

emissions on the order of a few hundred pounds per year.

In regard to the issuance of temporary standards, pending confirmation that HCl/Cl₂ emissions have been reduced, the EPA acknowledges that such an action would be prudent if the predicted decline in PVC was uncertain. However, the EPA is reasonably confident that the predicted decline in PVC separators in secondary lead smelter feedstock will continue and PVC will be present in only trace quantities by the 1997 effective date of this rule. Therefore, it is EPA's judgement that a temporary HCl/Cl₂ emission standard is unnecessary.

After considering all comments, the EPA believes the HCl/Cl₂ emission standards and associated monitoring requirements should be deleted from the rule.

C. Metal Hazardous Air Pollutant Monitoring Requirements

The proposed rule would have required each smelter to install and operate a COM and establish a site-specific opacity limit during the initial lead compound compliance test for process sources. Exceeding this opacity limit would have constituted a violation of the lead compound emission standard. For process fugitive and fugitive dust sources, the proposed rule required an annual lead test and a baghouse inspection and maintenance plan.

The EPA received many comments that presented technical arguments against the proposed metal HAP monitoring requirements. Several commenters argued that there is a poor correlation among lead, particulate matter, and opacity at low grain loadings. Therefore, the argument goes, opacity cannot be used as a reliable surrogate to indicate compliance with a numerical lead emission limit. Other commenters recommended that other technologies are more reliable, accurate, and cost effective than COM's for detecting broken bags in baghouses, particularly bag leak detection systems using triboelectric or light scattering effects.

Based on these comments and additional information collected from monitoring equipment vendors since proposal, the EPA has revised the metal HAP monitoring requirements. The final monitoring provisions require an SOP for baghouse inspection and maintenance that includes a bag leak detection system with an alarm and a corrective action plan for responding to alarms. The same monitoring requirements will apply to all metal HAP emission sources that are

controlled by baghouses (i.e., process, process fugitive, and fugitive dust sources).

The bag leak detection system must be fully operational prior to the initial lead compliance test. However, the detection system will not be used to monitor compliance with the numerical lead emission limit; it will be used to monitor baghouse performance and operating conditions to indicate baghouse failures.

The EPA agrees that COM's cannot be used to monitor compliance with a numerical lead compound emission limit applicable to secondary lead smelting. Instead, the EPA has determined that compliance can be demonstrated and ensured through well-specified operation and maintenance procedures as delineated in this final rule.

D. Exemption From Resource Conservation and Recovery Act Boiler and Industrial Furnace Emission Standards

The EPA proposed to continue the exemption (40 CFR 266.100(c)) for RCRA regulation of air emissions from secondary lead smelters burning hazardous wastes solely for metal recovery. All commenters agreed that this is an appropriate approach. As the EPA stated at proposal, this exemption is temporary and permanent resolution can be made at the time of the section 112(f) residual risk determination.

V. 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 BID's and preambles to the proposed and promulgated standards, the contents of the docket will serve as the official record in case of judicial review (section 307(d)(7)(A) of the Act).

B. Executive Order 12866

The Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the E.O. 12866, (58 FR 51735, October 4, 1993). The Executive Order defines "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 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.

The EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations have been documented in Docket A-92-43 (see the ADDRESSES section of this preamble).

C. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any 1 year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of significantly less than \$100 million in any 1 year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not