

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 12, 2005.

Alan J. Steinberg,

Regional Administrator, Region 2.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart HH—New York

■ 2. Section 52.1670 is amended by adding new paragraph (c)(109) to read as follows:

§ 52.1670 Identification of plans.

* * * * *
(c) * * *
* * * * *

(109) Revisions to the State Implementation Plan submitted on June 16, 1996 and May 27, 2005, by the New York State Department of Environmental Conservation, which consist of administrative changes to Title 6 of the New York Code, Rules and

Regulations, Part 201, “Permits and Certificates.”

(i) Incorporation by reference:

(A) Regulations Subparts 201–7.1, “General” and 201–7.2, “Emission Capping Using Synthetic Minor Permits” of Part 201–7, “Federally Enforceable Emission Caps” of Title 6 of the New York Code of Rules and Regulations (NYCRR), filed on June 7, 1996, and effective on July 7, 1996.

■ 3. In 52.1679, the table is amended by revising the entry under Title 6 for Part 201 and adding new entries under Title 6 for Subparts 201–7.1 and 201–7.2, in numerical order to read as follows:

§ 52.1679 EPA—approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6:			
* * * * *	* * * * *	* * * * *	* * * * *
Part 201, “Permits and Certificates”	4/4/93	10/3/05 [Insert FR page citation]	This action removes subpart 201.5(e) from the State’s federally approved SIP.
Subpart 201–7.1, “General”	7/7/96	10/3/05 [Insert FR page citation]	
Subpart 201–7.2, “Emission Capping Using Synthetic Minor Permits”.	7/7/96	10/3/05 [Insert FR page citation]	
* * * * *	* * * * *	* * * * *	* * * * *

[FR Doc. 05–19712 Filed 9–30–05; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0084; FRL–7978–4]

RIN 2060–AN38

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: On March 23, 2000, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production under section 112 of the Clean Air Act (CAA), and on December 30, 2002, we published final amendments to the standards based on two separate settlement agreements. This amendment corrects a punctuation

error in the definition of “clean charge” previously promulgated in the December 30, 2002 amendments and a typographical error in the operating temperature of a scrap dryer/delacquering kiln/decoating kiln afterburner. We are making the amendment by direct final rule, without prior proposal, because we view the revision as noncontroversial and anticipate no adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to amend the national emission standards for secondary aluminum production, if adverse comments are filed.

If we receive any adverse comments on the direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that the amendments are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule. If we do not receive adverse comment on the direct final rule, it will become effective on the date set out below. We will not

institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

DATES: The direct final rule will be effective on December 2, 2005 without further notice, unless EPA receives adverse written comments by November 2, 2005 or by November 17, 2005 if a public hearing is requested. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** indicating that the rule is being withdrawn due to adverse comment.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR–2002–0084, by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA’s electronic public docket and comment system, is EPA’s preferred method for receiving comments. Follow the on-line instructions for submitting comments.

• E-mail: a-and-r-docket@epa.gov and colyer.rick@epa.gov.

- Fax: (202) 566-1741 and (919) 541-5600.

- Mail: U.S. Postal Service, EPA Docket Center, Environmental Protection Agency, Mailcode: 6102T, Attention Docket ID No. OAR-2002-0084, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a duplicate copy, if possible.

- Hand Delivery: In person or by courier, deliver comments to: EPA Docket Center (6102T), Attention Docket ID No. OAR-2002-0084, 1301 Constitution Avenue, NW., Room B-108, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies, if possible.

We request that a separate copy of each comment also be sent to the contact person listed below (see **FOR FURTHER INFORMATION CONTACT**).

Instructions: Direct your comments to Docket ID No. OAR-2002-0084. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET,

regulations.gov, or e-mail. Send or deliver information identified as CBI only to the following address: Mr. Roberto Morales, OAQPS Document Control Officer, EPA (C404-02), Attention Docket ID No. OAR-2002-0084, Research Triangle Park, NC 27711. Clearly mark the part or all of the information that you claim to be CBI. The EPA EDOCKET and the Federal regulations.gov websites are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the EPA Docket Center, Docket ID No. OAR-2002-0084, EPA West Building, Room B-102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the EPA Docket Center is (202) 566-1742. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Colyer, EPA Office of Air Quality Planning and Standards, Emission Standards Division, Minerals and Inorganic Chemicals Group (C504-05), Research Triangle Park, NC 27711; telephone number (919) 541-5262; fax number (919) 541-5600; e-mail address: colyer.rick@epa.gov.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Categories and entities potentially regulated by this action include:

TABLE 1.—REGULATED CATEGORIES AND ENTITIES

Category	NAICS ¹	Examples of regulated entities
Industry	331314	Secondary smelting and alloying of aluminum facilities.
	331312	Secondary aluminum production facility affected sources that are collocated at:
	331315	Primary aluminum production facilities.
	331316	Aluminum sheet, plate, and foil manufacturing facilities.
	331319	Aluminum extruded product manufacturing facilities.
	331521	Other aluminum rolling and drawing facilities.
	331524	Aluminum die casting facilities.
	331524	Aluminum foundry facilities.

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 regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 63.1500 of the secondary aluminum production NESHAP. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copies of today's action will be posted on the Technology Transfer Network's (TTN) policy and guidance information page <http://www.epa.gov/ttn/caaa>. The TTN provides information and technology exchange in various areas of air pollution control.

Judicial Review. Under section 307(b)(1) of the CAA, judicial review of the direct final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for

the District of Columbia Circuit by December 2, 2005. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule amendments that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the direct final rule amendments may not be challenged separately in any civil or criminal

proceeding brought by EPA to enforce these requirements.

Outline. The information presented in this preamble is organized as follows:

- I. Background and Technical Corrections
- II. Statutory and Executive Order Reviews
 - A. Executive Order 12866: Regulatory Planning and Review
 - B. Paperwork Reduction Act
 - C. Regulatory Flexibility Act
 - D. Unfunded Mandates Reform Act
 - E. Executive Order 13132: Federalism
 - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
 - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
 - H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
 - I. National Technology Transfer Advancement Act
 - J. Congressional Review Act

I. Background and Technical Corrections

On March 23, 2000 (63 FR 15690), we promulgated the NESHAP for secondary aluminum production (40 CFR part 63, subpart RRR). The standards were established under the authority of section 112(d) of the CAA to reduce emissions of hazardous air pollutants from major and area sources.

On December 30, 2002 (67 FR 79808), we promulgated amendments to the NESHAP in response to two petitions for judicial review. Among other things, the amendments revised the definition of "clean charge."

The final rule promulgated in 2000 defined "clean charge" as "* * * furnace charge materials including molten aluminum; T-bar; sow; ingot; billet; pig; alloying elements; uncoated/unpainted thermally dried aluminum chips; aluminum scrap dried at 343 °C (650 °F) or higher; aluminum scrap delacquered/decoated at 482 °C (900 °F) or higher; other oil- and lubricant-free unpainted/uncoated gates and risers; oil- and lubricant-free unpainted/uncoated aluminum scrap, shapes, or products (e.g., pistons) that have not undergone any process (e.g., machining, coating, painting, etc.) that would cause contamination of the aluminum (with oils, lubricants, coatings, or paints); and internal runaround."

The June 14, 2002 proposed amendments (67 FR 41132) revised the definition of "clean charge" to "* * * furnace charge materials including molten aluminum; T-bar; sow; ingot; billet; pig; alloying elements; aluminum scrap known by the owner or operator to be entirely free of paints, coatings, and lubricants; uncoated/unpainted aluminum chips that have been

thermally dried or treated by a centrifugal cleaner; aluminum scrap dried at 343 °C (650 °F) or higher; aluminum scrap delacquered/decoated at 482 °C (900 °F) or higher, and runaround scrap."

The December 30, 2002 final amendments (67 FR 79815) promulgated the June 14, 2002 proposed definition of "clean charge" as "* * * furnace charge materials including molten aluminum, T-bar, sow, ingot, billet, pig, alloying elements, aluminum scrap known by the owner or operator to be entirely free of paints, coatings, and lubricants; uncoated/unpainted aluminum chips that have been thermally dried or treated by a centrifugal cleaner; aluminum scrap dried at 343 °C (650 °F) or higher; aluminum scrap delacquered/decoated at 482 °C (900 °F) or higher, and runaround scrap."

While the basic substance of the definition of "clean charge" did not change between the 2002 proposal and promulgation, the punctuation did. The replacement of certain semicolons with commas had an inadvertent effect on the interpretation of parts of the definition. These typographical errors unintentionally applied the phrase "entirely free of paints, coatings, and lubricants" to molten aluminum, T-bar, sow, ingot, billet, pig, and alloying elements. The definition of "clean charge" in the June 14, 2002 proposed amendments separated the list of charge materials with semicolons indicating that the phrase "entirely free of paints, coatings, and lubricants" was intended to apply only to "aluminum scrap." This issue came to our attention when questions arose regarding paint and ink markings on aluminum ingots, T-bars, sows, etc. The die casting industry routinely marks aluminum ingots, sows, etc., with paint, ink, and grease pen marking to identify specific alloys and batch numbers. It is our intent that T-bar, sow, ingot, billet, pig, and alloying elements be considered "clean charge," notwithstanding ink, grease, or paint markings.

To clarify our intent and to correct this typographical error, we are revising the definition of "clean charge" to match that previously proposed on June 14, 2002 (67 FR 41132).

We are also correcting a typographical error in 40 CFR 63.1505(e). The operating temperature of the scrap dryer/delacquering kiln/decoating kiln afterburner should be 760 °C (1400 °F) instead of 750 °C (1400 °F).

II. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the EPA must determine whether this regulatory action is "significant," and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines a "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 entitlement, 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.

Pursuant to the terms of Executive Order 12866, it has been determined that the direct final amendments do not constitute a "significant regulatory action" because they do not meet any of the above criteria. Consequently, this action was not submitted to OMB for review under Executive Order 12866.

B. Paperwork Reduction Act

The information collection requirements in the final rule (65 FR 15690, March 23, 2000) were submitted to and approved by OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*, and assigned OMB control number 2060-0433. An Information Collection Request (ICR) document was prepared by EPA (ICR No. 1894.01) and a copy may be obtained from Susan Auby by mail at Office of Environmental Information Collection Strategies Division (MD-2822T), 1200 Pennsylvania Avenue, NW., Washington DC 20460, by e-mail at auby.susan@epa.gov, or by calling (202) 566-1672. A copy may also be downloaded from the internet at <http://www.epa.gov/icr>.

Today's action makes clarifying changes to the final rule and imposes no new information collection requirements on the industry. Because there is no additional burden on the industry as a result of the direct final

rule amendments, the ICR has not been revised.

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 purpose 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 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 in 40 CFR part 63 are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with today's action.

For purposes of assessing the impacts of today's direct final rule amendments on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administrations' regulations at 13 CFR 121.201; (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 today's direct final rule amendments on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. This action will not impose any requirements on small entities. Today's direct final would only correct definitional and typographical errors.

D. 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 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 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us 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 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 the direct final rule amendments do not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, or tribal governments, in the aggregate, or to the private sector in any 1 year. Thus, today's direct final rule amendments are not subject to sections 202 and 205 of the UMRA. The EPA has also determined that the direct final rule amendments contain no regulatory requirements that might significantly or uniquely affect small governments. Thus, today's direct final rule amendments are not subject to the requirements of section 203 of the UMRA.

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."

The direct final rule amendments do not have federalism implications and 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. None of the affected facilities are owned or operated by State governments. Thus, Executive Order 13132 does not apply to the direct final rule amendments.

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

Executive Order 13175 (65 FR 67249, November 9, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The direct final rule amendments do not have tribal implications, as specified in Executive Order 13175. They will not have substantial 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 the direct final rule amendments.

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

Executive Order 13045 (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 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 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 Executive Order has the potential to influence the regulation. The direct final rule amendments are not subject to Executive Order 13045 because they are not "economically significant" and 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

The direct final rule 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, Public Law 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. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable VCS.

The direct final rule amendments do not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Congressional Review Act

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 the direct final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the direct final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. The direct final rule amendments are not a "major rule" as defined by 5 U.S.C. 804(2). The direct final rule

amendments are effective on December 2, 2005.

List of Subjects in 40 CFR Part 63

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

Dated: September 27, 2005.

Stephen L. Johnson,
Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is 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 RRR—[Amended]

■ 2. Section 63.1503 is amended by revising the definition of "Clean charge" to read as follows:

§ 63.1503 Definitions.

* * * * *

Clean charge means furnace charge materials, including molten aluminum; T-bar; sow; ingot; billet; pig; alloying elements; aluminum scrap known by the owner or operator to be entirely free of paints, coatings, and lubricants; uncoated/unpainted aluminum chips that have been thermally dried or treated by a centrifugal cleaner; aluminum scrap dried at 343 °C (650 °F) or higher; aluminum scrap delacquered/decoated at 482 °C (900 °F) or higher, and runaround scrap.

* * * * *

■ 3. Section 63.1505 is being amended by revising the first sentence of paragraph (e) introductory text to read as follows:

§ 63.1505 Emission standards for affected sources and emission units.

* * * * *

(e) *Scrap dryer/delacquering kiln/decoating kiln: alternative limits.* The owner or operator of a scrap dryer/delacquering kiln/decoating kiln may choose to comply with the emission limits in this paragraph (e) as an alternative to the limits in paragraph (d) of this section if the scrap dryer/delacquering kiln/decoating kiln is equipped with an afterburner having a design residence time of at least 1 second and the afterburner is operated at a temperature of at least 760 °C (1400 °F) at all times. * * *

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[FR Doc. 05-19713 Filed 9-30-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 050613158-5237-02; I.D. 090105A]

RIN 0648-AT48

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Extension of Emergency Fishery Closure Due to the Presence of the Toxin That Causes Paralytic Shellfish Poisoning

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; emergency action; extension of effective period.

SUMMARY: The regulations contained in the temporary rule, emergency action, published on September 9, 2005, at the request of the U.S. Food and Drug Administration (FDA), continue through December 31, 2005. In that action NMFS reopened a portion of Federal waters of the Gulf of Maine, Georges Bank, and southern New England that it had previously closed from June 14, 2005, through September 30, 2005, to the harvest for human consumption of certain bivalve molluscan shellfish due to the presence in those waters of the toxin that causes Paralytic Shellfish Poisoning (PSP). The FDA has determined that there is insufficient analytical data to support the scheduled reopening of the entire area to all bivalve molluscan shellfish fishing on October 1, 2005.

DATES: The temporary emergency action published September 9, 2005 (70 FR 53580), is effective from September 9, 2005, through December 31, 2005.

ADDRESSES: Copies of the small entity compliance guide prepared for the September 9, 2005, emergency action are available from Patricia A. Kurkul, Regional Administrator, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930. The small entity compliance guide/permit holder letter is also accessible via the Internet at <http://www.nero.noaa.gov>. Copies of the September 9, 2005, emergency action are available from Patricia A. Kurkul, at the mailing address specified above.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, (978) 281-9272.

SUPPLEMENTARY INFORMATION: