

entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

EPA has determined that this final action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This action will require the state of Missouri to revise laws and regulations to meet the NAAQS for lead. This requirement would not result in aggregate costs over \$100 million to either the state or local districts. It is unclear whether a requirement to submit a SIP revision would constitute a Federal mandate. The obligation for a state to revise its SIP that arises out of sections 110(a) and 110(k)(5) of the CAA is not legally enforceable by a court of law, and at most is a condition for continued receipt of highway funds. Therefore, it is possible to view an action requiring such a submittal as not creating any enforceable duty within the meaning of section 421(5)(9a)(I) of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 658(a)(I)). Even if it did, the duty could be viewed as falling within the exception for a condition of Federal assistance under section 421(5)(a)(i)(I) of UMRA (2 U.S.C. 658(5)(a)(i)(I)).

This final action also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999), because it is in keeping with the relationship and the distribution of power and responsibilities between EPA and the states as established by the CAA. This SIP call is required by the CAA because the current SIP is inadequate to attain the lead NAAQS. Missouri's direct compliance costs will not be substantial because the SIP call requires Missouri to submit only those revisions necessary to address the SIP deficiency and applicable CAA requirements.

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 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. 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 rule is not subject to Executive Order 13045 because it requires attainment of a previously promulgated health-based Federal standard. In addition, it is not economically significant.

Section 12 of the National Technology Transfer and Advancement Act of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with the National Technology Transfer and Advancement Act, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. In making a finding of a SIP deficiency, EPA's role is to review existing information against previously established standards (in this case, what constitutes a violation of the lead standard). In this context, there is no opportunity to use VCS. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

This final action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 7, 2006.

**James B. Gulliford,**

*Regional Administrator, Region 7.*

[FR Doc. 06-3592 Filed 4-13-06; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-HQ-OAR-2002-0088; FRL-8158-5]

RIN 2060-AM90

### National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Because EPA received adverse comment, we are withdrawing the direct final rule amendments to the national emission standards for hazardous air pollutants (NESHAP) for Refractory Products Manufacturing, published in the **Federal Register** on February 13, 2006. We stated in the direct final rule amendments that if we received adverse comment by March 15, 2006, we would publish a timely notice of withdrawal in the **Federal Register**. We subsequently received adverse comment on the direct final rule amendments. We will address those comments in a subsequent final action based on the parallel proposal also published on February 13, 2006. As stated in the parallel proposal, we will not institute a second comment period on this action.

**DATES:** As of April 14, 2006, EPA withdraws the direct final rule amendments published on February 13, 2006 (71 FR 7415).

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2002-0088. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information 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 through <http://www.regulations.gov> or in hard copy at the NESHAP for Refractory Products Manufacturing Docket, EPA/DC, EPA West, Room B102, 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 Refractory Products

Manufacturing Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Susan Fairchild, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Metals and

Minerals Group (D-243-02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-5167; fax number: (919) 541-5600; e-mail address: *fairchild.susan@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

Categories and entities potentially affected by this action include those which manufacture refractory products. Regulated categories and entities include:

Category	NAICS code <sup>1</sup>	Examples of regulated entities
Industry .....	327124 .....	Clay refractory manufacturing plants and nonclay refractory manufacturing plants.
	327125 .....	
Federal government .....	.....	Not affected.
State/local/tribal government .....	.....	Not affected.

<sup>1</sup> 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 action. This table lists the types of entities that EPA is now aware could be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in 40 CFR 63.9782 of subpart SSSSS (NESHAP for Refractory Products Manufacturing). If you have 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).

**II. Background Information**

On February 13, 2006, we published a direct final rule (71 FR 7415) and parallel proposal (71 FR 7494) amending the NESHAP for Refractory Products Manufacturing. The amendments would have clarified the testing and monitoring requirements of the NESHAP, made the NESHAP consistent with recent changes to the General Provisions (40 CFR part 63, subpart A), and made certain technical corrections to the rule. The amendments would have clarified that sources complying with the total hydrocarbon (THC) percent reduction emission limit could choose to meet the alternative concentration emission limit if they turn back the control device after it is no longer needed (*i.e.*, after the concentration of THC in the exhaust gas is at or below the THC concentration emissions limit).

The preamble to the direct final rule amendments stated that if we received adverse comment by March 15, 2006, we would publish a timely notice of withdrawal in the **Federal Register**. EPA received adverse comment on the direct final rule amendments. Accordingly, we are withdrawing the direct final rule

amendments as of April 14, 2006. EPA will take final action on the parallel proposal after considering the comments received. As stated in the parallel proposal, EPA will not institute a second comment period on this action.

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

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

Dated: April 7, 2006.

**William L. Wehrum**,  
*Acting Assistant Administrator for Air and Radiation.*

**PART 63—[AMENDED]**

■ Accordingly, the amendments to the rule published in the **Federal Register** on February 13, 2006 (71 FR 7415) on pages 7415-7441 are withdrawn as of April 14, 2006.

[FR Doc. 06-3545 Filed 4-13-06; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

**[EPA-HQ-OPP-2002-0241; FRL-8063-5]**

**Sodium Metasilicate; Amendment to an Exemption From the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an amendment to an exemption from the requirement of a tolerance for residues of sodium metasilicate on all food commodities when applied/used as an insecticide or fungicide to control or suppress leafhoppers and powdery mildew in accordance with approved

label rates and good agricultural practice. A petition was submitted to EPA on behalf of Environmentally Safe Systems, Inc. under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of sodium metasilicate.

**DATES:** This regulation is effective April 14, 2006. Objections and requests for hearings must be received on or before June 13, 2006.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit IX. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under Docket identification (ID) number EPA-HQ-OPP-2002-0241. All documents are listed on the [www.regulations.gov](http://www.regulations.gov) web site. (EDOCKET, EPA's electronic public docket and comment system was replaced on November 25, 2005, by an enhanced federal-wide electronic docket management and comment system located at <http://www.regulations.gov/>. Follow the on-line instructions.) 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 Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.