

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

Executive Order 13045, entitled "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 Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. These proposed amendments are not subject to Executive Order 13045 because they are based on technology performance and not on health or safety risks.

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

These proposed amendments are not subject to Executive Order 13211, "Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because they are not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104-113; 15 U.S.C 272 note), directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impracticable. Voluntary consensus standards are technical standards (such as material specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use

available and applicable voluntary consensus standards.

The proposed amendments do not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Primary aluminum reduction plants, Reporting and recordkeeping requirements.

Dated: March 6, 2003.

Christine Todd Whitman,
Administrator.

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

PART 63—[AMENDED]

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

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

Subpart LL—[AMENDED]

2. Section 63.843 is amended by revising paragraph (a)(2)(iii) to read as follows:

§ 63.843 Emission limits for existing sources.

(a) * * *

(2) * * *

(iii) 2.85 kg/Mg (5.7 lb/ton) of aluminum produced for each VSS2 potline.

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3. Section 63.847 is amended by:

a. Revising the introductory text of paragraph (a); and

b. Revising paragraph (c).

The revisions read as follows:

§ 63.847 Compliance provisions.

(a) *Compliance dates.* The owner or operator of a primary aluminum plant must comply with the requirements of this subpart by:

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(c) *Performance test dates.* Following approval of the site-specific test plan, the owner or operator must conduct a performance test to demonstrate initial compliance according to the procedures in paragraph (d) of this section. If a performance test has been conducted on the primary control system for potlines or for the anode bake furnace within the 12 months prior to the compliance date, the results of that performance test may

be used to demonstrate initial compliance. The owner or operator must conduct the performance test:

(1) During the first month following the compliance date for an existing potline (or potroom group) or anode bake furnace;

(2) By the date determined according to the requirements in paragraph (c)(2)(i), (ii), or (iii) of this section for a new or reconstructed potline, anode bake furnace, or pitch storage tank (for which the owner or operator elects to conduct an initial performance test):

(i) By the 180th day following startup for a potline or potroom group. The 180-day period starts when the first pot in a potline or potroom group is energized.

(ii) By the 45th day following startup for an anode bake furnace. The 45-day period starts at the beginning of the first anode bake cycle.

(iii) By the 30th day following startup for a pitch storage tank. The 30-day period starts when the tank is first used to store pitch.

(3) By the date determined according to the requirements in paragraph (c)(3)(i) or (ii) of this section for an existing potline or anode bake furnace that was shut down at the time compliance would have otherwise been required and is subsequently restarted:

(i) By the 180th day following startup for a potline or potroom group. The 180-day period starts when the first pot in a potline or potroom group is energized.

(ii) By the 45th day following startup for an anode bake furnace. The 45-day period starts at the beginning of the first anode bake cycle.

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4. Section 63.850 is amended by removing the word "and" at the end of paragraph (a)(7) and removing the period at the end of paragraph (a)(8) and replacing it with "; and" and by adding new paragraph (a)(9) to read as follows:

§ 63.850 Notification, reporting, and recordkeeping requirements.

(a) * * *

(9) One-time notification of startup of an existing potline or potroom group, anode bake furnace, or paste production plant that was shut down for a long period and subsequently restarted. The owner or operator must provide written notice to the Administrator at least 30 days before the startup.

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5. Table 2 to subpart LL is amended by revising the entry for "VSS2 potlines" to read as follows: