

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[AD-FRL-6345-8]

RIN 2060-AE97

### National Emission Standards for Hazardous Air Pollutants for Primary Lead Smelting

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

**ACTION:** Final rule.

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

**EFFECTIVE DATE:** June 4, 1999.

**ADDRESSES:** *Docket.* Docket No. A-97-33 contains supporting information used in developing the standards. The docket is located at the U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC. 20460 in room M-1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 12:00 p.m. and 1:00 to 3:00 p.m., Monday through Friday. The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

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

**SUPPLEMENTARY INFORMATION:**

*Regulated Entities.* The regulated category and entities affected by this

action include primary lead smelters (SIC 3339). This action will affect three existing primary lead smelting facilities and any new primary lead smelting facilities built in the future.

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

*Outline.*

The information presented in this preamble is organized as follows:

- I. Background
- II. Summary
  - A. Summary of the Promulgated Standards
  - B. Summary of Major Changes Since Proposal
  - C. Summary of Environmental, Energy, and Economic Impacts
- III. Public Participation
- IV. Summary of Comments and Responses
  - A. Comments on April 1998 Proposal
  - B. Comments on February 1999 Supplemental Proposal
- V. Administrative Requirements
  - A. Docket
  - B. Executive Order 12866
  - C. Executive Order 12875
  - D. Executive Order 13084
  - E. Unfunded Mandates Reform Act
  - F. Regulatory Flexibility Act
  - G. Paperwork Reduction Act
  - H. Submission to Congress and the General Accounting Office
  - I. National Technology Transfer and Advancement Act
  - J. Pollution Prevention Considerations
  - K. Protection of Children from Environmental Health Risks and Safety Risk Under Executive Order 13045
  - L. Judicial Review

#### I. Background

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

An initial list of categories of major and area sources of HAP's selected for regulation in accordance with section 112(c) of the Act was published in the **Federal Register** on July 16, 1992 (57 FR 31576). Primary lead smelting is one of

the 174 categories of sources listed. The category consists of smelters that process lead bearing ore concentrates into lead metal. The listing was based on the Administrator's determination that primary lead smelters may reasonably be anticipated to emit several of the 188 listed HAP's in quantities sufficient to designate them as major sources. Information subsequently collected by the EPA as part of this rulemaking confirms that all three operating primary lead smelters have the potential to emit greater than 9.1 megagrams per year (Mg/yr) (10 tons per year (tpy)) of a single HAP or greater than 22.7 Mg/yr (25 tpy) of a combination of HAP's (Docket ID No. II-B-4). Therefore, all three primary lead smelters are major sources.

This NESHAP was proposed in the **Federal Register** on April 17, 1998 (63 FR 19200). The EPA received 2 letters commenting on the proposed rule. The EPA received no requests for a public hearing.

A supplemental proposal was published in the **Federal Register** on February 12, 1999 (64 FR 7149). This notice proposed an operating limit that would require owners and operators of a primary lead smelter (referred to as operators in the remainder of this preamble) to operate and maintain each affected baghouse such that the required bag leak detection system would not sound more than five percent of the operating time. The EPA received three letters commenting on the supplemental proposal. The EPA received no requests for a public hearing on the supplemental proposal.

#### II. Summary

##### A. Summary of the Promulgated Standards

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

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

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

### 1. Process and Process Fugitive Sources

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

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

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

The operator must install a bag leak detection system for each baghouse used on a process or process fugitive source. The bag leak detection system shall be equipped with an audible alarm that automatically sounds when an increase in particulate matter (PM) emissions above a predetermined level is detected. Operators are further required to maintain and operate each affected baghouse such that the bag leak detection device does not sound more than five percent of the total operating time in any 6-month period. Alarms caused by startups, shutdowns, or malfunctions are not included in the alarm time calculation if the condition is described in the startup, shutdown, and malfunction plan and the operator follows all the procedures in the plan prescribed for the subject condition. Alarms caused by a malfunction of the bag leak detection system are also excluded from the alarm time calculation.

### 2. Standards for Fugitive Dust Sources

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

### 3. Compliance Dates

Compliance with the standards must be achieved by June 4, 2001 for existing primary lead smelters, and upon startup for new and reconstructed smelters.

### 4. Compliance Test Methods

The following EPA test methods will be used to measure the lead emissions from the process and process fugitive sources included in the plant wide emission limit. Testing of lead compound emissions from process and process fugitive emission control devices shall be conducted according to EPA reference method 12 (40 CFR part 60, appendix A). Sampling locations for all compliance tests shall be determined by EPA reference method 1. Stack gas velocity and volumetric flow rate shall be determined by EPA reference method 2. Gas analysis shall be conducted according to EPA reference method 3 for carbon dioxide, oxygen, excess air, and molecular weight on a dry basis.

The plant wide emission rate will be calculated as follows. The previous 12 calendar months production data shall be used to calculate lead production based on the mass produced, and the lead content of lead products, copper speiss, and copper matte. Plant records will be used to determine the facility operating hours for the previous 12 calendar months. The plant wide emission rate is calculated by dividing the sum of lead emission rates, determined through stack testing, for the process and process fugitive sources by the average hourly lead production rate for the previous 12 calendar months.

Operators are required to perform an initial compliance demonstration for the sinter machine building in-draft requirement. Operators are required to demonstrate in-draft at all doorway openings using an anemometer or equivalent device. The demonstration is to be conducted when wind speed is less than two meters per second (five miles per hour.)

### 5. Monitoring Requirements

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

Minimum requirements for the bag leak detection system required in the process and process fugitive standards section are detailed. The bag leak detection system shall be equipped with an audible alarm that automatically sounds when an increase in particulate emissions above a predetermined level is detected. The system shall be capable of detecting PM emissions at concentrations of 10 milligrams per actual cubic meter (0.004 grains per actual cubic foot) and provide an output of relative PM emissions. Operators shall continuously record the bag leak detection system output. Such a device shall serve as an indicator of the performance of the baghouse and shall provide an indication of when maintenance of the baghouse is needed. An alarm by itself will not necessarily indicate noncompliance with the lead limit, but would indicate an increase in PM emissions and trigger an inspection of the baghouse to determine the cause of the alarm. The operator would initiate corrective actions according to the procedures in their operation, maintenance, and monitoring plan. The operator would be considered out of compliance upon failure to initiate within one hour the procedures to determine the cause of the alarm, as specified in the baghouse operation and maintenance SOP manual.

Operators are given three options for the monitoring of sinter building in-draft. Under the first option, operators may elect to perform daily checks for in-draft at all doorway openings using an anemometer or equivalent device. Checks are only to be conducted when ambient wind speed is less than two meters per second (five miles per hour).

Under the second option, operators are required to establish and maintain the ventilation exhaust rate and damper positions at settings that result in an in-draft at each open doorway. Operators are required to install and operate a flow monitor device on the ventilation system that would continuously record the ventilation exhaust rate. Operators are required to conduct an initial demonstration of in-draft at all doorway openings using an anemometer or equivalent device while simultaneously recording the ventilation system exhaust rate and damper positions. Operators are then required to maintain the ventilation rate at or above the average rate recorded during the in-draft demonstration, and check and record daily the damper positions to ensure that they are maintained in the position they were in when the in-draft demonstration was performed.

As a third option, operators may petition the administrator or delegated authority for an alternative monitoring method by following the procedures and requirements in § 63.8(f) of the General Provisions.

#### 6. Notification Requirements

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

#### 7. Recordkeeping and Reporting Requirements

The operator of a primary lead smelter will be required to comply with the recordkeeping and reporting requirements described in § 63.10 of the General Provisions to part 63, (40 CFR part 63, subpart A). In addition, the operator of a primary lead smelter will be required to retain for 5 years records of: (1) production data of the weight and lead content of lead products, copper matte, and copper speiss; (2) records of bag leak detection system output; (3) an identification of the date and time of all bag leak detection system alarms, the time procedures to determine the cause of the alarm were initiated, their cause, and an explanation of the corrective actions taken; (4) records of daily in-draft checks (if applicable); (5) records of the output from the flow monitoring

system (if applicable); (6) records of the daily damper position checks (if applicable); (7) records demonstrating implementation of the baghouse SOP; and (8) records demonstrating implementation of the fugitive dust controls contained in the smelter's SOP manual.

In addition to the information required by the General Provisions to part 63, (40 CFR part 63, subpart A), the operator of a primary lead smelter will be required to submit semi-annual reports containing: (1) records of all alarms from the bag leak detection system including a description of the procedures taken following each bag leak detection system alarm; (2) the percent of operating time the bag leak detection alarmed; (3) a summary of the records maintained as part of the practices described in the baghouse SOP, including an explanation of the periods when the procedures were not followed and the corrective actions taken; (4) an identification of the periods when the in-draft was 0.0 meters per second or less, and an explanation of the corrective actions taken (if applicable); (5) an identification of the periods when the 15-minute volumetric flow rate(s) dropped below the minimum established during the most recent in-draft determination (if applicable); (6) an identification of the days that the damper positions were not in the positions established during the most recent in-draft determination, and an explanation of the corrective actions taken (if applicable); and (7) a summary of the fugitive dust control measures performed during the required reporting period, including when procedures outlined in the fugitive dust control SOP were not followed and the corrective actions taken.

#### B. Summary of Major Changes Since Proposal

Based on public comments received in response to both the initial notice of proposal and the supplemental notice, the EPA has made several changes to the proposed rule. A summary of the major changes is presented below.

##### 1. Definitions

A definition of bag leak detection system has been added to the final rule. Based on the definition, a "bag leak detection system means a system that is capable of monitoring particulate matter (dust) loadings in the exhaust of a baghouse in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, transmittance or other effect

to monitor relative particulate matter loadings."

The definition of total enclosure has been replaced with a definition of a building. For the purpose of this subpart, a "building means a roofed and walled structure with limited openings to allow access and egress for people and vehicles."

The definition of malfunction included in the General Provisions has been added to the subpart for clarity. A "malfunction means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions."

A definition of operating time has been added. For the purpose of this subpart, "operating time means the period of time in hours that an affected source is in operation beginning at a startup and ending at the next shutdown."

A definition of plant operating time has been added. For the purpose of this subpart, "plant operating time means the period of time in hours that either a sinter machine or blast furnace is in operation."

The definition of shutdown in the General Provisions has been added to the subpart for clarity. A "shutdown means the cessation of operation of an affected source for any purpose."

The definition of startup in the General Provisions has been added to the subpart for clarity. A "startup means the setting in operation of an affected source for any purpose."

#### 2. Standards for Process and Process Fugitive Sources

The requirements for annual compliance tests have been changed. Upon demonstrating compliance for 3 consecutive years, operators will be allowed up to 24 months between compliance tests. Operators will retain the 24 month compliance test schedule as long as each subsequent test demonstrates that the facility is in compliance with the plant wide emission limit.

An operating limit has been added that requires operators to maintain and operate each affected baghouse such that the bag leak detection system does not alarm more than five percent of the time in any 6-month period. Alarms caused by startups, shutdowns, or malfunctions are not included if the condition is described in the startup, shutdown, malfunction plan and the operators follow all the procedures in the plan prescribed for the subject

condition. Alarms caused by a malfunction of the bag leak detection system are also excluded from the alarm time calculation.

### 3. Monitoring Requirements

The monitoring requirements for baghouses have been modified. Operators will be required to identify, and monitor against, the normal pressure drop range across each baghouse cell. Also, the requirement for a quarterly check of bag tension has been changed to a quarterly visual check of bag tension.

The requirements for demonstrating compliance with the sinter machine building in-draft requirements have been changed. Operators are given three options for the continuous monitoring of in-draft. Under the first option, operators may elect to perform daily checks for in-draft at all doorway openings using an anemometer or equivalent device.

Under the second option, operators are required to establish and maintain the ventilation exhaust rate and damper positions at settings that result in an in-draft at each open doorway. Operators are required to install and operate a flow monitor device on the ventilation system that would continuously record the ventilation exhaust rate. Operators are required to conduct an initial demonstration of in-draft at all doorway openings using an anemometer or equivalent device while simultaneously recording the ventilation system exhaust rate and damper positions. Operators are then required to maintain the ventilation rate at or above the average rate recorded during the in-draft demonstration, and check and record daily the damper positions to ensure that they are maintained in the position they were in when the in-draft demonstration was performed.

As a third option, operators may petition the Administrator or delegated authority for an alternative monitoring method by following the procedures and requirements in § 63.8(f) of the General Provisions.

### C. Summary of Environmental, Energy, and Economic Impacts

There are only three existing primary lead smelters that will be subject to the standards, and no new facilities are anticipated to be constructed in the next 5 years. The required levels of control are based on existing SIP emission limits for lead. No additional emission controls will be required to comply with the standards. Therefore, no quantifiable emission reduction or other environmental impacts are anticipated to result from this rulemaking. However,

it is anticipated that improved baghouse operation and maintenance procedures coupled with continuous bag leak detection will result in unquantifiable reductions in emissions of lead compounds and other metal HAP.

Similarly, cost and economic impacts are expected to be minimal. The only costs associated with the standards are those required to perform compliance assurance activities such as performance testing, monitoring, reporting, and recordkeeping. These costs are minimal, and will not result in any significant economic impact.

### III. Public Participation

Prior to proposal of the standards, the EPA met with representatives from the only operators of primary lead smelters. The EPA discussed the standards being evaluated for proposal. Comments submitted following this meeting were incorporated into the proposed rule as appropriate.

The standards were proposed and published in the **Federal Register** on April 17, 1998 (63 FR 19200). The preamble to the proposed standards described the technical basis, purpose, and impacts of the proposed standards. Public comments were solicited at the time of proposal.

To provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed standards, the opportunity for a public hearing was offered at proposal; however, no requests for a hearing were received. The public comment period was from April 17, 1998 to June 16, 1998. Two comment letters were received. The comments were carefully considered in formulating the final rule.

A supplemental proposal was published in the **Federal Register** on February 12, 1999 (64 FR 7149). That notice proposed an operating limit that would require owners and operators of a primary lead smelter (referred to as operators in the remainder of this preamble) to operate and maintain each affected baghouse such that the required bag leak detection system would not sound more than five percent of the operating time. Again the opportunity for a public hearing was offered at proposal; however, no requests for a hearing were received. The public comment period was from February 12, 1999 to March 15, 1999. Three comment letters were received. Again, the comments were carefully considered in formulating the final rule.

### IV. Summary of Comments and Responses

The EPA received two comment letters (one letter contained joint comments from two commenters) on the initial proposal, and three letters commenting on the supplemental proposal (again, one letter contained joint comments from two commenters). Comment summaries and EPA responses are presented below.

#### A. Comments on April 1998 Proposal

The comments contain both favorable and adverse comments. Topics and requirements which received favorable and supportive comments include the following:

- The use of lead as a surrogate pollutant for all metal HAP,
- The conclusion that organic HAP emissions from blast furnaces are not significant enough to warrant regulation,
- The use of a plant-wide emission limit,
- The requirement that sinter plants be enclosed and ventilated to a baghouse or equivalent control device,
- The requirement that certain process fugitive emission sources be equipped with a hood and ventilated to a baghouse or equivalent control device,
- Allowing 2 years to achieve compliance, and
- The requirement for an approved plan for the control of fugitive dust emissions.

Topics and provisions of the proposed rule which received adverse comments are summarized below with the EPA's responses.

*Comment.* One commenter stated that it is not possible to maintain a sinter machine building "at a lower than ambient pressure to ensure in-draft through any doorway opening" at all times. They argue that static pressure measured at any one point in a building is the sum of the pressures caused by the combination of several effects including mechanical or forced ventilation, stack effects, wind influences and local effects. A ventilation system that is designed and operated for a specific building can effectively control the escape of most fugitive emissions. However, the variable influence of stack draft, wind, and local effects will cause the actual building static pressure to vary over space and time, thereby making it impossible to comply with a standard that requires maintaining a building at lower than ambient pressure at all times.

The commenter suggested that the EPA give operators the following three

alternatives. First, require operators to submit to the Administrator or delegated authority a statement from a professional engineer certifying that the design of the ventilation system in the sinter buildings is sufficient to attain in-draft with all doorways in their customary position during normal operation. Each operator would be required to design and operate its ventilation system to meet a minimum exhaust flow rate, and would have to restrict the total surface area of doorways open during normal operation to some maximum.

Second, allow for more flexible performance tests (i.e., use of anemometers) to account for wind effects. The commenter suggested that the performance demonstrations be limited to periods when the wind speed is less than five miles per hour.

The third suggestion was to allow operators flexibility in developing site-specific methods to demonstrate compliance with the in-draft requirement. All site specific alternatives would be subject to approval of the Administrator or delegated authority.

*Response.* The EPA has considered the comment, and agrees to modify the requirements for sinter building in-draft. The EPA believes that with some modification, the alternatives suggested by the commenter are better than the negative pressure requirements contained in the proposal. As such, the EPA is making the following changes to the proposed rule.

Operators are required to perform an initial compliance demonstration for the sinter machine building in-draft requirement. Operators are required to demonstrate in-draft at all doorway openings using an anemometer or equivalent device. The demonstration is to be conducted when wind speed is less than two meters per second (five miles per hour.)

Operators are given three options for the continued monitoring of in-draft. Under the first option, operators may elect to perform daily checks for in-draft at all doorway openings using an anemometer or equivalent device. This option is similar to the option given in the proposed rule, however, the checks for in-draft are limited to days when the ambient wind speed is less than two meters per second (five miles per hour.)

Under the second option, operators are required to establish and maintain the ventilation exhaust rate and damper positions at settings that result in an in-draft at each open doorway. Operators are required to install and operate a flow monitor device on the ventilation system that would continuously record

the ventilation exhaust rate. Operators are required to conduct an initial demonstration of in-draft at all doorway openings using an anemometer or equivalent device while simultaneously recording the ventilation system exhaust rate and damper positions. Again, the demonstration is not to be conducted when wind speeds are greater than two meters per second (five miles per hour.) Operators are then required to maintain the ventilation rate at or above the average rate recorded during the in-draft demonstration, and check and record daily the damper positions to ensure that they are maintained in the position they were in when the in-draft demonstration was performed.

As a third option, the EPA is adding a reference to the section of the General Provisions which describes the procedures for requesting an alternative monitoring method, 40 CFR 63.8(f). This reference is being added to highlight the availability of this option.

*Comment.* One commenter identified an error in the proposed rule. Section 63.1546(b) states "Operators shall determine compliance with the doorway in-draft requirements for buildings in 63.1543(b) and 63.1544(c) \* \* \*". However, building in-draft requirements are contained in § 63.1543(c).

*Response.* This error is corrected in the final rule.

*Comment.* One commenter stated that they are required to test for particulate matter and lead as part of their SIP requirements. The commenter requests that operators be given the flexibility to use the "hybrid Method 5-12" to test for particulate matter and lead simultaneously.

*Response.* The rule specifies that EPA Method 12 be used to measure lead emission rates. There is no EPA Method 5-12. However, section 8.1 of EPA Method 12 allows for the simultaneous measurement of both lead and particulate matter. As such, no change is being made to address this comment.

*Comment.* The proposed rule requires quarterly checks of bag tension on certain types of baghouses. One commenter stated that none of their facilities are currently required to check bag tension under existing SIPs. They claim that measuring bag tension would be a time-consuming process resulting in extended periods of worker exposure to high temperatures and potentially lead. They recommend that the requirement for bag tension testing be eliminated, or at a minimum modified to an annual visual check to make certain bags are not kinked (knead or bent) or lying on their sides.

*Response.* The EPA agrees with the commenter that measuring bag tension

is a time-consuming process that can create increased risks of worker exposures to lead. The EPA also agrees that a visual check is sufficient to determine adequate bag tension. As such, the EPA is amending § 63.1547(c)(6) to require quarterly visual inspections of bag tension to make certain bags are not kinked or lying on their sides.

*Comment.* One commenter stated that the proposed requirement for bag leak detection devices does not provide for alternative/equivalent methods, such as opacity monitors, which are already in use at some facilities. As such, the regulation would impose unnecessary additional costs by not including other compliance methods.

*Response.* The EPA is adding a definition of bag leak detection system in the final rule. This definition was inadvertently left out of the proposal. Based on the definition, a "bag leak detection system means a system that is capable of monitoring particulate matter (dust) loadings in the exhaust of a baghouse in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, transmittance or other effect to monitor relative particulate matter loadings." This is the same definition that appears in the final rule for secondary lead smelters (40 CFR part 63, subpart X) and several other currently proposed rules which include bag leak detection requirements.

Based on the definition and the requirements of § 63.1547(e)(1), an opacity monitor can be used as a bag leak detection system if the manufacturer of the opacity monitor certifies that it is capable of detecting particulate matter emissions at concentrations of 10 milligram per actual cubic meter or less. However, due to the poor correlation between opacity and particulate matter at low grain loadings, it is doubtful that any conventional opacity monitors have the sensitivity necessary to meet this requirement. Bag leak detection systems based on triboelectric or light scattering effects are capable of detecting particulate matter emissions well below the level of visible emissions, and are believed to be more reliable, accurate, and cost effective than opacity monitors for detecting broken bags in baghouses.

*Comment.* One commenter stated that the condition of the fan has little, if any, direct effect on baghouse performance. They suggested that this requirement be on an annual basis rather than a quarterly basis.

*Response.* The EPA concurs that fan condition may have little effect on

baghouse performance. However, fan condition can greatly affect hood capture efficiency and consequently fugitive emissions. The rule allows for the use of vibration detectors to conduct the inspection, which does not require the operator to shutdown the fan or remove it from service. As such, the EPA believes that requiring quarterly inspection of fan condition does not place an undue burden on the industry. No change to the final rule is being made to address this comment.

*Comment.* One commenter stated that the benefits associated with the suite of monitoring requirements are unclear and at best very low. They suggest that the proposed bag leak detection system requirements alone should be adequate to ensure proper baghouse functioning.

*Response.* The EPA's proposed operating procedures requirements for baghouses represent a two-pronged approach to baghouse operation—preventative maintenance and baghouse failure monitoring, coupled with timely corrective action. The inspection and maintenance requirements in the proposed rule are intended to ensure the proper operation of the baghouse and to reduce the number of baghouse upsets through prevention. The bag leak detection requirements are intended to assist in early detection of baghouse failures allowing for timely corrective action.

The proposed inspection and maintenance requirements represent a minimal, yet practical, strategy for ensuring proper baghouse operation. The EPA believes that good inspection and maintenance practices are critical to achieving and maintaining the high level of control that baghouses are capable of. Furthermore, these requirements do not result in significant costs or burden.

*Comment.* One commenter stated that the time limits for initiating corrective action may be impossible to fulfill. With regard to the bag leak detection alarm, the preamble to the proposed rule states, "An alarm by itself does not indicate noncompliance with the lead limit, but would indicate an increase in emissions and trigger an inspection of the baghouse to determine the cause of the alarm." The preamble goes on to state, "The owner or operator would be considered out of compliance upon failure to initiate corrective actions within 1 hour of the alarm." They also point out that the rule states in section 63.1547(f)(1) that "the procedures used to determine the cause of the alarm must be initiated within 30 minutes of the alarm." They comment that reading these provisions together suggests that facilities must always initiate

procedures to determine the cause of the alarm within 30 minutes, and to identify the needed repair or response and begin corrective action within 1 hour.

*Response.* The 30-minute reference in the preamble to the proposed rule is an error. Both the preamble and the rule were intended to refer to the same time period, i.e., the period of time allowed between the time an alarm occurs and the time when procedures to determine the cause of the alarm are initiated. The rule requires facilities to initiate the procedures outlined in their corrective action plan within 1 hour of the alarm and correct the problem as soon as practicable.

*Comment.* One commenter stated that compliance testing should be required on a less than annual basis. Proposed section 63.1543(d) requires facilities to conduct compliance tests for lead compounds on an annual basis. The commenter suggests that the EPA should permit a reduction in the frequency of testing on a site-by-site basis, based upon the results of annual testing. For example, if 3 years of testing shows the standard is consistently being met, they suggest that a facility be able to reduce the frequency of its testing.

*Response.* The EPA agrees that less frequent testing should be allowed when facilities are able to demonstrate compliance consistently. As such, the final rule allows operators up to 24 months between compliance tests if the results of the three most recent compliance tests demonstrate compliance.

*Comment.* One commenter stated that the recordkeeping requirements for the bag leak detection system are inconsistent with recordkeeping requirements for fugitive dust and baghouse inspection and maintenance. Proposed section 63.1549(b)(3) and (4), which refers to control of fugitive dust emissions and baghouse inspection and maintenance procedures, requires recordkeeping if it is part of the practices described in the respective SOP manual. The commenter also stated that the recordkeeping requirements proposed in section 63.1549(b)(2) for the bag leak detection system are not contingent on such requirements being part of the SOP manual, and are thus inconsistent with section 63.1549(b)(3) and (4).

*Response.* The rule requires facilities to develop site specific SOP manuals for baghouse inspection and maintenance procedures. Since these SOP manuals are site-specific, the EPA has left it up to the operator to work with the Administrator or delegated authority to develop appropriate site specific recordkeeping and reporting

requirements. However, the EPA has specified recordkeeping and reporting requirements for bag leak detector system alarms since these records are necessary to demonstrate compliance with the operating standards for bag leak detection (section 63.1543(f) and (g)). No change is being made to the rule to address this comment.

*Comment.* One commenter stated that a minimum differential pressure should be specified and continuously monitored to ensure the baghouse or equivalent control device is maintained at a pressure that is lower than ambient pressure.

*Response.* The rule requires daily monitoring of the pressure drop across each baghouse cell. The EPA agrees that a minimum pressure drop should be identified and monitored against. However, several factors affect the pressure drop across a baghouse cell including filter material, cell geometry, cleaning cycles, and air-to-cloth ratio. As such, the minimum pressure drop across the cell is baghouse specific, if not cell specific. Furthermore, there is little or no correlation between baghouse pressure drop and emissions. Therefore, it would be inappropriate for the rule to identify a minimum pressure drop. However, the EPA has amended the rule to require operators to monitor the pressure drop across each cell to ensure that it is within the normal operating range for that cell. Operators will be required to identify the normal operating range for each baghouse cell in the baghouse operation and maintenance SOP.

*Comment.* One commenter stated that the lead production rate should be calculated on data from the previous 12 months of operation. The commenter adds that the requirement does not consider plant shutdown, when lead production is zero; hence, artificially low emissions could result from the recommended calculation.

*Response.* Based on the proposed rule, lead production is calculated based on production data for the 12 months prior to conducting the test, including periods when the facility is shut down. The EPA believes that this is in agreement with this statement.

As noted, plant shutdowns would result in lower lead production. However, the result of lower lead production would be to increase the calculated, production-based, lead compound emission rate, not reduce it as suggested by the commenter. In fact, if a facility were to experience a prolonged shutdown, it may be impossible to meet the emission limit based on the proposed calculation.

Upon further review, the EPA has decided to amend the procedure for calculation of the production-based, lead compound emission rate to account for periods when the facility is shut down. As amended, the production-based, lead compound emission rate will be calculated by multiplying the sum of lead emission rates (determined through stack testing, in units of grams per hour) from the nine listed sources by the plant operating hours (in units of hours/year) and dividing by the lead production rate (in units of megagrams per year). Plant operating hours are defined as the period of time in hours that either a sinter machine or blast furnace is in operation.

*Comment.* One commenter suggested that the bag leak detection system alarms should be set at 75 percent or 80 percent of the previous 12-month average. Alternatively the commenter suggests that the system be equipped with two alarms: a high level set at 75 percent to 80 percent of scale, and a high-high alarm that sounds when the maximum value is reached. The commenter also commented that a requirement for time averaging of the emissions should be added. The commenter suggested the use of 1-minute time averages for monitoring the particulate emissions.

*Response.* The EPA has developed guidance on the use of bag leak detectors based on information provided by bag leak detection system vendors, industry representatives with bag leak detection experience, and an EPA-sponsored field study. The EPA believes that this guidance provides the most appropriate methods for selecting, installing, initializing, and operating bag leak detection systems. No changes to the rule are being made to address this comment.

*Comment.* One commenter stated that the differential pressure across baghouses equipped with high efficiency particulate arrestor (HEPA) filters should be monitored once per operating shift and at least 8 hours apart or every 24 hours  $\pm$  4 hours. The commenter states that monitoring once a day allows operators to take readings at 0100 hours one day, and at 2300 hours the next day, allowing up to 46 hours to pass between readings.

*Response.* An exemption to the bag leak detection system requirements is provided in the rule if a baghouse is equipped with a secondary HEPA filter. The exemption is not given if the HEPA filter is the only filter in the system.

Under this configuration, the primary filter collects the bulk of the particulates, while the secondary HEPA filter acts as a finishing filter. Based on

discussions with personnel at a secondary lead smelter using secondary HEPA filters, HEPA filters last several months when used as a secondary filter. As such, the EPA believes that daily checks of the differential pressure across the HEPA filter is adequate. No changes to the rule are being made to address this comment.

*Comment.* One commenter stated that the rule should specify the building ventilation requirements in a definitive way, e.g., by requiring an exhaust system capable of a given number of air changes per hour.

*Response.* While air changes per hour may be an important consideration in addressing indoor air quality and worker exposure, it has little meaning when assessing the capture effectiveness of a building. The EPA believes that the requirement that the sinter machine building be ventilated at a rate that ensures in-draft through all open doors provides the best assurance that emissions escaping the building are minimized. No changes to the rule are being made to address this comment.

*Comment.* One commenter stated that for total enclosures there should be a monitoring device on the exhaust fan (e.g., motor current) to verify continuously that the ventilation system is in operation, and added that failure of the ventilation system should be recorded and included in the reporting requirements.

*Response.* As discussed above, the EPA has amended the rule to require that operators either (1) install, calibrate, and operate a flow monitor to continuously measure and record total exhaust rate out of the enclosure; or (2) perform daily checks for in-draft, with a vane anemometer or equivalent device, at each doorway normally open. Failure of the ventilation system

would be considered a malfunction of the air pollution control equipment. The rule requires that operators develop a start-up, shut-down, and malfunction plan for all air pollution control equipment. In addition, the rule requires operators to record the occurrence and duration of each malfunction of the source or air pollution control equipment. No additional changes are being made to address this comment.

*Comment.* One commenter stated that there should be some specified limits on the number of allowable violations (alarms) during a given time period.

*Response.* On February 12, 1999 (64 FR 7149), the EPA proposed an operating limit that would require operators of primary lead smelters to operate and maintain their baghouses such that the bag leak detection system

did not alarm more than five percent of the time over a 6-month period. The EPA also added the requirement that operators continuously record the output of the bag leak detection system. The EPA added these requirements to help ensure that baghouses are properly operated and maintained, and that enforcement officials will have adequate data to assess compliance with the bag leak detection system requirements.

#### *B. Comments on February 1999 Supplemental Proposal*

*Comment.* One commenter stated that the term "initiate corrective actions" as used in section 63.1547(e)(9) was somewhat ambiguous, and requested that the EPA clarify what constitutes the initiation of corrective action. Furthermore, they noted that, as required in section 63.1547(f), the first steps in the corrective action process is to acknowledge the alarm and determine its cause. It was suggested that the term "initiate corrective action" be changed to "initiate procedures to acknowledge the alarm and determine its cause, as specified in the corrective actions plan."

*Response.* The EPA is concerned that the term "initiate corrective action" could be misinterpreted to mean the beginning of a physical repair. As pointed out by the commenter, the first step in the corrective action process is to acknowledge (or record) the alarm and to begin procedures for determining the cause of the alarm. As such, the EPA is changing the proposed rule language to capture more accurately what is intended. The new language requires facilities to "record the date and time of the alarm and initiate procedures to determine the cause of a bag leak detection system alarm" within 1 hour.

*Comment.* The commenters stated that they believe the addition of section 63.1547(e)(9) makes the provision in section 63.1547(f)(1) redundant. They suggest that section 63.1547(f)(1) be removed.

*Response.* The EPA does not believe that the requirements of section 63.1547(e)(9) and section 63.1547(f)(1) are redundant. The purpose of the operating limit in section 63.1547(e)(9) is to require operators to operate and maintain an affected baghouse such that upset events are limited to a level that the EPA considers acceptable both in terms of number of occurrences and duration. The intent of the requirement that operators record and initiate procedures to determine the cause of the alarm within 1 hour (section 63.1547(f)(1)) is to ensure that operators acknowledge and respond to each alarm in a timely manner.

Please note that the requirements contained in section 63.1547(e)(9) of the supplemental proposal have been revised in the final rule. The requirement to maintain and operate each baghouse such that the alarm on a bag leak detection system does not sound for more than five percent of the total operating time in a 6-month reporting period has been moved to section 63.1543(f) in the final rule. The methodology to be used in calculating the percent of the total operating time that the alarm sounds has been clarified and moved to section 63.1547(g) in the final rule. In addition, the requirements contained in section 63.1547(f)(1) of the original proposal have been moved to section 63.1543(g) in the final rule.

*Comment.* One commenter stated that it appears that the EPA is proposing to penalize operators for a rapid response to initiate corrective actions by setting 1 hour as a minimum time counted for each alarm while using the actual time for periods which exceed 1 hour. The commenter proposes that the EPA simplify the requirement such that the alarm time should be counted as the actual amount of time taken by the owner or operator to initiate corrective actions for all cases.

*Response.* As discussed above, the intent of the operating limit on bag leak detection system alarm time is to limit not only the duration, but also the number of alarm-causing events. By rounding the amount of alarm time counted up to 1 hour for any alarm where the operator responds within 1 hour, the total number of potential alarm-causing events is limited to roughly 220 alarms in a 6-month reporting period. Counting fractions of an hour per event could allow for an unlimited number of events. For example, at 10 minutes per event, the total number of alarm-causing events could be as high as 1,300 in a 6-month reporting period.

*Comment.* One commenter suggested that the operating limit on bag leak detection system alarm time be reviewed and considered for application to other MACT standards using common add-on emissions control technologies (i.e., baghouses).

*Response.* The EPA intends to incorporate the operating limit on bag leak detection system alarm time in the rules that EPA is currently developing and any future rules where baghouses are used to control HAP emissions. In addition, the EPA is considering amending existing NESHAP where baghouses are used to control HAP emissions to include the operating limit on bag leak detection system alarm time.

*Comment.* One commenter stated that by limiting the cumulative time that a source may operate before initiating corrective action, rather than before completing corrective action, the proposed changes would provide an incentive for the operator to indefinitely delay completion of corrective action.

*Response.* The commenter is mistaken. Section 63.6(e)(1)(ii) of the General Provisions requires that malfunctions be corrected as soon as practicable after their occurrence. As such, an operator cannot delay completion of corrective action without being in violation of the General Provisions. However, the EPA has changed section 63.1543(g) of the final rule to require that "The cause of the alarm shall be corrected as soon as practicable." No other changes are being made to the rule to address this comment.

*Comment.* One commenter stated that the MACT technology should be reanalyzed to account for the particulate HAP control which is achievable during a one-time performance test conducted on a newly constructed or reconstructed baghouse. The commenter continues to state that while some operators might choose to maintain and promptly repair their air pollution control devices, the rules could not be enforced to require this level of control.

*Response.* The EPA believes that the commenter has misinterpreted the rule. The commenter infers that the lead emission limits should be based on the level of control that a brand new baghouse can achieve since only a one-time test is required. However, the rule requires annual compliance testing, not a one-time compliance test. Furthermore, the rule contains federally enforceable requirements for the operation and maintenance of each affected baghouse. No change is being made to the rule to address this comment.

## V. Administrative Requirements

### A. Docket

The docket is an organized and complete file of all the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket will serve as the

record in the case of judicial review. (See section 307(d)(7)(A) of the Act.)

### B. Executive Order 12866

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

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

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

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

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

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the listed criteria apply to this action. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

### C. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of

regulatory proposals containing significant unfunded mandates.” Today’s rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. None of these entities own or operate an affected source. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

#### D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA’s prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments “to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.” Today’s rule does not significantly or uniquely affect the communities of Indian tribal governments. No tribal governments own or operate an affected source. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

#### E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a

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

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The maximum total annual cost of this rule for any year has been estimated to be less than \$250,000. Thus, today’s rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, today’s rule is not subject to the requirements of section 203 of the UMRA.

#### F. Regulatory Flexibility Act

As amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, as well as take other actions intended to minimize the rule’s potential impact on small entities, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Small entities include small businesses, small not-for-profit enterprises, and small government jurisdictions.

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

#### G. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1856.02) and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW, Washington, DC 20460, by email at farmer.sandy@epamail.epa.gov, or by calling (202) 260-2740. A copy may also be downloaded off the internet at <http://www.epa.gov/icr>. The information requirements are not effective until OMB approves them.

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

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

The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the rule) is estimated to be 2,002 labor hours per year at a total annual cost of \$114,900. This estimate includes a one-time performance test and report (with repeat tests where needed); one-time purchase and

installation of bag leak detection systems; one-time submission of a startup, shutdown, and malfunction plan with semiannual reports for any event when the procedures in the plan were not followed; semiannual excess emission reports; maintenance inspections; notifications; and recordkeeping. Total capital/startup costs associated with the monitoring requirements over the 3-year period of the ICR are estimated at \$107,500, with operation and maintenance costs of \$5,500/yr.

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

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

#### H. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. § 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. § 804(2).

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

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104-113, section 12(d) (15 U.S.C. 272 note), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test method, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

During this rulemaking the Agency searched for voluntary consensus standards that might be applicable. The search has identified no applicable voluntary standards. Accordingly, the NTTAA requirement to use applicable voluntary consensus standards does not apply to this rule.

As part of a larger effort, the EPA is undertaking a project to cross-reference existing voluntary consensus standards on testing, sampling, and analysis, with current and future EPA test methods. When completed, this project will assist the EPA in identifying potentially-applicable voluntary consensus standards which can then be evaluated for equivalency and applicability in determining compliance with future regulations.

#### J. Pollution Prevention Considerations

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

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

#### K. Protection of Children From Environmental Health Risks and Safety Risk Under Executive Order 13045

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

The EPA interprets Executive Order (E.O.) 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the E.O. has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. Furthermore, this rule has been determined not to be "economically significant" as defined under E.O. 12866.

#### L. Judicial Review

Under section 307(b)(1) of the Act, judicial review of a NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of today's action may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

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

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

Dated: May 13, 1999.

**Carol M. Browner,**  
Administrator.

BILLING CODE 6560-50-P

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

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

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

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

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

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

Sec.

- 63.1541 Applicability.
- 63.1542 Definitions.
- 63.1543 Standards for process and process fugitive sources.
- 63.1544 Standards for fugitive dust sources.
- 63.1545 Compliance dates.
- 63.1546 Test methods.
- 63.1547 Monitoring requirements.
- 63.1548 Notification requirements.
- 63.1549 Recordkeeping and reporting requirements.
- 63.1550 Delegation of authority.

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

**§ 63.1541 Applicability.**

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

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

in this subpart and Table 1: § 63.6 (Compliance with standards and maintenance requirements), § 63.9 (Notification requirements), and § 63.10 (Recordkeeping and reporting requirements). Section § 63.11 (Control device requirements) does not apply to this subpart.

**§ 63.1542 Definitions.**

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

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

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

**Building** means a roofed and walled structure with limited openings to allow access and egress for people and vehicles.

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

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

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

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

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

**Malfunction** means any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused

in part by poor maintenance or careless operation are not malfunctions.

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

**Operating time** means the period of time in hours that an affected source is in operation beginning at a startup and ending at the next shutdown.

**Plant operating time** means the period of time in hours that either a sinter machine or blast furnace is in operation.

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

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

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

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

**Shutdown** means the cessation of operation of an affected source for any purpose.

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

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

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

*Startup* means the setting in operation of an affected source for any purpose.

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

**§ 63.1543 Standards for process and process fugitive sources.**

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

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

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

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

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

(e) If the three most recent compliance tests demonstrate compliance with the emission limit specified in paragraph (a) of this section, the owner or operator of a primary lead smelter shall be allowed up to 24 calendar months from the last compliance test to conduct the next compliance test for lead compounds.

(f) The owner or operator of a primary lead smelter shall maintain and operate each baghouse used to control emissions from the sources listed in paragraphs (a)(1) through (a)(9) of this section such that the alarm on a bag leak detection

system required under § 63.1547(c)(9) does not sound for more than five percent of the total operating time in a 6-month reporting period.

(g) The owner or operator of a primary lead smelter shall record the date and time of a bag leak detection system alarm and initiate procedures to determine the cause of the alarm according to the corrective action plan required under § 63.1547(c)(9) within 1 hour of the alarm. The cause of the alarm shall be corrected as soon as practicable.

**§ 63.1544 Standards for fugitive dust sources.**

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

- (1) Plant roadways;
- (2) Material storage and handling area(s);
- (3) Sinter machine area(s);
- (4) Furnace area(s); and
- (5) Refining and casting area(s).

(b) Notwithstanding paragraph (c) of this section, the standard operating procedures manual shall be submitted to the Administrator or delegated authority for review and approval.

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

**§ 63.1545 Compliance dates.**

(a) Each owner or operator of an existing primary lead smelter shall achieve compliance with the requirements of this subpart no later than May 4, 2001.

(b) Each owner or operator of a primary lead smelter that commences construction or reconstruction after April 17, 1998, shall achieve compliance with the requirements of this subpart by June 4, 1999 or upon startup of operations, whichever is later.

**§ 63.1546 Test methods.**

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

(1) The lead compound emission rate, in units of grams of lead per hour, for each source listed in § 63.1543(a)(1) through § 63.1543(a)(9) shall be

determined according to the following test methods in appendix A of part 60 of this chapter:

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

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

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

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

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

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

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

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

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

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

(v) The lead production rate, in units of megagrams per hours, shall be calculated based on the total lead production, as determined in accordance with paragraph (a)(2)(iv) of this section, divided by the total plant operating time, in hours, for the previous 12 months.

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

emissions standard for lead compounds under § 63.1543(a).

(b) Owner and operators shall perform an initial compliance test to demonstrate compliance with the sinter building in-draft requirements of § 63.1543(c) at each doorway opening in accordance with paragraphs (b)(1) through (b)(4) of this section.

(1) Use a propeller anemometer or equivalent device.

(2) Determine doorway in-draft by placing the anemometer in the plane of the doorway opening near its center.

(3) Determine doorway in-draft for each doorway that is open during normal operation with all remaining doorways in their customary position during normal operation.

(4) Do not determine doorway in-draft when ambient wind speed exceeds 2 meters per second.

#### § 63.1547 Monitoring requirements.

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

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

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

(1) Daily monitoring of pressure drop across each baghouse cell to ensure pressure drop is within the normal operating range identified in the standard operating procedures manual.

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

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

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

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

(6) Quarterly visual check of bag tension on reverse air and shaker-type baghouses to ensure that bags are not kinked (knead or bent) or laying on their sides. Such checks are not required for shaker-type baghouses using self-tensioning (spring loaded) devices.

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

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

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

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

(e) The bag leak detection system required by paragraph (c)(9) of this section shall meet the specifications and requirements of (e)(1) through (e)(8) of this section.

(1) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligram per actual cubic meter (0.0044 grains per actual cubic foot) or less.

(2) The bag leak detection system sensor must provide output of relative particulate matter loadings, and the owner or operator shall continuously record the output from the bag leak detection system.

(3) The bag leak detection system must be equipped with an alarm system that will sound when an increase in relative particulate loading is detected over a preset level, and the alarm must be located such that it can be heard by the appropriate plant personnel.

(4) Each bag leak detection system that works based on the triboelectric effect shall be installed, calibrated, and maintained in a manner consistent with guidance provided in the U.S. Environmental Protection Agency guidance document "Fabric Filter Bag Leak Detection Guidance" (EPA-454/R-98-015). Other bag leak detection systems shall be installed, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations.

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

(6) Following initial adjustment, the owner or operator shall not adjust the sensitivity or range, averaging period, alarm set points, or alarm delay time, except as detailed in the approved SOP required under paragraph (a) of this section. In no event shall the sensitivity be increased by more than 100 percent or decreased more than 50 percent over a 365-day period unless a responsible official certifies that the baghouse has been inspected and found to be in good operating condition.

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

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

(f) The standard operating procedures manual required by paragraph (a) of this section shall include a corrective action plan that specifies the procedures to be followed in the event of a bag leak detection system alarm. The corrective action plan shall include, at a minimum, procedures to be used to determine the cause of an alarm, as well as actions to be taken to minimize emissions, which may include, but are not limited to, the following.

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

(2) Sealing off defective bags or filter media.

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

(4) Sealing off a defective baghouse compartment.

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

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

(g) The percentage of total operating time the alarm on the bag leak detection system sounds in a 6-month reporting period shall be calculated in order to determine compliance with the five percent operating limit in § 63.1543(f). The percentage of time the alarm on the bag leak detection system sounds shall be determined according to paragraphs (g)(1) through (g)(5) of this section.

(1) Alarms that occur due solely to a malfunction of the bag leak detection system shall not be included in the calculation.

(2) Alarms that occur during startup, shutdown, or malfunction shall not be included in the calculation if the

condition is described in the startup, shutdown, and malfunction plan and the owner or operator follows all the procedures in the plan defined for this condition.

(3) For each alarm where the owner or operator initiates procedures to determine the cause of an alarm within 1 hour of the alarm, 1 hour of alarm time shall be counted.

(4) For each alarm where the owner or operator does not initiate procedures to determine the cause of the alarm within 1 hour of the alarm, alarm time will be counted as the actual amount of time taken by the owner or operator to initiate procedures to determine the cause of the alarm.

(5) The percentage of time the alarm on the bag leak detection system sounds shall be calculated as the ratio of the sum of alarm times to the total operating time multiplied by 100.

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

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

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

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

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

(i) Owners and operators shall monitor sinter machine building in-draft to demonstrate continued compliance with the operating standard specified in § 63.1543(c) in accordance with either paragraph (i)(1), (i)(2), or (i)(3) of this section.

(1) Owners and operators shall check and record on a daily basis doorway in-draft at each doorway in accordance with the methodology specified in § 63.1546(b).

(2) Owners and operators shall establish and maintain baseline ventilation parameters which result in a positive in-draft according to paragraphs (i)(2)(i) through (i)(2)(iv) of this section.

(i) Owners and operators shall install, calibrate, maintain, and operate a

monitoring device that continuously records the actual volumetric flow rate through each separately ducted hood; or install, calibrate, maintain, and operate a monitoring device that continuously records the volumetric flow rate at the control device inlet of each exhaust system ventilating the building. The flow rate monitoring device(s) can be installed in any location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring device(s) shall have an accuracy of plus or minus 10 percent over its normal operating range and shall be calibrated according to manufacturer's instructions.

(ii) During the initial demonstration of sinter building in-draft, and at any time the owner or operator wishes to re-establish the baseline ventilation parameters, the owner or operator shall continuously record the volumetric flow rate through each separately ducted hood, or continuously record the volumetric flow rate at the control device inlet of each exhaust system ventilating the building and record exhaust system damper positions. The owner or operator shall determine the average volumetric flow rate(s) corresponding to the period of time the in-draft compliance determinations are being conducted.

(iii) The owner or operator shall maintain the volumetric flow rate(s) at or above the value(s) established during the most recent in-draft determination at all times the sinter machine is in operation. Volumetric flow rate(s) shall be calculated as a 15-minute average.

(iv) If the volumetric flow rate is monitored at the control device inlet, the owner or operator shall check and record damper positions daily to ensure they are in the positions they were in during the most recent in-draft determination.

(3) An owner or operator may request an alternative monitoring method by following the procedures and requirements in § 63.8(f) of the General Provisions.

#### § 63.1548 Notification requirements.

(a) The owner or operator of a primary lead smelter shall comply with all of the notification requirements of § 63.9 of subpart A, General Provisions.

(b) The owner or operator of a primary lead smelter shall submit the fugitive dust control standard operating procedures manual required under § 63.1544(a) and the standard operating procedures manual for baghouses required under § 63.1547(a) to the Administrator or delegated authority along with a notification that the smelter is seeking review and approval

of these plans and procedures. Owners or operators of existing primary lead smelters shall submit this notification no later than November 6, 2000. The owner or operator of a primary lead smelter that commences construction or reconstruction after April 17, 1998, shall submit this notification no later than 180 days before startup of the constructed or reconstructed primary lead smelter, but no sooner than September 2, 1999.

#### § 63.1549 Recordkeeping and reporting requirements.

(a) The owner or operator of a primary lead smelter shall comply with all of the recordkeeping requirements of § 63.10 of subpart A, General Provisions.

(b) In addition to the general records required by paragraph (a) of this section, each owner or operator of a primary lead smelter shall maintain for a period of 5 years, records of the information listed in paragraphs (b)(1) through (b)(8) of this section.

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

(2) Records of the bag leak detection system output.

(3) An identification of the date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the actions taken, and the date and time the cause of the alarm was corrected.

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

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

(6) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(1), the records of the daily doorway in-draft checks, an identification of the periods when there was not a positive in-draft, and an explanation of the corrective actions taken.

(7) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(2), the records of the output from the continuous volumetric flow monitor(s), an identification of the periods when the 15-minute volumetric

flow rate dropped below the minimum established during the most recent in-draft determination, and an explanation of the corrective actions taken.

(8) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(2), and volumetric flow rate is monitored at the baghouse inlet, records of the daily checks of damper positions, an identification of the days that the damper positions were not in the positions established during the most recent in-draft determination, and an explanation of the corrective actions taken.

(c) Records for the most recent 2 years of operation must be maintained on site. Records for the previous 3 years may be maintained off site.

(d) The owner or operator of a primary lead smelter shall comply with all of the reporting requirements of § 63.10 of subpart A, General Provisions.

(e) In addition to the information required under § 63.10 of the General Provisions, the owner or operator shall provide semi-annual reports containing the information specified in paragraphs (e)(1) through (e)(7) of this section to the Administrator or designated authority.

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

(2) The reports shall include a description of the actions taken

following each bag leak detection system alarm pursuant to § 63.1547(f).

(3) The reports shall include a calculation of the percentage of time the alarm on the bag leak detection system sounded during the reporting period pursuant to § 63.1547(g).

(4) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(1), the reports shall contain an identification of the periods when there was not a positive in-draft, and an explanation of the corrective actions taken.

(5) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(2), the reports shall contain an identification of the periods when the 15-minute volumetric flow rate(s) dropped below the minimum established during the most recent in-draft determination, and an explanation of the corrective actions taken.

(6) If an owner or operator chooses to demonstrate continuous compliance with the sinter building in-draft requirement under § 63.1543(c) by employing the method allowed in § 63.1546(i)(2), and volumetric flow rate is monitored at the baghouse inlet, the reports shall contain an identification of the days that the damper positions were not in the positions established during

the most recent in-draft determination, and an explanation of the corrective actions taken.

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

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

**§ 63.1550 Delegation of authority**

(a) In delegating implementation and enforcement authority to a State under section 112(1) of the act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

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

TABLE 1 OF SUBPART TTT—GENERAL PROVISIONS APPLICABILITY TO SUBPART TTT

Reference	Applies to subpart TTT	Comment
§ 63.1 .....	Yes	
§ 63.2 .....	Yes	
§ 63.3 .....	Yes	
§ 63.4 .....	Yes	
§ 63.5 .....	Yes	
§ 63.6(a), (b), (c), (e), (f), (g), (i) and (j) .....	Yes	
§ 63.6(d) and (h) .....	No	No opacity limits in rule.
§ 63.7 .....	Yes	
§ 63.8 .....	Yes	
§ 63.9 (a), (b), (c), (d), (e), (g), (h)(1) through (3), (h)(5) and (6), (i) and (j) .....	Yes	
§ 63.9(f) and (h)(4) .....	No	No opacity or visible emission limits in rule.
§ 63.10 .....	Yes	
§ 63.11 .....	No	Flares will not be used to comply with the emission limits.
§ 63.12 through 63.15 .....	Yes	