations using in-house staff if they could avoid the cost of keeping a certified Method 9 reader on staff. The Method 22 alternative allows the use of this potentially more economical test, but a Method 9 test would be required in the event that the VE observed using Method 22 exceed 10 percent of the time in the observation period.

F. How did we decide to exempt this area source category from title V permitting requirements?

We are proposing exemption from title V permitting requirements for affected facilities in the ferroalloys production area source category for the reasons described below.

Section 502(a) of the CAA provides that the Administrator may exempt an area source category from title V if he determines that compliance with title V requirements is ''impracticable, infeasible, or unnecessarily burdensome'' on an area source category. See CAA section 502(a). In December 2005, in a national rulemaking, EPA interpreted the term ''unnecessarily burdensome'' in CAA section 502 and developed a four-factor balancing test for determining whether title V is unnecessarily burdensome for a particular area source category, such that an exemption from title V is appropriate. See 70 FR 75320, December 19, 2005 (''Exemption Rule'').

The four factors that EPA identified in the Exemption Rule for determining whether title V is ''unnecessarily burdensome'' on a particular area source category include: (1) Whether title V would result in significant improvements to the compliance requirements, including monitoring, recordkeeping, and reporting that are proposed for an area source category (70 FR 75323); (2) whether title V permitting would impose significant burdens on the area source category and whether the burdens would be aggravated by any difficulty the sources may have in obtaining assistance from permitting agencies (70 FR 75324); (3) whether the costs of title V permitting for the area source category would be justified, taking into consideration any potential gains in compliance likely to occur for such sources (70 FR 75325); and (4) whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the proposed NESHAP for the area source category, without relying on title V permits (70 FR 75326).

In discussing these factors in the Exemption Rule, we further explained that we considered on ''a case-by-case basis the extent to which one or more of the four factors supported title V exemptions for a given source category, and then we assessed whether considered together those factors demonstrated that compliance with title V requirements would be 'unnecessarily burdensome' on the category, consistent with section 502(a) of the Act.'' See 70 FR 75323. Thus, in the Exemption Rule, we explained that not all of the four factors must weigh in favor of exemption for EPA to determine that title V is unnecessarily burdensome for a particular area source category. Instead, the factors are to be considered in combination, and EPA determines whether the factors, taken together, support an exemption from title V for a particular source category.

In the Exemption Rule, in addition to determining whether compliance with title V requirements would be unnecessarily burdensome on an area source category, we considered, consistent with the guidance provided by the legislative history of section 502(a), whether exempting the area source category would adversely affect public health, welfare or the environment. See 70 FR 15254–15255, March 25, 2005. We have determined that the proposed exemption from title V would not adversely affect public health, welfare and the environment. Our rationale for this decision follows here.

In considering the proposed exemption from title V requirements for sources in the category affected by this proposed rule, we first compared the title V monitoring, recordkeeping, and reporting requirements (factor one) to the requirements in this proposed NESHAP for the ferroalloys production area source category. Title V requires periodic monitoring to ensure compliance. This proposed standard would provide for monitoring in the form of VE observations and opacity testing that would assure compliance with the requirements of this proposed rule. This proposed NESHAP would also require the preparation of an annual compliance certification report and submission of this report if there are any deviations during the year, which will identify for the agency implementing this rule those facilities with compliance issues, in the same way as a title V permit. Records would be required to ensure that the compliance requirements are followed and any needed corrective actions are taken, including such records as results of the visual emissions and opacity tests and the resulting corrective actions such as replacing a torn fabric filter bag. Therefore, this proposed rule contains monitoring sufficient to assure compliance with the requirements of this proposed rule.

We also considered the extent to which title V could potentially enhance compliance for area sources covered by this proposed rule through recordkeeping or reporting requirements. We have considered the various title V recordkeeping and reporting requirements, including requirements for a 6-month monitoring report, deviation reports, and an annual certification in 40 CFR 70.6 and 71.6. For any affected ferroalloys production facility, this proposed NESHAP would require an initial notification and an initial and annual notification of compliance status. This proposed NESHAP would further require affected facilities to maintain records showing compliance with the required standards and compliance requirements. This proposed NESHAP also would require sources to comply with the requirements in the part 63 General Provision for startup, shutdown, and malfunction plans, reports, and records in 40 CFR 63.6(e)(3); see Table 1 of this proposed rule. When a startup, shutdown, and malfunction report must be submitted, it must consist of a letter containing the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy. The information that would be required in the notifications, reports, and records is similar to the information that would be provided in the deviation reports required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3).

We believe the monitoring, recordkeeping, and reporting requirements in this proposed rule are sufficient to assure compliance with the requirements of this proposed rule. Therefore, we conclude that title V would not result in significant improvements to the compliance requirements we are proposing for this area source category.

For the second factor, we must determine whether title V permitting would impose a significant burden on the area sources in the category and whether that burden would be aggravated by any difficulty the source may have in obtaining assistance from the permitting agency. Subjecting any source to title V permitting imposes certain burdens and costs that do not exist outside of the title V program. EPA has estimated that the average annual cost of obtaining and complying with a title V permit is $9,500 per source.[4] See Information Collection Request (ICR) for Part 70 Operating Permit Regulations, April 2007, EPA ICR Number 1587.07. EPA does not have specific estimates for the burdens and costs of permitting the

[4] This value is higher than the permitting cost estimate discussed in other recent area source proposal packages because it is based on an updated analysis of the reporting burden. However, this value is based on an understanding that most of the title V permits that are currently in development are renewals. A new title V permit would likely have a higher average cost of development.

ferroalloys production area sources; however, there are certain activities associated with the part 70 and 71 rules. These activities are mandatory and impose burdens on the facility. They include reading and understanding permit program guidance and regulations; obtaining and understanding permit application forms; answering follow-up questions from permitting authorities after the application is submitted; reviewing and understanding the permit; collecting records; preparing and submitting monitoring reports on a 6-month or more frequent basis; preparing and submitting prompt deviation reports, as defined by the State, which may include a combination of written, verbal, and other communications methods; collecting information, preparing, and submitting the annual compliance certification; preparing applications for permit revisions every 5 years; and, as needed, preparing and submitting applications for permit revisions. In addition, although not required by the permit rules, many sources obtain the contractual services of consultants to help them understand and meet the permitting program's requirements. The ICR for part 70 provides additional information on the overall burdens and costs, as well as the relative burdens of each activity. Also, for a more comprehensive list of requirements imposed on part 70 sources (hence, burden on sources), see the requirements of 40 CFR 70.3, 70.5, 70.6, and 70.7.

In assessing the second factor for the three existing ferroalloys production facilities that do not currently have title V permits (two of whom are small businesses), we examined the potential cost implications for the source category. At a cost of $9,500 per facility to obtain and maintain a title V permit, the cost of permits would exceed the estimated total annualized cost of complying with the standards (approximately $6,100 per facility). Thus, we believe that the second factor supports the proposed title V exemption for ferroalloys production facilities.

The third factor, which is closely related to the second factor, is whether the costs of title V permitting for these area sources would be justified, taking into consideration any potential gains in compliance likely to occur for such sources. We explained for the second factor that the costs of compliance with title V would impose a significant burden on the sources that would be required to obtain a title V permit. We also believe in considering the first factor that, while title V might impose additional requirements, the monitoring, recordkeeping and reporting requirements in the proposed NESHAP would assure compliance with the standards imposed in the NESHAP. In addition, in our consideration of the fourth factor discussed below, we find that there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. Because the costs of compliance with title V are so high, and the potential for gains in compliance is low, we propose that title V permitting is not justified for this source category. Accordingly, the third factor supports the proposed title V exemption for ferroalloys production area sources.

The fourth factor we considered in determining if title V is unnecessarily burdensome is whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP without relying on title V permits. Seven of the 10 existing facilities already have title V permits because of their criteria pollutant emissions (primarily sulfur dioxide). These sources would continue to maintain their title V permits, which would be modified to include the NESHAP requirements, once it is promulgated. For those three sources that currently lack title V permits, all have State construction and/or operating permits that already require controls and compliance assurance similar to this NESHAP. We also note that EPA retains authority to enforce this NESHAP anytime under CAA sections 112, 113 and 114. We further note that small business assistance programs required by CAA section 507 may be used to assist area sources that have been exempted from title V permitting. Also, States and EPA often conduct voluntary compliance assistance, outreach, and education programs (compliance assistance programs), which are not required by statute. These additional programs would supplement and enhance the success of compliance with this area source NESHAP. We believe that the statutory requirements for implementation and enforcement of this NESHAP by the delegated States and EPA, combined with the additional assistance programs, would be sufficient to assure compliance with this area source NESHAP without relying on title V permitting.

In applying the fourth factor in the Exemption Rule, where EPA had deferred action on the title V exemption for several years, we had enforcement data available to demonstrate that States were not only enforcing the provisions of the area source NESHAP that we exempted, but that the States were also providing compliance assistance to assure that the area sources were in the best position to comply with the NESHAP. See 70 FR 75325–75326. In proposing this rule, we do not have similar data available on the specific enforcement as in the Exemption Rule, but we have no reason to think that States will be less diligent in enforcing this NESHAP. See 70 FR 75326. In fact, States must have adequate programs to enforce the section 112 regulations and provide assurances that they will enforce all NESHAP before EPA will delegate the program. See 40 CFR part 63, General Provisions, subpart E.

In light of all the information presented here, we believe that there are implementation and enforcement programs in place that are sufficient to assure compliance with the Ferroalloys Production NESHAP without relying on title V permitting. Balancing the four factors for this area source category strongly supports the proposed finding that title V is unnecessarily burdensome. While title V might add additional compliance requirements if imposed, we believe that there would not be significant improvements to the compliance requirements in the NESHAP because the requirements in this proposed rule are specifically designed to assure compliance with the emission standards established in the rule.

We further maintain that the potential economic costs of compliance with title V would impose a significant burden on the sources that would be newly required to obtain title V permits. In addition, these high relative costs would not be justified given that there is likely to be little or no potential gain in compliance if title V were required. And, finally, there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. Thus, we propose that title V permitting is ''unnecessarily burdensome'' for the ferroalloys production area source category.

In addition to evaluating whether compliance with title V requirements is ''unnecessarily burdensome,'' EPA also considered, consistent with guidance provided by the legislative history of section 502(a), whether exempting the ferroalloy production area source category from title V requirements would adversely affect public health, welfare, or the environment. Exemption of the ferroalloys production area source category from title V requirements would not adversely affect public health, welfare, or the environment because the level of control would remain the same if a permit were required. The title V permit program

does not impose new substantive air quality control requirements on sources, but instead requires that certain procedural measures be followed, particularly with respect to determining compliance with applicable requirements. As stated in our consideration of factor one for this category, title V would not lead to significant improvements in the compliance requirements applicable to existing or new area sources.

Furthermore, one of the primary purposes of the title V permitting program is to clarify, in a single document, the various and sometimes complex regulations that apply to sources in order to improve understanding of these requirements and to help sources achieve compliance with the requirements. In this case, however, we do not believe that a title V permit is necessary to understand the requirements applicable to these area sources. We also have no reason to think that new sources would be substantially different from the existing sources. Finally, 7 of the 10 existing sources already have title V permits and any incremental environmental benefit would only result from imposing title V requirements on the remaining sources, which are already covered by State construction and/or operating permits. Based on this analysis, we believe that title V exemptions for ferroalloys production area sources would not adversely affect public health, welfare, or the environment for all of the reasons previously explained.

For the reasons stated here, we are proposing to exempt the ferroalloys production area source categories from title V permitting requirements.

VI. Summary of Impacts of These Proposed Standards

Affected sources are well-controlled and our proposed GACT determination reflects such controls. Compared to the early 1990s when we evaluated this industry as part of the development of the major source rule, we believe that sources have improved their level of control and reduced emissions due to State permitting requirements or actions taken to improve efficiency and/or reduce costs. For example, sources have reported improved capture of tapping emissions, improved process controls that minimize upset conditions, and improvements in fabric filter technology such as installation of Goretex® bags. We estimate that the only impact associated with this proposed rule is the compliance requirements (monitoring, reporting, recordkeeping and testing) which is estimated to be approximately $6,100 per facility.

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the Executive Order.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to OMB under the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* The ICR document prepared by EPA has been assigned EPA ICR number 2303.01.

The recordkeeping and reporting requirements in this proposed rule are based on the requirements in EPA's NESHAP General Provisions (40 CFR part 63, subpart A). The recordkeeping and reporting requirements in the General Provisions are mandatory pursuant to section 114 of the CAA (42 U.S.C 7414). All information other than emissions data 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.

This proposed NESHAP would require ferroalloys production area sources to submit an Initial Notification and a Notification of Compliance Status according to the requirements in 40 CFR 63.9 of the General Provisions (subpart A). Records would be required to demonstrate compliance with the opacity and VE requirements. The owner or operator of a ferroalloys production facility also is subject to notification and recordkeeping requirements in 40 CFR 63.9 and 63.10 of the General Provisions (subpart A), although we are proposing that annual compliance reports are sufficient instead of semiannual reports.

The annual burden for this information collection averaged over the first three years of this ICR is estimated to be a total of 819 labor hours per year at a labor cost of $61,122 or approximately $6,100 per facility. The average annual reporting burden is 26 hours per response, with approximately 3 responses per facility for 10 respondents. There are no capital and operating and maintenance costs associated with the proposed rule requirements for existing sources. Burden is defined at 5 CFR 1320.3(b).

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 are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, EPA has established a public docket for this proposed rule, which includes this ICR, under Docket ID number [EPA–HQ–OAR–2008–0154]. Submit any comments related to the ICR to EPA and OMB. See **ADDRESSES** section at the beginning of this proposed rule for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after September 15, 2008, a comment to OMB is best assured of having its full effect if OMB receives it by October 15, 2008. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule 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 this proposed rule on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses found at 13 CFR 121.201 (less than 750 employees for NAICS 331112 and 331419 and less than 1,000 employees for NAICS 325188); (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 this proposed rule on small entities, I certify that this action will not have a significant economic impact on

a substantial number of small entities. This proposed rule is estimated to impact 10 area source ferroalloys production facilities that are currently operating. We estimate that five of these facilities may be small entities. We have determined that small entity compliance costs, as assessed by the facilities' cost-to-sales ratio, are expected to be less than 0.02 percent. The costs are so small that the impact is not expected to be significant. Although this proposed rule contains requirements for new area sources, we are not aware of any new area sources being constructed now or planned in the next 3 years, and consequently, we did not estimate any impacts for new sources.

Although this proposed 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 proposed rule on small entities. The standards represent practices and controls that are common throughout the ferroalloys production industry. The standards also require only the essential recordkeeping and reporting needed to demonstrate and verify compliance. These standards were developed based on information obtained from small businesses in our surveys, consultation with small business representatives on the State and national level, and industry representatives that are affiliated with small businesses.

We continue to be interested in the potential impacts of this proposed action on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The average cost per facility to comply with this proposed rule's monitoring and compliance requirements is approximately $6,100 for the 10 existing facilities. This proposed action is not subject to the requirements of sections 202 and 205 of the UMRA.

This proposed rule is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. This proposed rule contains no requirements that apply to such governments, imposes no obligations upon them, and would not result in expenditures by them of $100 million or more in any one year or any disproportionate impacts on them.

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'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This proposed rule does not have federalism implications. It 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. This proposed rule does not impose any requirements on State and local governments. Thus, Executive Order 13132 does not apply to this proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

This proposed action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed rule imposes no requirements on tribal governments. Thus, Executive Order 13175 does not apply to this action. EPA specifically solicits additional comment on this proposed action from tribal officials.

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

EPA interprets Executive Order 13045 (62 F.R. 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it is based solely on technology performance.

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

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

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113 (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. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This proposed rulemaking involves technical standards. Therefore, the Agency conducted a search to identify potentially applicable VCS. However, we identified no such standards, and none were brought to our attention in comments. Therefore, EPA has decided to use EPA Methods 9 and 22 in this proposed rule.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable VCS and to explain why such standards should be used in this regulation.

Under § 63.7(f) and § 63.8(f) of subpart A of the General Provisions, 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.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority

populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. This proposed rule will establish national standards for the ferroalloys production area source category.

List of Subjects in 40 CFR Part 63

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

Dated: September 9, 2008.

Stephen L. Johnson,

Administrator.

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

PART 63—[AMENDED]

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

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

Subpart A—[Amended]

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

Subpart YYYYYY—Revision of Source Category List for Standards Under Section 112(k) of the Clean Air Act; and National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities

Applicability and Compliance Dates

Sec.

63.11524 Am I subject to this subpart?

63.11525 What are my compliance dates?

Standards, Monitoring, and Compliance Requirements

63.11526 What are the standards for new and existing ferroalloys production facilities?

63.11527 What are the monitoring requirements for new and existing sources?

63.11528 What are the performance test and compliance requirements for new and existing sources?

63.11529 What are the notification, reporting, and recordkeeping requirements?

Other Requirements and Information

63.11530 What parts of the General Provisions apply to my facility?

63.11531 Who implements and enforces this subpart?

63.11532 What definitions apply to this subpart?

63.11533–63.11543 [Reserved]

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

Subpart YYYYYY—Revision of Source Category List for Standards Under Section 112(k) of the Clean Air Act; and National Emission Standards for Hazardous Air Pollutants for Area Sources: Ferroalloys Production Facilities

Applicability and Compliance Dates

§ 63.11524 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a ferroalloys production facility that is an area source of hazardous air pollutant (HAP) emissions. A ferroalloys production facility manufactures silicon metal, ferrosilicon, ferrotitanium using the aluminum reduction process, ferrovanadium, ferromolybdenum, calcium silicon, silicomanganese zirconium, ferrochrome silicon, silvery iron, high-carbon ferrochrome, charge chrome, standard ferromanganese, silicomanganese, ferromanganese silicon, calcium carbide or other ferroalloy products using electrometallurgical operations including electric arc furnaces (EAFs) or other reaction vessels.

(b) The provisions of this subpart apply to each existing and new electrometallurgical operation affected source as defined in paragraphs (b)(1) and (b)(2) of this section.

(1) An electrometallurgical operation affected source is existing if you commenced construction or reconstruction of the EAF or other reaction vessel on or before September 15, 2008.

(2) An electrometallurgical operation affected source is new if you commenced construction or reconstruction of the EAF other reaction vessel after September 15, 2008.

(c) This subpart does not apply to research or laboratory 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. Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

§ 63.11525 What are my compliance dates?

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions of this subpart by no later than 180 days after the date of publication of the final rule in the **Federal Register**.

(b) If you start up a new affected source on or before the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions of this subpart by no later than the date of publication of the final rule in the **Federal Register**.

(c) If you start up a new affected source after the date of publication of the final rule in the **Federal Register**, you must achieve compliance with the applicable provisions of this subpart upon startup of your affected source.

Standards, Monitoring, and Compliance Requirements

§ 63.11526 What are the standards for new and existing ferroalloys production facilities?

(a) You must not discharge to the atmosphere visible emissions (VE) from the control device that exceed 3 percent of accumulated occurrences in a 60-minute observation period.

(b) You must not discharge to the atmosphere fugitive PM emissions from the furnace building containing the electrometallurgical operations that exhibit opacity greater than 20 percent (6-minute average), except for one 6-minute average per hour that does not exceed 40 percent.

§ 63.11527 What are the monitoring requirements for new and existing sources?

(a) *EAF Equipped with Fabric Filters.*

(1) You must conduct daily visual monitoring of the monovent or fabric filter outlet stack(s) for any VE.

(2) If the daily visual monitoring reveals the presence of any VE, you must conduct a Method 22 (Appendix A–7 of 40 CFR part 60) test following the requirements of § 63.11528(b)(1) within 24 hours of determining the presence of any VE.

(3) If you own or operate an existing affected source, you may install, operate, and maintain a bag leak detection system for each fabric filter as an alternative to the monitoring requirements in paragraph (a)(1) of this section. If you own or operate a new affected source, you must install, operate, and maintain a bag leak detection system for each fabric filter according to the requirements in paragraphs (a)(3)(i) through (a)(3)(vii) of this section. Such source is not subject

to the requirements in paragraphs (a)(1) and (a)(2) of this section.

(i) The system must be certified by the manufacturer to be capable of detecting emissions of PM at concentrations of 10 milligrams 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 and the owner or operator shall continuously record the output from the bag leak detection system using a strip chart recorder, data logger, or other means.

(iii) The system must be equipped with an alarm that will sound when an increase in relative PM loadings is detected over the alarm set point established in the operation and maintenance plan, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(iv) The initial adjustment of the system must, at minimum, consist of establishing the baseline output by adjusting the sensitivity (range) and the averaging period of the device, and establishing the alarm set points. If the system is equipped with an alarm delay time feature, you also must adjust the alarm delay time.

(v) Following the initial adjustment, do not adjust the sensitivity or range, averaging period, alarm set point, or alarm delay time, except that, once per quarter, you may adjust the sensitivity of the bag leak detection system to account for seasonal effects including temperature and humidity.

(vi) For fabric filters that are discharged to the atmosphere through a stack, the bag leak detector sensor must be installed downstream of the fabric filter and upstream of any wet scrubber.

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

(4) When operating a bag leak detection system, if an alarm sounds, conduct visual monitoring of the monovent or fabric filter outlet stack(s) as required in paragraph (a)(1) of this section within 1 hour. If the visual monitoring reveals the presence of any VE, you must conduct a Method 22 test following the requirements of § 63.11528(b)(1) within 24 hours of determining the presence of any VE.

(5) You must prepare a site-specific monitoring plan for each bag leak detection system. You must operate and maintain each bag leak detection system according to the plan at all times. Each plan must address all of the items identified in paragraphs (a)(5)(i) through (a)(5)(v) 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) Maintenance of the bag leak detection system including a routine maintenance schedule and spare parts inventory list.

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

(b) *EAF Equipped with Wet Scrubbers*.

(1) You must conduct daily visual monitoring of the wet scrubber outlet stack(s) for any VE.

(2) If the daily visual monitoring reveals the presence of any VE, you must conduct a Method 22 (Appendix A–7 of 40 CFR part 60) test following the requirements of § 63.11528(b)(1) within 24 hours of determining the presence of any VE.

(3) If you own or operate an existing affected source, you may install, operate and maintain a continuous parameter monitoring system (CPMS) to measure and record the 3-hour average pressure drop and scrubber water flow rate as an alternative to the monitoring requirements specified in paragraph (b)(1) of this section. If you own or operate a new sealed EAF affected source, you must install, operate, and maintain a CPMS for each wet scrubber. Such source is not subject to the requirements in paragraph (b)(1) of this section.

(4) When operating a CPMS, if the 3-hour average pressure drop or scrubber water flow rate is below the minimum levels that indicate normal operation of the control device, conduct visual monitoring of the outlet stack(s) as required by paragraph (b)(1) of this section within 1 hour. Manufacturer's specifications for pressure drop and liquid flow rate will be used to determine normal operations. If the visual monitoring reveals the presence of any VE, you must conduct a Method 22 (Appendix A–7 of 40 CFR part 60) test following the requirements of § 63.11528(b)(1) within 24 hours of determining the presence of any VE.

§ 63.11528 What are the performance test and compliance requirements for new and existing sources?

(a) *Initial Compliance Demonstration Deadlines*. You must conduct an initial Method 22 (Appendix A–7 of 40 CFR part 60) test following the requirements of paragraph (b)(1) of this section of each existing electrometallurgical operation control device and an initial Method 9 observation following the requirements of paragraph(c)(1) of this section from the furnace building due to electrometallurgical operations no later than 60 days after your applicable compliance date. For any new electrometallurgical operation control device, you must conduct an initial Method 22 test following the requirements of paragraph (b)(1) of this section within 15 days of startup of the control device.

(b) *Visible Emissions Limit Compliance Demonstration*.

(1) You must conduct a Method 22 (Appendix A–7 of 40 CFR part 60) test to determine that VE from the control device do not exceed the emission standard specified in § 63.11526(a). For a fabric filter, conduct the test for at least 60 minutes at the fabric filter monovent or outlet stack(s), as applicable. For a wet scrubber, conduct the test for at least 60 minutes at the outlet stack(s).

(2) You must conduct a semiannual Method 22 test using the procedures specified in paragraph (b)(1) of this section.

(c) *Furnace Building Opacity*.

(1) You must conduct an opacity test for fugitive emissions from the furnace building according to the procedures in § 63.6(h) and Method 9 (Appendix A–4 of 40 CFR part 60). The test must be conducted for at least 60 minutes and shall include tapping the furnace or reaction vessel. The observation must be focused on the part of the building where electrometallurgical operation fugitive emissions are most likely to be observed.

(2) Conduct subsequent Method 9 tests no less frequently than every 6 months and each time you make a process change likely to increase fugitive emissions.

(3) As an alternative to the Method 9 performance test, you may monitor VE using Method 22 (Appendix A–7 of 40 CFR part 60) for subsequent semi-annual compliance demonstrations. The Method 22 test is successful if no VE are observed for 90 percent of the readings over the furnace cycle (tap to tap) or 60 minutes, whichever is more. If VE are observed greater than 10 percent of the time over the furnace cycle or 60 minutes, whichever is more, then the facility must conduct another test as soon as possible, but no later than 15 calendar days after the Method 22 test using Method 9 (Appendix A–4 of 40 CFR part 60) as specified in paragraph (c)(1) of this section.

§ 63.11529 What are the notification, reporting, and recordkeeping requirements?

(a) *Initial Notification.* You must submit the Initial Notification required by § 63.9(b)(2) of the General Provisions no later than 120 days after the date of publication of the final rule in the **Federal Register**. The Initial Notification must include the information specified in § 63.9(b)(2)(i) through (b)(2)(iv).

(b) *Notification of Compliance Status.* You must submit a Notification of Compliance Status in accordance with § 63.9(h) of the General Provisions before the close of business on the 30th day following the completion of the initial compliance demonstration. This notification must include the following:

(1) The results of Method 22 (Appendix A–7 of 40 CFR part 60) test for VE as required by § 63.11528(a);

(2) If you have installed a bag leak detection system, documentation that the system satisfies the design requirements specified in § 63.11527(a)(3) and that you have prepared a site-specific monitoring plan that meets the requirements specified in § 63.11527(a)(5);

(3) The results of the Method 9 (Appendix A–4 of 40 CFR part 60) test for building opacity as required by § 63.11528(a).

(c) *Annual Compliance Certification.* If you own or operate an affected source, you must submit an annual certification of compliance according to paragraphs (c)(1) through (c)(4) of this section.

(1) The results of any daily visual monitoring events required by § 63.11527 (a)(1) and (b)(1), alarm-based visual monitoring at sources equipped with bag leak detection systems as required by § 63.11527 (a)(4), or readings outside of the operating range at sources using CPMS on wet scrubbers required by § 63.11527 (b)(4).

(2) The results of the follow up Method 22 (Appendix A–7 of 40 CFR part 60) tests that are required if VE are observed during the daily visual monitoring, alarm-based visual monitoring, or out-of-range operating readings as described in paragraph (c)(1) of this section.

(3) The results of the Method 22 (Appendix A–7 of 40 CFR part 60) or Method 9 (Appendix A–4 of 40 CFR part 60) tests required by § 63.11528(b) and (c), respectively.

(4) If you operate a bag leak detection system for a fabric filter or a CPMS for a wet scrubber, submit annual reports according to the requirements in § 63.10(e) and include summary information on the number, duration, and cause (including unknown cause, if applicable) for monitor downtime incidents (other than downtime associated with zero and span or other calibration checks, if applicable).

(d) You must keep the records specified in paragraphs (d)(1) through (d)(2) of this section.

(1) As required in § 63.10(b)(2)(xiv), you must keep a copy of each notification that you submitted to comply with this subpart and all documentation supporting any Initial Notification, Notification of Compliance Status, and annual compliance certifications that you submitted.

(2) You must keep the records of all daily visual, Method 22 (Appendix A–7 of 40 CFR part 60), and Method 9 (Appendix A–4 of 40 CFR part 60) monitoring data required by § 63.11527 and the information identified in paragraphs (d)(2)(i) through (d)(2)(v).

(i) The date, place, and time of the monitoring event;

(ii) Person conducting the monitoring;

(iii) Technique or method used;

(iv) Operating conditions during the activity; and

(v) Results, including the date, time, and duration of the period from the time the monitoring indicated a problem (e.g., VE) to the time that monitoring indicated proper operation.

(e) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(f) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each recorded action.

(g) You must keep each record onsite for at least 2 years after the date of each recorded action according to § 63.10(b)(1). You may keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.11530 What parts of the General Provisions apply to my facility?

Table 1 of this subpart shows which parts of the General Provisions in §§ 63.1 through 63.16 apply to you.

§ 63.11531 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by EPA or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if implementation and enforcement of 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 paragraph (c) of this section are retained by the EPA Administrator and are not transferred to the State, local, or tribal agency.

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

(1) Approval of an alternative nonopacity 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'' under is defined in § 63.90.

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

§ 63.11532 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in § 63.2, and in this section.

Bag leak detection system means a system that is capable of continuously monitoring relative PM (i.e., dust) loadings in the exhaust of a fabric filter 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, electrodynamic, light scattering, light transmittance, or other effect to continuously monitor relative PM loadings.

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 or to the atmosphere. 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 introducing materials to an EAF or other reaction vessel, which may consist of, but are not limited to, ores, slag, carbonaceous material, and/or limestone.

Control device means the air pollution control equipment used to remove PM from the effluent gas stream generated by an EAF furnace or other reaction vessel.

Electric arc furnace means any furnace wherein electrical energy is converted to heat energy by transmission of current between electrodes partially submerged in the furnace charge.

Electrometallurgical operations means the use of electric and electrolytic processes to purify metals or reduce metallic compounds to metals.

Fugitive emissions means any pollutant released to the atmosphere that is not discharged through a ventilation system that is specifically designed to capture pollutants at the source, convey them through ductwork, and exhausts them from a control device. Fugitive emissions include pollutants released to the atmosphere through windows, doors, vents, or other building openings. Fugitive emissions also include pollutants released to the atmosphere through other general building ventilation or exhaust systems not specifically designed to capture pollutants at the source.

Sealed EAF means a furnace equipped with the cover with seals around the electrodes and outer edges of the cover to eliminate air being drawn in under the cover.

Tapping means the removal of product from the EAF or other reaction vessel under normal operating conditions, such as removal of metal under normal pressure and movement by gravity down the spout into the ladle.

§ 63.11533–63.11543 [Reserved]

Tables to Subpart YYYYYY of Part 63

As required in § 63.11530, you must meet each requirement in the following table that applies to you.

TABLE 1—TO SUBPART YYYYYY OF PART 63—APPLICABILITY OF GENERAL PROVISIONS

Citation	Subject
63.1 [1]	Applicability.
63.2	Definitions.
63.3	Units and abbreviations.
63.4	Prohibited activities.
63.5	Construction/reconstruction.
63.6	Compliance with standards and maintenance.
63.8	Monitoring.
63.9	Notification.
63.10	Recordkeeping and reporting.
63.12	State authority and delegations.
63.13	Addresses of State air pollution control agencies and EPA regional offices.
63.14	Incorporation by reference.
63.15	Availability of information and confidentiality.
63.16	Performance track provisions.

[1] § 63.11524(d), ''Am I subject to this subpart?'' exempts affected sources from the obligation to obtain title V operating permits.

[FR Doc. E8–21509 Filed 9–12–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[EPA–HQ–OW–2007–93; FRL–8716–1]

Withdrawal of Federal Antidegradation Policy for All Waters of the United States Within the Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to withdraw the federal antidegradation policy for all waters of the United States within the Commonwealth of Pennsylvania. We will withdraw the federal antidegradation policy to allow Pennsylvania to implement its own antidegradation policy. Pennsylvania has adequately demonstrated that its antidegradation policy protects all waters of the United States within the Commonwealth at a level consistent with the federal requirements. Therefore, the federal antidegradation policy is redundant. In the ''Rules and Regulations'' section of this **Federal Register**, we are withdrawing the federal antidegradation policy for waters within the Commonwealth of Pennsylvania as a direct final rule without a prior proposed rule. If we received no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by October 15, 2008.

ADDRESSES: Submit your comments, identified by Docket Id. No. EPA–HQ–OW–2007–0093, by mail to: Water Docket, USEPA, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Caroline Whitehead at EPA Headquarters, Office of Water, 1200 Pennsylvania Ave, NW, Mail Code 4305T, Washington, DC 20460 (*telephone:* 202–566–2907, fax: 202–566–0409 or *e-mail: whitehead.caroline@epa.gov*) or Denise Hakowski at EPA Region 3, 1650 Arch Street, Mail Code 3WP30, Philadelphia, PA 19103 (*telephone:* 215–814–5726, *fax:* 215–814–2318 or *e-mail: hakowski.denise@epa.gov*).

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final rule that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

I. Why Is EPA Issuing This Proposed Rule?

This document proposes to take action on withdrawing the federal antidegradation policy for the Commonwealth of Pennsylvania because Pennsylvania has adequately demonstrated that its antidegradation policy protects all waters of the United States at a level consistent with the federal requirements. We have published a direct final rule withdrawing the federal antidegradation policy for the Commonwealth of Pennsylvania in the ''Rules and Regulations'' section of this **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this withdrawal in the preamble to the direct final rule.