

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2004-0083; FRL-8747-2]

RIN 2060-AM71

**Amendments to National Emission Standards for Hazardous Air
Pollutants for Area Sources: Electric Arc Furnace Steelmaking
Facilities**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the national emission standards for electric arc furnace (EAF) steelmaking facilities that are area sources of hazardous air pollutants published on December 28, 2007. The amendments to the area source standards for EAF steelmaking facilities would clarify applicability of the opacity limit, make the performance test requirements for particulate matter consistent with requirements in the new source performance standards for EAF steelmaking facilities, allow title V test data to be used to demonstrate compliance, and revise the definition of "scrap provider" to include electric arc furnace steelmaking facilities that own and operate a scrap shredder. In the "Rules and Regulations" section of this Federal Register, we are amending the area source standards for EAF steelmaking facilities as a direct final rule without a

prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2004-0083, by mail to National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW, Washington, DC 20460. Please include a total of two copies. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this Federal Register.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mulrine, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-5289; fax number: (919) 541-3207; e-mail address: mulrine.phil@epa.gov.

SUPPLEMENTARY INFORMATION:

The information presented in this document is organized as follows:

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 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
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 - I. National Technology Transfer Advancement Act
 - J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

I. Why is EPA issuing this proposed rule?

This document proposes to take action on amendments to the national emission standards for EAF steelmaking area sources (40 CFR part 63, subpart YYYYY). We have published a direct final rule amending the area source standards for EAF steelmaking facilities in the "Rules and Regulations" section of this Federal Register because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the amendments in the direct final rule or certain amendments in the direct final rule and those amendments will

not take effect. We would address all public comments in any subsequent final rule based on this proposed rule.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does this action apply to me?

Categories and entities potentially regulated by the proposed rule include:

Category	NAICS code ¹	Examples of regulated entities
Industry.	331111	Steel mills with electric arc furnace steelmaking facilities that are area sources.

¹ North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this proposed action. To determine whether your facility would be regulated by this proposed action, you should examine the applicability criteria in 40 CFR 63.10680 of subpart YYYYY (National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

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

In addition to being available in the docket, an electronic copy of this proposed action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this proposed action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address:

<http://www.epa.gov/ttn/oarpg/>. The TTN provides information and technology exchange in various areas of air pollution control.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

B. Paperwork Reduction Act

This action does not impose any new information collection burden. These final amendments clarify applicability of the opacity limit, make the performance test requirements for particulate matter consistent with requirements in the new source performance standards for electric arc furnace steelmaking facilities, allow title V test data to be used to demonstrate compliance, and revise the definition of "scrap provider" to include electric arc furnace steelmaking facilities

that own and operate a scrap shredder. No new burden is associated with these requirements because the burden was included in the approved information request (ICR) for the existing rule. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations (40 CFR part 63 subpart YYYYY) under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060-0608. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

For the purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) a small business that meets the Small Business Administration size standards for small businesses at 13 CFR 121.201 (whose parent company has fewer than 1,000 employees for NAICS code 331111);

(2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this proposed action will not have a significant economic impact on a substantial number of small entities. We have determined that the nine small entities in this area source category will not incur any adverse impacts because this proposed action makes only technical corrections and clarifications that do not create any new requirements or burdens. No costs are associated with these proposed amendments to the NESHAP.

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

D. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531-1538 for State, local, or tribal governments or the private sector. The action imposes no enforceable duty on any State, local or tribal governments or the private sector. The

term "enforceable duty" does not include duties and conditions in voluntary Federal contracts for goods and services.

Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA.

This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. The technical corrections and clarifications made through this action contain no requirements that apply to such governments, impose no obligations upon them, and will not result in any expenditures by them or any disproportionate impacts on them.

E. Executive Order 13132: Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on

the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This proposed rule makes certain technical corrections and clarifications to the NESHAP for EAF steelmaking area sources. These proposed corrections and clarifications do not impose requirements on State or local governments. Thus, Executive Order 13132 does not apply to this proposed rule.

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

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

This proposed action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000). This proposed rule makes certain technical corrections and clarifications to the NESHAP for EAF steelmaking area sources. These proposed corrections and clarifications do not impose requirements on tribal governments. They also have no direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does

not apply to this proposed action. EPA specifically solicits additional comment on this proposed action from tribal officials

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

EPA interprets Executive Order 13045 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 Order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it makes technical corrections and clarifications to the area source NESHAP for EAF steelmaking facilities which is based solely on technology performance.

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

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

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104-113, §12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. VCS are technical standards (e.g., materials

specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through the Office of Management and Budget, explanations when EPA decides not to use available and applicable voluntary consensus standards.

This proposed rule does not involve technical standards. Therefore, EPA is not considering the use of any VCS.

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

Executive Order 12848 (58 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations

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because it does not affect the level of protection provided to human health or the environment. The technical corrections and clarifications in this proposed rule do not change the level of control required by the NESHAP.

List of Subjects in 40 CFR Part 63

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

Dated: November 24, 2008.

Stephen L. Johnson,
Administrator.