

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this final rule will have a significant economic impact on a substantial number of small entities. "Small entities" include (1) small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and (2) governmental jurisdictions with populations of less than 50,000.

Since the old State Route 292 bascule bridge across Bayou Chico, mile 0.3, at Pensacola, Florida, has been removed from service and is presently being dismantled, the rule governing the bridge is no longer needed. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This final rule does not provide for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this final rule under the principals and criteria contained in Executive Order 12612 and has determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that under Figure 2-1, CE # 32(e) of the NEPA Implementing Procedures, COMDINST M16475.IC, this final rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard is amending part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L. 102-587, 105 Stat. 5039.

§ 117.265 [Removed]

2. Section 117.265 is removed.

Dated: February 12, 1999.

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 99-5108 Filed 3-1-99; 8:45 am]

BILLING CODE 4910-15-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-6234-8]

RIN 2060-AH95

Amendment to National Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983, and Electric Arc Furnaces Constructed After August 17, 1983

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments to rule.

SUMMARY: This action amends the national standards of performance for new stationary sources (NSPS) for electric arc furnaces (EAF) constructed after October 21, 1974, and on or before August 17, 1983 (40 CFR part 60, subpart AA), and the NSPS for EAF constructed after August 17, 1983 (40 CFR part 60, subpart AAa). Changes to both rules are being made to add alternative requirements for the monitoring of EAF capture systems in response to recommendations made by the Common Sense Initiative (CSI) subcommittee on iron and steel. The CSI was established by the Administrator to bring together affected stakeholders to find cleaner, cheaper, and smarter environmental management solutions.

In addition, the EPA is revising two definitions for consistency and making a number of editorial changes. The EPA does not believe that these editorial changes will affect the applicability or requirements of the rule.

DATES: This rule will be effective without further notice on May 3, 1999 unless the Agency receives adverse comments by April 1, 1999. Should the Agency receive such comments, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. If a public hearing is requested, the comment period will end 30 days after the date of the public hearing, in which case EPA will publish a document in

the **Federal Register** announcing the hearing information and the extended comment period.

Public Hearing. Anyone requesting a public hearing must contact the person listed below under **FOR FURTHER INFORMATION CONTACT** no later than March 12, 1999. If a hearing is held, it will take place on March 17, 1999, beginning at 10:00 a.m.

ADDRESSES: *Docket.* Docket No. A-79-33, containing information considered by the EPA in development of this action, is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday except for Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC-6102), 401 M Street, S.W., Washington, D.C. 20460; telephone (202) 260-7548. The docket is located at the above address in Room M-1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

Comments. Written comments should be submitted to: Docket A-79-33, U.S. EPA, Air & Radiation Docket & Information Center, 401 M Street, S.W., Room 1500, Washington, D.C. 20460.

Hearing. Inquiries regarding a public hearing should be directed to the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavender, Metals Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541-2364.

SUPPLEMENTARY INFORMATION:

The EPA is publishing this rule without prior proposal because the Agency views these amendments as noncontroversial and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to amend 40 CFR part 60, subpart AA and 40 CFR subpart AAa should adverse comments be filed. This rule will be effective May 3, 1999 without further notice unless the Agency receives adverse comments by April 1, 1999.

If EPA receives such comments, the Agency will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Parties interested in commenting on this rule should do so

at this time. If no such comments are received, the public is advised that this rule will be effective on May 3, 1999 and no further action will be taken on the proposed rule.

The remainder of this preamble is organized as follows:

- I. Background
 - A. Process Description
 - B. Current NSPS Shop Opacity Requirements
 - C. CSI Iron and Steel Subcommittee Recommendation
- II. Summary of Amendments
 - A. Daily Visible Emissions Observations
 - B. Location of Static Pressure Monitor
 - C. Volumetric Flow Rate Monitoring
 - D. Corrections to Definitions and Editorial Changes
- III. Administrative Requirements
 - A. Docket
 - B. Executive Order 12866
 - C. Unfunded Mandates Reform Act
 - D. Executive Order 12875
 - E. Executive Order 13084
 - F. Paperwork Reduction Act
 - G. Regulatory Flexibility
 - H. Submission to Congress and the General Accounting Office
 - I. National Technology Transfer and Advancement Act
 - J. Protection of Children from Environmental Health Risks and Safety Risk Under Executive Order 13045
 - K. Judicial Review

I. Background

A. Process Description

An EAF is used to produce carbon and alloy steels (two digit SIC Code 33—Primary Metal Industries). The input material to an EAF is typically 100 percent scrap steel. Cylindrical, refractory lined EAF are equipped with carbon electrodes to be raised or lowered through the furnace roof. With electrodes retracted the furnace roof can be rotated aside to permit the charge of scrap steel by overhead crane. Alloying agents and fluxing materials usually are added through the doors on the side of the furnace. Electric current of the opposite polarity is passed between the electrodes and through the scrap, generating heat. After melting and refining periods, the slag and steel are poured from the furnace.

The production of steel in an EAF is a batch process. Cycles, or "heats", range from about 1½ to 5 hours to produce carbon steel and from 5 to 10 hours to produce alloy steel. Scrap steel is charged to begin a cycle, and alloying agents and slag materials are added for refining. Stages of each cycle normally are charging, melting, refining (which usually includes oxygen blowing), and tapping.

All of these operations generate particulate emissions. Emission control techniques involve an emission capture

system and a gas cleaning system. Five emission capture systems used in the industry are direct shell (fourth hole) evacuation, side draft hood, combination hood, canopy hood, and furnace enclosures. Direct shell evacuation (DEC) consists of ductwork attached to a separate, or fourth hole, in the furnace roof which draws emissions to a gas cleaner. The direct shell evacuation system works only when the furnace is up-right and the roof is in place. The side draft hoods collect furnace off gases from around the electrode holes and the work doors after the gases leave the furnace. The combination hood incorporates elements from the side draft and direct shell evacuation systems.

B. Current NSPS Shop Opacity Requirements

The NSPS for EAF constructed after October 21, 1974, and on or before August 17, 1983 (40 CFR part 60, subpart AA) was first promulgated in the **Federal Register** on September 23, 1975 (40 FR 43850). Subpart AA establishes a shop opacity limit of less than 6 percent during melting and refining, less than 20 percent during charging, and less than 40 percent during tapping. Shop opacity is defined in the rule as the arithmetic average of 24 or more opacity observations of emissions from the shop taken in accordance with EPA Reference Method 9. However, the shop opacity emission limits are only applicable during periods when control system parameters are being established. The rule relies on control system monitoring to ensure adequate capture of emissions from the EAF.

The NSPS for EAF constructed after August 17, 1983 (40 CFR part 60, subpart AAa) was first promulgated in the **Federal Register** on October 31, 1984 (49 FR 43845). Subpart AAa establishes a shop opacity limit of less than 6 percent which is applicable at all times. Also, shop opacity is defined as the arithmetic average of 24 opacity observations of emissions from the shop taken in accordance with EPA Reference Method 9.

In both subparts, when an owner or operator is required to demonstrate compliance with the shop opacity limits, they are also required to establish the furnace pressures (if a direct shell evacuation capture system is used), and either the capture system fan motor amperes and damper positions or the capture system flow rates in each separately ducted hood. Once established, the owner or operator is required to maintain these parameters (within certain tolerances) at the levels

established during the shop opacity compliance demonstration. Monitoring of these parameters provides indirect evidence of continued capture effectiveness.

C. CSI Iron and Steel Subcommittee Recommendation

The CSI Council is established under a charter approved pursuant to the Federal Advisory Committee Act (FACA). The purpose of the CSI is to advise, consult with, and make recommendations to the Administrator with respect to matters pertaining to improvements in the nation's pollution control and prevention programs. The CSI brings affected stakeholders together to find cleaner, cheaper, and smarter environmental management solutions. The CSI members consist of independent experts selected from among the national and local environmental interest groups, industry, State and local governments, and other stakeholders such as labor organizations, environmental justice organizations, and the Federal government. Six subcommittees were created including the iron and steel subcommittee.

Today's action implements recommendations received from the CSI Iron and Steel Subcommittee (Docket ID No. IV-B-4). Concerns were raised to the CSI regarding the use of a pressure monitoring system in the free space above an EAF when it is equipped with a direct shell evacuation system. The free space above an EAF is subject to severe conditions of high temperature and dust. Several owners and operators have had problems with frequent plugging of the pressure monitoring sensor. Due to the location of the sensor, maintenance and repair can be both difficult and dangerous. Industry representatives sought a more practical means of monitoring.

Following discussions and negotiations between the various subcommittee members, the subcommittee recommended daily visible emissions observations as an alternative to pressure monitoring. As discussed above, pressure monitoring provides an indirect indication of continued capture effectiveness. Daily visible emissions observations will provide direct evidence of continued capture effectiveness.

The second concern regards the monitoring of fan amperage. Both subparts give the owners and operators the option of either monitoring flow rates in each separately ducted hood, or monitoring fan amperage in conjunction with damper positions. Fan amperage is used as an indicator of total flow rate.

A concern was raised that fan amperage was not necessarily directly correlated to exhaust flow rates, and could be affected by other factors such as ambient temperature. Therefore, it was recommended that owners and operators be given the option to monitor total flow rate directly, rather than using fan amperage as an indicator.

The CSI subcommittee also requested that the EPA clarify the conditions under which alternative monitoring requirements can be approved under 40 CFR 60.13(i). Section 60.13(i) states, "After receipt and consideration of written application, the Administrator may approve alternatives to any monitoring procedures or requirements of this part including, but not limited to the following: . . ." A list of conditions under which alternative monitoring requirements can be approved is also provided. The EPA wishes to clarify that the list of conditions given is not all inclusive. The Administrator may approve alternatives due to other conditions based on his or her judgement that an alternative monitoring procedure is warranted.

II. Summary of Amendments

The EPA is amending the two EAF rules to implement the CSI recommendations. The changes will not remove any of the rules' requirements, but will add alternative monitoring options that will provide owners and operators more flexibility in complying with the rules while not reducing environmental benefit. The EPA is also taking this opportunity to make several minor editorial corrections to the rules and to clarify two definitions. These amendments will (1) add daily shop opacity observations as an alternative to monitoring furnace static pressure for furnaces with DEC systems, (2) allow facilities to locate the furnace static pressure monitor in the EAF or DEC duct prior to the introduction of ambient air, (3) add control system volumetric flow rate monitoring as an alternative to monitoring control system fan amperage, and (4) make editorial changes and clarify definitions.

A. Daily Visible Emissions Observations

The EPA is amending both subpart AA and subpart AAa to allow daily visual emissions observations as an alternative to furnace static pressure monitoring. Under this alternative, an owner or operator will be required to perform shop opacity observations once per day during a meltdown and refining period. Records shall be maintained of all observations, and observations of shop opacity at or above six percent during a meltdown and refining period

shall be reported to the Administrator semi-annually as an excess emission.

B. Location of Static Pressure Monitor

The EPA is amending subpart AA to allow owners or operators to locate the furnace static pressure monitor in the DEC duct prior to the introduction of ambient air. This change is consistent with the requirements in subpart AAa, and will provide greater flexibility in locating the pressure sensors where plugging may not be as serious of a problem.

C. Volumetric Flow Rate Monitoring

The EPA is amending both subpart AA and subpart AAa to allow monitoring of exhaust flow rate at the inlet of the air pollution control device as an alternative to monitoring fan amperage. Under this alternative, the owner or operator is required to install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate at the air pollution control device inlet. A shop opacity compliance demonstration will be performed to establish volumetric flow rate and damper positions. Operations at volumetric flow rates below the value established during the compliance demonstration shall be reported to the Administrator semi-annually.

D. Corrections to Definitions and Editorial Changes

The EPA is making the following corrections and editorial changes that were identified during the development of this amendment:

(1) The date in the title to subpart AAa is being corrected to August 17, 1983. This change will not affect the applicability determinations for any facilities since the date was correctly identified in the applicability section, § 60.270a.

(2) The definition of tapping period is being revised in subpart AA and added to subpart AAa to account for bottom tapping furnaces, which do not tilt.

(3) The definition of meltdown and refining period in subpart AA is being revised to exclude periods where power to the EAF is off. This change is being made to ensure that power to the EAF is on during shop opacity observations. This definition is also being added to subpart AAa for the purpose of consistency between the two rules.

(4) The reference to a 15-minute integrated average for the furnace static pressure is being removed from subpart AAa, § 60.274a(g). Unlike subpart AA, subpart AAa does not require continuous recording of pressure, and does not contain any requirements for

establishing a 15-minute integrated average.

III. 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, since material is added throughout the rulemaking development. The docket system is intended to allow members of the public and affected industries to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the background information documents (BIDs) and preambles to the proposed and promulgated standards, the contents of the docket, excluding interagency review materials, will serve as the official record in case of judicial review (section 307(d)(7)(A) of the Act).

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review 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 a 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 obligations of recipients thereof; or

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

It has been determined that these amendments to the final EAF rules are not a "significant regulatory action" under the terms of the Executive Order and are therefore not subject to OMB review.

C. Unfunded Mandates Reform Act

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

sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to 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 EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

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 to the private sector in any one year. This action only provides affected EAF owners and operators with alternative monitoring options. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

D. 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 amendments do not create a mandate on State, local or tribal governments. The amendments do not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to these amendments.

E. 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 amendments do not significantly or uniquely affect the communities of Indian tribal governments. This action only provides affected EAF owners and operators with alternative monitoring options. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

F. Paperwork Reduction Act

The Office of Management and Budget (OMB) approved the information collection requirements contained in the two final EAF rules under the provisions of the Paperwork Reduction

Act, 44 U.S.C. 3501 et seq. and assigned the OMB control number 2060-0038.

The information collection requirements in these amendments will be submitted for approval to the Office of Management and Budget (OMB) 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. 1060.09) and copies may be obtained from Sandy Farmer by mail at OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460, by email at farmer.sandy@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 in these amendments are not effective until OMB approves them.

The new information requirements are based on recordkeeping, and reporting requirements in the NSPS general provisions (40 CFR part 60, subpart A), which are mandatory for all owners or operators of sources subject to new source performance 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 procedures set forth in 40 CFR part 2, subpart B.

The annual increase to monitoring, recordkeeping, and reporting burden for this amendment is estimated at 11,375 labor hours at a total cost of \$398,238.75 nationwide, and the annual average increase in burden is 175 labor hours and \$6,126.75 per source. This estimate includes daily shop opacity observations and associated semi-annual excess emissions reports and recordkeeping. There will be no increase in annualized capital/startup costs as a result of the new alternative monitoring requirements.

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.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Comments are requested within April 1, 1999. Include the ICR number in any correspondence.

G. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. This rule only provides alternative compliance options designed to provide facilities with increased flexibility. As such, the EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

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). This action will be effective May 3, 1999 unless the Agency receives adverse comments by April 1, 1999.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its 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 methods, sampling and analytical procedures, business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards other than those already specified in the original EAF rules.

J. 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.

EPA interprets 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 Order has the potential to influence the regulation. This action is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

K. Judicial Review

Under section 307(b)(1) of the Act, judicial review of a NSPS 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 60

Environmental protection, Air pollution control, Electric arc furnace, Monitoring requirements, Reporting and recordkeeping requirements.

Dated: February 17, 1999.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 60—[AMENDED]

1. The authority for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7413, 7414, 7416, 7429, 7601 and 7602.

2. Section 60.271 is amended by revising paragraphs (h) and (j) to read as follows:

§ 60.271 Definitions.

* * * * *

(h) *Tapping period* means the time period commencing at the moment an EAF begins to pour molten steel and ending either three minutes after steel ceases to flow from an EAF, or six minutes after steel begins to flow, whichever is longer.

* * * * *

(j) *Meltdown and refining period* means the time period commencing at the termination of the initial charging period and ending at the initiation of the tapping period, excluding any intermediate charging periods and times when power to the EAF is off.

* * * * *

3. Section 60.272 is amended by revising paragraph (a)(3)(iii) to read as follows:

§ 60.272 Standard for particulate matter.

* * * * *

(a) * * *

(3) * * *

(iii) The shop opacity standards under paragraph (a)(3) of this section shall apply only during periods when the monitoring parameter limits specified in § 60.274(b) are being established according to § 60.274(c) and (g), unless the owner or operator elects to perform daily shop opacity observations in lieu of furnace static pressure monitoring as provided for under § 60.273(d).

* * * * *

4. Section 60.273 is amended by revising paragraph (b) and adding paragraph (d) to read as follows:

§ 60.273 Emission monitoring.

* * * * *

(b) For the purpose of reports under § 60.7(c), all six-minute periods during which the average opacity is three percent or greater shall indicate a period of excess emission, and shall be reported to the Administrator semi-annually.

* * * * *

(d) A furnace static pressure monitoring device is not required on any EAF equipped with a DEC system if observations of shop opacity are performed by a certified visible emission observer as follows: Shop opacity observations shall be conducted at least once per day when the furnace is operating in the meltdown and refining period. Shop opacity shall be determined as the arithmetic average of 24 or more consecutive 15-second opacity observations of emissions from the shop taken in accordance with Method 9. Shop opacity shall be recorded for any point(s) where visible emissions are observed in proximity to an affected EAF. Where it is possible to determine that a number of visible emission sites relate to only one incident of visible emissions, only one observation of shop opacity will be required. In this case, the shop opacity observations must be made for the site of highest opacity that directly relates to the cause (or location) of visible emissions observed during a single incident.

5. Section 60.274 is amended by revising paragraphs (b), (c), (f) and (g) to read as follows:

§ 60.274 Monitoring of operations.

* * * * *

(b) Except as provided under paragraph (d) of this section, the owner or operator subject to the provisions of this subpart shall check and record on a once-per-shift basis furnace static pressure (if a DEC system is in use, and a furnace static pressure gauge is installed according to paragraph (f) of this section) and either: check and record the control system fan motor amperes and damper positions on a once-per-shift basis; install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate through each separately ducted hood; or install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate at the control device inlet and check and record damper positions on a once-per-shift basis. The monitoring device(s) may be installed in any appropriate location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring device(s) shall have an accuracy of ± 10 percent over its normal

operating range and shall be calibrated according to the manufacturer's instructions. The Administrator may require the owner or operator to demonstrate the accuracy of the monitoring device(s) relative to Methods 1 and 2 of appendix A of this part.

(c) When the owner or operator of an EAF is required to demonstrate compliance with the standards under § 60.272(a)(3) and at any other time the Administrator may require that (under section 114 of the Act, as amended) either: the control system fan motor amperes and all damper positions; the volumetric flow rate through each separately ducted hood; or the volumetric flow rate at the control device inlet and all damper positions shall be determined during all periods in which a hood is operated for the purpose of capturing emissions from the EAF subject to paragraph (b)(1) or (b)(2) of this section. The owner or operator may petition the Administrator for reestablishment of these parameters whenever the owner or operator can demonstrate to the Administrator's satisfaction that the EAF operating conditions upon which the parameters were previously established are no longer applicable. The values of these parameters as determined during the most recent demonstration of compliance shall be maintained at the appropriate level for each applicable period. Operation at other than baseline values may be subject to the requirements of § 60.276(a).

* * * * *

(f) Except as provided for under § 60.273(d), where emissions during any phase of the heat time are controlled by use of a direct shell evacuation system, the owner or operator shall install, calibrate, and maintain a monitoring device that continuously records the pressure in the free space inside the EAF. The pressure shall be recorded as 15-minute integrated averages. The monitoring device may be installed in any appropriate location in the EAF or DEC duct prior to the introduction of ambient air such that reproducible results will be obtained. The pressure monitoring device shall have an accuracy of ± 5 mm of water gauge over its normal operating range and shall be calibrated according to the manufacturer's instructions.

(g) Except as provided for under § 60.273(d), when the owner or operator of an EAF is required to demonstrate compliance with the standard under § 60.272(a)(3) and at any other time the Administrator may require (under section 114 of the Act, as amended), the pressure in the free space inside the

furnace shall be determined during the meltdown and refining period(s) using the monitoring device under paragraph (f) of this section. The owner or operator may petition the Administrator for reestablishment of the 15-minute integrated average pressure whenever the owner or operator can demonstrate to the Administrator's satisfaction that the EAF operating conditions upon which the pressures were previously established are no longer applicable. The pressure determined during the most recent demonstration of compliance shall be maintained at all times the EAF is operating in a meltdown and refining period. Operation at higher pressures may be considered by the Administrator to be unacceptable operation and maintenance of the affected facility.

* * * * *

6. Section 60.276(d) is added to read as follows:

§ 60.276 Recordkeeping and reporting requirements.

* * * * *

(d) The owner or operator shall maintain records of all shop opacity observations made in accordance with § 60.273(d). All shop opacity observations in excess of the emission limit specified in § 60.272(a)(3) of this subpart shall indicate a period of excess emission, and shall be reported to the Administrator semi-annually, according to § 60.7(c).

7. The Title to subpart AAa is revised to read as follows:

Subpart AAa—Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 17, 1983

8. Section 60.271a is amended by adding the following definition in alphabetical order:

§ 60.271a Definitions.

* * * * *

Meltdown and refining period means the time period commencing at the termination of the initial charging period and ending at the initiation of the tapping period, excluding any intermediate charging periods and times when power to the EAF is off.

* * * * *

Tapping period means the time period commencing at the moment an EAF begins to pour molten steel and ending either three minutes after steel ceases to flow from an EAF, or six minutes after steel begins to flow, whichever is longer.

* * * * *

9. Section 60.273a(d) is added to read as follows:

§ 60.273a Emission monitoring.

* * * * *

(d) A furnace static pressure monitoring device is not required on any EAF equipped with a DEC system if observations of shop opacity are performed by a certified visible emission observer as follows: Shop opacity observations shall be conducted at least once per day when the furnace is operating in the meltdown and refining period. Shop opacity shall be determined as the arithmetic average of 24 consecutive 15-second opacity observations of emissions from the shop taken in accordance with Method 9. Shop opacity shall be recorded for any point(s) where visible emissions are observed. Where it is possible to determine that a number of visible emission sites relate to only one incident of visible emissions, only one observation of shop opacity will be required. In this case, the shop opacity observations must be made for the site of highest opacity that directly relates to the cause (or location) of visible emissions observed during a single incident.

10. Section 60.274a is amended by revising paragraphs (b), (c), (f), and (g) to read as follows:

§ 60.274a Monitoring of operations.

* * * * *

(b) Except as provided under paragraph (d) of this section, the owner or operator subject to the provisions of this subpart shall check and record on a once-per-shift basis the furnace static pressure (if DEC system is in use, and a furnace static pressure gauge is installed according to paragraph (f) of this section) and either: check and record the control system fan motor amperes and damper position on a once-per-shift basis; install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate through each separately ducted hood; or install, calibrate, and maintain a monitoring device that continuously records the volumetric flow rate at the control device inlet and check and record damper positions on a once-per-shift basis. The monitoring device(s) may be installed in any appropriate location in the exhaust duct such that reproducible flow rate monitoring will result. The flow rate monitoring device(s) shall have an accuracy of ± 10 percent over its normal operating range and shall be calibrated according to the manufacturer's instructions. The Administrator may require the owner or operator to

demonstrate the accuracy of the monitoring device(s) relative to Methods 1 and 2 of appendix A of this part.

(c) When the owner or operator of an affected facility is required to demonstrate compliance with the standards under § 60.272a(a)(3) and at any other time the Administrator may require that (under section 114 of the Act, as amended) either: the control system fan motor amperes and all damper positions; the volumetric flow rate through each separately ducted hood; or the volumetric flow rate at the control device inlet and all damper positions shall be determined during all periods in which a hood is operated for the purpose of capturing emissions from the affected facility subject to paragraph (b)(1) or (b)(2) of this section. The owner or operator may petition the Administrator for reestablishment of these parameters whenever the owner or operator can demonstrate to the Administrator's satisfaction that the affected facility operating conditions upon which the parameters were previously established are no longer applicable. The values of these parameters as determined during the most recent demonstration of compliance shall be maintained at the appropriate level for each applicable period. Operation at other than baseline values may be subject to the requirements of § 60.276a(c).

(f) Except as provided for under § 60.273a(d), if emissions during any phase of the heat time are controlled by the use of a DEC system, the owner or operator shall install, calibrate, and maintain a monitoring device that allows the pressure in the free space inside the EAF to be monitored. The monitoring device may be installed in any appropriate location in the EAF or DEC duct prior to the introduction of ambient air such that reproducible results will be obtained. The pressure monitoring device shall have an accuracy of ± 5 mm of water gauge over its normal operating range and shall be calibrated according to the manufacturer's instructions.

(g) Except as provided for under § 60.273a(d), when the owner or operator of an EAF controlled by a DEC is required to demonstrate compliance with the standard under § 60.272a(a)(3), and at any other time the Administrator may require (under section 114 of the Clean Air Act, as amended), the pressure in the free space inside the furnace shall be determined during the meltdown and refining period(s) using the monitoring device required under paragraph (f) of this section. The owner

or operator may petition the Administrator for reestablishment of the pressure whenever the owner or operator can demonstrate to the Administrator's satisfaction that the EAF operating conditions upon which the pressures were previously established are no longer applicable. The pressure determined during the most recent demonstration of compliance shall be maintained at all times when the EAF is operating in a meltdown and refining period. Operation at higher pressures may be considered by the Administrator to be unacceptable operation and maintenance of the affected facility.

* * * * *

11. Section 60.276a(g) is added to read as follows:

§ 60.276a Recordkeeping and reporting requirements.

* * * * *

(g) The owner or operator shall maintain records of all shop opacity observations made in accordance with § 60.273a(d). All shop opacity observations in excess of the emission limit specified in § 60.272a(a)(3) of this subpart shall indicate a period of excess emission, and shall be reported to the administrator semi-annually, according to § 60.7(c).

[FR Doc. 99-4576 Filed 3-1-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6236-2]

Final Authorization of State Hazardous Waste Management Program Revision; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule; correction and stay of effective date.

SUMMARY: The EPA is announcing a stay of the immediate final rule published in the **Federal Register** of October 29, 1998 (63 FR 57912), authorizing revisions to Michigan's hazardous waste management program under the Resource Conservation and Recovery Act (RCRA) and the Hazardous and Solid Waste Amendments of 1984 (HSWA). The effect of the stay is to allow for an extended public comment period. In addition, EPA is making a minor correction to the immediate final rule. If EPA receives no adverse written comments, the corrected immediate final rule will take effect as provided