



National Tribal Air Association

Fact Sheet

The U.S. Environmental Protection Agency's *Supplemental Proposed National Emission Standards for Hazardous Air Pollutants: Primary Copper Smelters*.

Docket ID No. EPA-HQ-OAR-2020-0430

*The comment deadline is **August 23, 2023**. Your comment letter can be submitted electronically to the Federal Rulemaking Portal. <https://www.regulations.gov/> OR email to a-r-Docket@epa.gov.*

Background

On July 13, 2023, the U.S. Environmental Protection Agency (EPA) proposed to update and expand the 2022 proposal of the National Emission Standards for Hazardous Air Pollutants (NESHAP) Risk and Technology Review (RTR) for Primary Copper Smelting major sources (subpart QQQ). The Primary Copper Smelting source category includes two major sources: ASARCO in Hayden, Arizona and Freeport in Miami, Arizona. Facilities in this source category mainly emit lead, arsenic, other Hazardous Air Pollutant (HAP)) HAP metals and organic HAP. The EPA found that there is an unacceptable level of risk from these facilities based on modeled lead concentrations exceeding the lead National Ambient Air Quality Standards, along with elevated acute noncancer risks due to arsenic.

This rule is a supplemental proposal to the 2022 proposal which proposed particulate matter emission limitations, as a surrogate for metal HAPs, many of the emission sources from the facilities including: anode refining point sources; roofline vents of smelting furnaces, converters and anode refining operations; new converters; and mercury limits for any combination of vents from copper concentrate dryers, converting department, the anode refining department, and the smelting vessels.

Since the issuance of the 2022 proposal, the EPA has obtained additional information, particularly from the Freeport facility, that impacts its earlier decisions. Also, to be in compliance with court decisions, the EPA had to develop emission limits for additional unregulated HAP for the source category.

Based on the EPA's review of additional information, the EPA is now proposing amendments that would enhance the effectiveness of the major source standards by improving compliance and implementation. Specifically, the EPA is proposing to:



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- Revise the standards for particulate matter (PM) – as a surrogate for HAP metals – that would apply to anode refining furnace point source emissions and roofline emissions from anode furnaces, smelting furnaces, and converters by changing from individual roofline PM standards to a combined roofline PM standard.
 - Revise the standards that apply to the secondary converter emissions and anode baghouse emissions.
 - Recognized that PM is not an adequate surrogate for mercury and revised the mercury standards for a combination of point source emissions from the converters, smelting furnaces, and anode refining to account for new mercury test data. EPA did not propose additional beyond the floor controls for mercury, but the EPA is taking comment on if the beyond the floor controls for mercury are acceptable thus requiring the establishment of additional controls and mercury reductions.
 - Add HAP standards for the following pollutants: benzene, toluene, hydrogen chloride (HCl), chlorine, polycyclic aromatic hydrocarbons (PAH), naphthalene and dioxin/furans (D/F). EPA established Standards for these pollutants but none of which requires additional controls or reductions for these pollutants. EPA evaluated beyond the floor controls which they found to be not cost effective on a pollutant-by-pollutant basis.

The EPA will accept comments on the proposed amendments until **August 23, 2023**.

Importance to Tribes

This proposed supplemental rule for the National Emission Standard for Hazardous Air Pollutants (NESHAP) that was finalized in 2022 to reduce air toxics emissions from two primary copper smelters to reduce emissions and unacceptable risks for people living around these smelters.

Native Americans and Hispanics are disproportionately impacted by these sources. The rule applies only to facilities that are large enough to be classified as a “major source” of hazardous air pollutants, as a result this rule will not affect the Kennecott primary copper smelter in Utah but does affect the Freeport facility in Miami, Arizona and the Asarco facility in Hayden, Arizona. Tribes who maybe directly impacted include but are not limited to:

- Gila River Indian Community
- San Carlos Apache
- Tohono O’odham
- Tonto Apache
- White Mountain Apache

The principal pollutants of concern for this rule are lead, Arsenic and mercury. Because of the mercury emissions and the fact that mercury can be transported, Tribes with concerns about protecting hunting and fishing rights and other lifeways may also want to comment on this rule.



How to Comment on EPA's Proposed Rule

- Comments on the: Supplemental Proposal for National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Primary Copper Smelters. Due August 23, 2023.
- Comments should cite **Docket ID No. EPA-HQ-OAR-2020-0430** and be submitted via either :Federal eRulemaking Portal: <https://www.regulations.gov/> OR email to a-r-Docket@epa.gov.
- The NTAA has prepared a Policy Resource Kit for Tribes to use or for comment.