

Message

From: James Stewart
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Sent: 3/28/2025 10:37:06 PM
To: AirAction [AirAction@epa.gov];
Dunkins, Robin
[Dunkins.Robin@epa.gov]
CC: gtsiolis@nj.rr.com; Manuel Hallivis
Perez
[manuel.hallivis@americasmining.com]
Subject: ASARCO LLC's Response to March 24
Invitation to Request an Exemption
under CAA Section 112(i)(4)
Flag: Follow up

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Dear Ms. Dunkins,

I am sending this e-mail on behalf of ASARCO LLC (Asarco), in response to your March 24 invitation to the regulated community to submit requests for exemption from any of nine different NESHAPs pursuant to Clean Air Act § 112(i)(4).

As you may know, Asarco owns and operates one of the last three primary copper smelters in the United States. Asarco's smelter, in Hayden, Arizona, is presently inactive pending the completion of several federal regulatory proceedings that, depending on their outcomes, will determine whether it would be financially viable for Asarco to reactivate the smelter. In the ten years preceding the smelter's inactivation in 2019, the smelter produced 1.3 million metric tons of primary-refined copper, which was roughly 7% of the United States' domestic demand for refined copper during the same period.

Asarco's request for § 112(i)(4) exemption, further below, concerns four provisions of the new 40 C.F.R. Part 63, Subpart QQQ rules, which were finalized in the Federal Register on May 13, 2024, 89 Fed. Reg. 41648, and are hereinafter referred to as the Copper Rules.

Please note, the same four provisions of the Copper Rules are similarly addressed in a petition for administrative reconsideration of the rules that Asarco filed with EPA on July 12, 2024. Asarco's corresponding petition for judicial review of the Copper Rules, before the 9th Circuit Court of Appeals, is presently held in abeyance while EPA considers Asarco's petition for administrative reconsideration. Asarco believes it would be appropriate for the § 112(i)(4) exemption requested below to be granted during the pendency of EPA's final action on the petition for administrative reconsideration. Asarco also believes it would be appropriate for EPA's final action on the petition for administrative reconsideration ultimately to be consistent with the § 112(i)(4) exemption if the exemption is granted.

The four provisions of the Copper Rules that merit a § 112(i)(4) exemption are as follows:

1. The test methods specified at 40 C.F.R. § 63.1450(e) for determining compliance with the smelter roofline PM emissions-rate limit in 40 C.F.R. § 63.1444(h), on the grounds that: