Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

**FOR FURTHER INFORMATION CONTACT:** Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555, X4216. Reference file GA–30–3–9615.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: April 19, 1996.

A. Stanley Meiburg,

*Acting Regional Administrator.*

[FR Doc. 96–16342 Filed 6–26–96; 8:45 am]

**BILLING CODE 6560–50–P**

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## 40 CFR Part 60

**[AD–FRL–5525–5]**

**RIN 2060–AG33**

## Standards of Performance for New Stationary Sources for Nonmetallic Mineral Processing Plants; Amendments

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

**ACTION:** Proposed rule and notice of public hearing.

**SUMMARY:** This action proposes revisions and clarifications to several provisions of the standards of performance for nonmetallic mineral processing plants, which were promulgated in the Federal Register on August 1, 1985 (50 FR 31328). On January 26, 1995, the National Stone Association petitioned EPA to review the existing standards. These revisions are in keeping with President Clinton's Regulatory Reinvention Initiative. The intended effect of this action is to reduce the costs of emission testing and reporting and recordkeeping. The affected industries and numerical emission limits remain unchanged except for individual, enclosed storage bins.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed revised standards.

**DATES:** *Comments.* Comments must be received on or before August 26, 1996.

*Public Hearing.* If anyone contacts EPA requesting to speak at a public hearing by July 23, 1996, a public hearing will be held on August 5, 1996 beginning at 10 a.m. Persons interested in attending the hearing should call Ms. Cathy Coats at (919) 541–5422 to verify that a hearing will be held.

*Request to Speak at Hearing.* Persons wishing to present oral testimony must contact EPA by July 23, 1996 (contact Ms. Cathy Coats at (919) 541–5422.)

**ADDRESSES:** *Comments.* Comments should be submitted (in duplicate if possible) to: The Air and Radiation Docket and Information Center (MC–6102), ATTN: Docket No. A–95–46, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Commenters wishing to submit proprietary information for consideration should clearly distinguish such information from other comments, and clearly label it ''Confidential Business Information.'' Submissions containing such proprietary information should be sent directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. William Neuffer, c/o Ms. Melva Toomer, U.S. EPA Confidential Business Information Manager, OAQPS/MD–13; Research Triangle Park, North Carolina 27711. Information covered by such a claim of confidentiality will be disclosed by the EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the submission may be made available to the public without further notice to the commenter.

*Docket.* Docket No. A–95–46, containing supporting information used in developing the proposed revisions is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the Air and Radiation Docket and Information Center (MC–6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; telephone (202) 260–7548, fax (202) 260–4000. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. William Neuffer at (919) 541–5435, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711.

**SUPPLEMENTARY INFORMATION:**

Regulated Entities

Entities potentially regulated by EPA's final action on this proposed rule are new, modified, or reconstructed affected facilities in nonmetallic mineral processing plants. These categories and entities include:

| Category | Examples |
|---|---|
| Industry .... | Crushed and broken stone, sand and gravel, clay, rock salt, gypsum, sodium compounds, pumice, gilsonite, talc and pyrophyllite, boron, barite, fluorospar, feldspar, diatomite, perlite, vermiculite, mica, kyanite processing plants |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by final action on this proposal. This table lists the types of entities that EPA is now aware could potentially be regulated by final action on this proposal. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by final action on this proposal, you should carefully examine the applicability criteria in § 60.670 of the rule. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

The information presented in this preamble is organized as follows:

I. Background
II. Summary and Rationale for Proposed Revisions to NSPS
III. Administrative Requirements
A. Public Hearing
B. Docket
C. Clean Air Act Procedural Requirements
D. Office of Management and Budget Reviews
1. Paperwork Reduction Act
2. Executive Order 12866
3. Unfunded Mandates Act of 1995
E. Regulatory Flexibility Act Compliance

### I. Background.

Standards of performance for nonmetallic mineral processing plants were promulgated in the Federal Register on August 1, 1985 (50 FR 31328). These standards implement section 111 of the Clean Air Act and require all new, modified, and reconstructed nonmetallic mineral processing plants to achieve emission levels that reflect the best demonstrated system of continuous emission

reduction, considering costs, nonair quality health, and environmental and energy impacts.

The promulgated standards apply to new, modified, and reconstructed facilities at plants that process any of the following 18 nonmetallic minerals: crushed and broken stone, sand and gravel, clay, rock salt, gypsum, sodium compounds, pumice, gilsonite, talc and pyrophyllite, boron, barite, fluorospar, feldspar, diatomite, perlite, vermiculite, mica, and kyanite. The affected facilities are each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, and enclosed truck or railcar loading station.

On January 26, 1995, the National Stone Association (NSA) petitioned the EPA, pursuant to the Clean Air Act and the Administrative Procedures Act, to review the existing NSPS for nonmetallic mineral processing plants (40 CFR part 60, subpart OOO). In its petition, NSA and its member companies requested the EPA to review and consider revising, in particular, the provisions in the NSPS that pertain to the test methods and procedures. Also, NSA requested that several of the recordkeeping and reporting requirements be reduced or eliminated.

## II. Summary and Rationale for Proposed Revisions to NSPS

### *A. Summary of Proposed Revisions*

As a result of the EPA's review of concerns raised by NSA and its member companies and discussions with State and Local air pollution control agencies, the Administrator has concluded that several revisions to the NSPS are warranted. The following is a brief summary of the proposed revisions to the NSPS, followed by a discussion of the basis for the proposed revisions.

1. Section 60.670, Applicability and designation of affected facility, is being revised:

a. To clarify that facilities located in underground mines are not subject to the NSPS;

b. To exempt wet screening operations from all requirements of the NSPS, except the recordkeeping and reporting requirements in § 60.676(g).

c. To clarify within subpart OOO which General Provisions (40 CFR Part 60, subpart A) requirements apply to owners and operators of affected facilities subject to the NSPS. A table has been included to clarify the applicable General Provisions requirements.

2. Section 60.671, Definitions, is being revised to add a definition of ''wet screening operation.''

3. Section 60.672, Standard for particulate matter, is being revised:

a. To state the particulate matter standard for an individual, enclosed storage bin ducted to a single control device.

b. To clarify that affected facilities are subject to a standard for stack emissions of particulate matter *and* a stack opacity standard.

4. Section 60.675, Test methods and procedures, is being revised:

a. To reduce the duration of Method 9 observations of fugitive emissions for compliance for any affected facility from 3 hours (30 6-minute averages) to 1 hour (10 6-minute averages) if there are no individual readings greater than 10% opacity and there are no more than 3 individual readings of 10% opacity during the 1 hour test period.

b. To allow the use of Method 9, in lieu of Method 5, for determining compliance for fabric filter collectors controlling particulate matter emissions from an individual, enclosed storage bin ducted to a baghouse that only controls emissions from this bin. For compliance purposes, the duration of the Method 9 observations for any baghouse controlling an individual, enclosed storage bin will be 1 hour (10 6-minute averages).

c. To reduce the General Provisions (section 60.8(d)) notification requirement from 30 days to 7 days prior notice of any rescheduled performance test if there is a delay in conducting any previously scheduled performance test for which 30 days notice has been supplied under this NSPS.

5. Section 60.676, Reporting and recordkeeping, is being revised:

a. To delete the requirement to report ''like-for-like replacements'' of equipment to the Director, Emission Standards Division (section 60.676(b)).

b. To waive the requirement in the General Provisions (section 60.7(a)(2)) for notification of the anticipated date of initial startup of an affected facility.

c. To allow a single notification of the actual date of initial startup of a combination of affected facilities in a production line that begin initial startup simultaneously, in lieu of multiple notifications of the actual date of initial startup of individual affected facilities. The notification must include a description of each affected facility, equipment manufacturer, and serial number, if available.

### *B. Rationale for Proposed Revisions to NSPS*

#### 1. Applicability

a. As a result of past inquiries from some plant owners and operators as to whether crushers or any other equipment used in nonmetallic mineral processing that are located in underground mines are subject to the NSPS, the EPA is clarifying its intent by adding language to the regulation to state that this NSPS does not apply to facilities located in underground mines. Emissions from crushers or other facilities in underground mines are vented in the general mine exhaust and cannot be distinguished from emissions from drilling and blasting operations which are not covered by the standards. Therefore, the EPA is clarifying its intent that crushers and other facilities located in underground mines not be regulated under the NSPS (§ 60.670(a)).

b. The EPA is also proposing a revision to § 60.670(a), which states that the provisions of the NSPS do not apply, except for one-time recordkeeping and reporting, to wet screening operations and associated belt conveyors downstream of the wet screening operation in the production line up to, but not including, the next crusher, grinding mill or dry screening operation in the production line of a nonmetallic minerals processing plant. For further clarification, ''wet screening operation'' is being defined in the regulation as ''a screening facility designed and operated at all times to remove unwanted material from the product by a washing process whereby the product is completely saturated with water.'' There is no potential for air emissions from either screening or conveying operations in the wet/wash end of a processing plant unless a crusher, grinding mill or dry screeening operation is included in the process. Therefore, wet screening operations are not subject to the provisions of §§ 60.672, 60.674, and 60.675 under this regulation (subpart OOO) or the General Provisions (subpart A). The only requirement for wet screening operations is a one-time recordkeeping and reporting requirement under section 60.676(g) of the NSPS.

It is possible, however, that a screening facility/operation may be operated as wet screening at one location where a washing process is used to remove unwanted material from the product; later, at the same location or after movement to another location, it may no longer operate as wet screening. In these cases, where it ceases operating as a wet screen, applicability of all the provisions of this regulation would be triggered and the screening operation would become an affected facility subject to all of the requirements of this regulation and the General Provisions (Subpart A). For tracking purposes, a one-time

recordkeeping and reporting requirement for wet screening operations has been added to the NSPS (§ 60.676(g)).

c. The NSA and its member companies requested clarification of the applicable General Provisions (40 CFR part 60, subpart A) requirements for owners and operators of affected facilities subject to this NSPS (Subpart OOO). They stated that many of their members were unaware that the General Provisions (40 CFR part 60, subpart A) existed or applied in addition to this NSPS. Therefore, in an effort to facilitate an awareness and a better understanding of the General Provisions requirements and implementation of those requirements, the EPA is adding a table to the regulation (subpart OOO) that specifies the provisions of subpart A that apply and those that do not apply to owners and operators of affected facilities subject to Subpart OOO.

2. Standard for Particulate Matter

In the past, there have been several requests for clarification of § 60.672(a) of the regulation regarding whether owners or operators of affected facilities are subject to both a standard for stack emissions of particulate matter *and* a stack opacity standard. The preamble for the promulgated rule clearly states that affected facilities are subject to both the stack emission limit and stack opacity standard (50 FR 31329-first column; August 1, 1985). Therefore, the word ''or'' at the end of paragraph (a)(1) in § 60.672 has been deleted to remove any ambiquity in the requirements.

3. Test Methods and Procedures

a. One of the concerns of the NSA and its member companies was the duration of Method 9 testing (3 hours for each fugitive-type emission source) for fugitive emissions from affected facilities such as crushers and belt conveyor transfer points, in situations when almost all 15-second observations are observed to be 0 percent opacity. They asserted that usually no emissions were observed from these affected facilities (when properly maintained and operated) during the Method 9 observations, and therefore they did not believe that 3 hours of observations were justified or necessary for determining compliance. Due to the large number of these affected facilities at nonmetallic mineral processing plants, the amount of time and the cost for Method 9 observations from these sources were considered by NSA to be very burdensome.

The General Provisions (§ 60.11(b)) require 3 hours (30 6-minute averages) of Method 9 observations for determining compliance for fugitive emission sources. However, after review and evaluation of data submitted by the industry, the EPA has decided to reduce the Method 9 testing duration for observing fugitive emissions from any affected facility subject to this NSPS from 3 hours (30 6-minute averages) to 1 hour (10 6-minute averages) if there are no individual readings greater than 10% opacity and there are no more than 3 individual readings of 10% opacity during this first hour.

The data submitted to the EPA by industry for review was compiled from several hundred visible emission tests conducted by the industry for each type of affected facility subject to the NSPS. The majority (52 percent) of the visible emission tests were conducted for belt conveyor transfer points. The data included opacity readings from 58 different 3 hour tests. For the first hour, the test results showed that 51 of the 58 3-hour tests had no individual readings of 10 percent or greater. Only 3 belt conveyor transfer points had individual readings greater than 10%. Only 5 belt conveyor transfer points had more than 3 individual readings of 10%. The most obvious result obtained from the tests was the consistency of the readings from hour to hour. Readings during the first hour of testing were in line with readings taken during hours 2 and 3. If a problem existed at a transfer point or other fugitive emission source, it would be evident during the first hour of testing. Therefore, for these reasons, EPA believes that 1 hour (10 6-minute averages) of Method 9 observations is sufficient for any affected facility to show compliance with the fugitive emission standard if there are no individual readings greater than 10% opacity and there are no more than 3 individual readings of 10% opacity during the first hour.

b. Also of concern to NSA and its members is the requirement in the NSPS for Method 5 testing of fabric filter collectors (baghouses) controlling particulate matter emissions from individual, enclosed storage bins ducted to a single baghouse. They requested that individual, enclosed storage bin emissions be exempted from Method 5 testing because the baghouse outlet is not amenable to Method 5 testing due to the intermittent nature of individual storage bin operations and the small air flow rates.

Information supplied by NSA indicates that Method 5 testing cannot be performed for baghouses that only control emissions from individual, enclosed storage bins unless the emissions are combined with emissions from other storage bins or other affected facilities in order to determine compliance. Therefore, the EPA is proposing to exempt a baghouse that only controls emissions from an individual, enclosed storage bin from Method 5 stack emission testing. Compliance for an individual, enclosed storage bin ducted to a single baghouse will be determined by Method 9 (§ 60.672(f)). For compliance purposes, one hour (10 6-minute averages) of Method 9 observations will be required for each individual, enclosed storage bin. Multiple storage bins with combined stack emissions controlled by a baghouse are subject to Method 5 testing and concurrent Method 9 testing as required under § 60.672(g).

c. The General Provisions (§ 60.8(d)) require 30 days prior notice of any performance test, ''* * * except as specified under other subparts * * *.'' In cases where a performance test must be rescheduled, due to operational problems, etc., it is not always reasonable or necessary to provide 30 days prior notice to EPA or the State of the new date of the performance test. Based on conversations with personnel who are affected by the notification of the new date of the performance test (i.e., personnel at EPA Regional Offices and State agencies), the EPA has determined that after the initial 30-day notification, then notice provided 7 days prior to a rescheduled test is sufficient time to provide the Regional, State or Local agencies the opportunity to have an observer present. Therefore, § 60.675 has been revised to reflect this allowance.

4. Reporting and Recordkeeping

a. Under the promulgated standards, the replacement of an existing facility with a new facility of equal or smaller size and having the same function (like-for-like replacement) is exempt from compliance with the emission limits of the NSPS (§ 60.670(d)(1)). In order to qualify for this exemption, an owner or operator replacing an existing facility with a new facility of equal or smaller size must report this to the EPA Regional Offices and to the States (if the particular State has been delegated NSPS authority). This information and additional information is also required to be reported to the Director of the Emission Standards Division of EPA in order to assess the frequency and characteristics of such replacements.

The EPA has reviewed this requirement and has determined that the report to the Director of the Emission Standards Division is no longer needed for like-for-like replacements. Therefore, in an effort to streamline the reporting requirements of

this NSPS, this requirement in § 60.676(b) has been deleted. However, the information requested under § 60.676(a) is still required to be reported to EPA Regional Offices, and State or local agencies if they have received NSPS delegation authority.

b. The EPA has also reviewed the General Provisions requirement (§ 60.4(a)) for owners and operators of affected facilities to send copies of all requests, reports, applications, submittals and other communications to the appropriate EPA Regional Office in cases where the State has been delegated authority to enforce the NSPS. In these cases, some EPA Regional Offices will consider waiver of this requirement for affected facilities subject to this subpart on a plant-by-plant basis. The method for accomplishing this reporting reduction on a plant-by-plant basis would be through the Operating Permit for the individual plant. Thus, some plants have an option available to them for further reporting reductions.

c. The General Provisions (§ 60.7(a)(2)) also require a notification of the anticipated date of initial startup for new affected facilities. After reviewing this requirement, the EPA has determined that this notification can be waived for owners and operators of affected facilities subject to this NSPS without affecting the enforcement of this regulation. Due to the large number of plants being regulated under this regulation, the deletion of this reporting requirement under this subpart is being made for purposes of streamlining and further reduction of the reporting burden on both large and small plant owners or operators.

d. The General Provisions [section 60.7(a)(3)] require a notification of the actual date of initial startup for each affected facility within the plant. The NSA and its member companies requested the EPA to review this requirement as it pertains to owners and operators of the nonmetallic minerals processing NSPS. They cited the examples of the addition of several new affected facilities being added to a production line or the addition of a whole new production line, and they requested whether, for notification purposes only, a single notification of the actual date of initial startup could be submitted for all of these affected facilities, in lieu of several separate notifications.

After a review of this situation, the EPA has determined, for notification purposes only, that a single notification of the actual date of initial startup of a combination of affected facilities in a production line that begin initial startup simultaneously would be acceptable. The notification must include a description of each affected facility, equipment manufacturer, and serial number of the equipment, if available, for future compliance purposes. A single notification for multiple affected facilities starting production at the same time would have no adverse impact on enforcement of the standards. Therefore, in an effort to further reduce the reporting and recordkeeping requirements of this regulation, section 60.676 has been revised to reflect this allowance.

This revision would also benefit the EPA and State and local agencies in terms of reducing staff review time for numerous single notifications of the actual date of initial startup.

## III. Administrative Requirements

### *A. Public Hearing*

A public hearing will be held, if requested, to discuss the proposed revisions to the standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations on the proposed revisions should contact the EPA (see **ADDRESSES**). If a public hearing is requested and held, EPA will ask clarifying questions during the oral presentation but will not respond to the presentations or comments. To provide an opportunity for all who may wish to speak, oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement on or before August 26, 1996. Written statements should be addressed to the Air and Radiation Docket and Information Center (see **ADDRESSES**) and refer to Docket No. A–95–46. Written statements and supporting information will be considered with equivalent weight as any oral statement and supporting information subsequently presented at a public hearing, if held. A verbatim transcript of the hearing and written statements will be placed in the docket and be available for public inspection and copying, or mailed upon request, at the Air and Radiation Docket and Information Center (see **ADDRESSES**).

### *B. Docket*

The docket is an organized and complete file of all the information considered by the EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the official record in case of judicial review (except for interagency review materials (section 307(d)(7)(A) of the Act)).

### *C. Clean Air Act Procedural Requirements*

1. Administrator Listing—Under Section 111 of the Act, establishment of standards of performance for nonmetallic mineral processing plants was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

2. External Participation—In accordance with section 117 of the Act, publication of the proposed revisions to the NSPS was preceded by consultation with a national trade association composed of 570 member companies and several States. The Administrator welcomes comments on today's proposed revisions to the NSPS.

3. Economic Impact Assessment—Section 317 of the Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. Today's proposed rulemaking is for clarifications and minor revisions to the applicability, definitions, test methods and procedures, and reporting and recordkeeping sections of the regulation. No additional controls or other costs are being incurred as a result of these revisions. The proposed revisions would result in a cost savings for the industry (reduction of certain testing and recordkeeping and reporting requirements) and the EPA and State/Local agencies (reduction in staff time needed to review fewer reports). Therefore, no economic impact assessment for the proposed revisions to the standards was conducted.

### *D. Office of Management and Budget Reviews*

1. Paperwork Reduction Act

As required by the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, an ''information collection request'' (ICR) document has been prepared by the EPA (ICR No. _____) to reflect the revised/reduced information requirements of the proposed revised regulation and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division (2136), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460, or by calling (202) 260–2740.

Under the existing NSPS, the industry recordkeeping and reporting burden and costs for an owner or operator of a new

nonmetallic mineral processing plant was estimated at 820 hours and $27,100 for the first year of operation. The vast majority of the estimated hours (670) were attributed to required Method 5 and Method 9 performance testing of affected facilities. Under the proposed revised NSPS, a 1-hour Method 9 test is allowed in lieu of the Method 5 test for individual, enclosed storage bins. In addition, the duration of Method 9 tests for most fugitive emission sources and individual, enclosed storage bin emission sources has been reduced from 3 hours to 1 hour. Also, plant owners or operators are allowed to submit one notification of actual startup for several affected facilities in a production line that begin operation the same day, in lieu of multiple notifications for each affected facility. The proposed revised NSPS is also waiving the General Provisions requirement to submit a notification of anticipated startup for each affected facility. Therefore, the revised annual estimated industry recordkeeping and reporting burden and costs for an owner or operator of a new nonmetallic mineral processing plant are 480 hours and $15,800, the majority of which is due to performance testing. This represents an estimated reduction in the average emission testing, recordkeeping and reporting burden of 340 hours and $11,300 for a new plant in the first year. This collection of information is estimated to have an average annual government recordkeeping and reporting burden of 320 hours over the first 3 years. 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 purposes 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 be able 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 are listed in 40 CFR part 9 and 48 CFR ch. 15.

Comments are requested on the reductions discussed in this preamble. Send comments on the ICR to the Director, OPPE Regulatory Information Division (2136), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Include the ICR number in any correspondence. The final rule will respond to any public comments on the reduced information collection requirements contained in this proposal.

2. Executive Order 12866 Review

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], the EPA must determine whether the proposed regulatory action is ''significant'' and therefore subject to the Office of Management and Budget (OMB) review and the requirements of this Executive Order to prepare a regulatory impact analysis (RIA). The 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 in 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.

Pursuant to the terms of Executive Order 12866, it has been determined that the proposed revisions to the standards are ''not significant'' because none of the above criteria are triggered by the proposed revisions. The proposed revisions would decrease the cost of complying with the revised standards.

3. Unfunded Mandates Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, the 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 one year.

The EPA has determined that today's action, which proposes revisions and clarifications to the existing regulation, decreases the cost of compliance with this proposed revised regulation. Therefore, the requirements of the Unfunded Mandates Act do not apply to this proposed action.

*E. Regulatory Flexibility Act Compliance*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires Federal agencies to give special consideration to the impact of regulations on small entities, which are small businesses, small organizations, and small governments. The major purpose of the RFA is to keep paperwork and regulatory requirements from getting out of proportion to the scale of the entities being regulated, without compromising the objectives of, in this case, the Act.

If a regulation is likely to have a significant economic impact on a substantial number of small entities, the EPA may give special consideration to those small entities when analyzing regulatory alternatives and drafting the regulation. The impact of this regulation upon small businesses was analyzed as part of the economic impact analysis performed for the proposed standards for the nonmetallic minerals processing plants (48 FR 39566, August 31, 1983). As a result of this analysis, plants operating at small capacities were exempted from the requirements of the standards. Today's proposed revisions to the standards do not affect these exempted small plants; that is, they continue to be exempted from the standards. In addition, the main thrust of the proposed revisions to the standards is a reduction of the reporting and recordkeeping requirements for owners and operators of all affected facilities.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this proposed rule will not have a significant economic impact on a substantial number of small entities because the impact of the proposed rule is not significant.

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Nonmetallic mineral processing plants, Reporting and recordkeeping requirements, Intergovernmental relations.

Dated: June 17, 1996.

Carol M. Browner,

*Administrator.*

For the reasons set out in the preamble, it is proposed to amend 40 CFR part 60, subpart OOO as follows:

## PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, 7429 and 7601.

2. It is proposed to amend 60.670 by revising paragraphs (a) and (d)(2), and adding paragraph (f) to read as follows:

**§ 60.670 Applicability and designation of affected facility.**

(a) Except as provided in paragraphs (b), (c), and (d) of this section, the provisions of this subpart are applicable to the following affected facilities in fixed or portable nonmetallic mineral processing plants: each crusher, grinding mill, screening operation, bucket elevator, belt conveyor, bagging operation, storage bin, enclosed truck or railcar loading station. All facilities located in underground mines are exempted from the provisions of this subpart. Except as required in § 60.676(g), the provisions of this subpart do not apply to wet screening operations and associated conveyors downstream of the wet screening operation in the production line up to, but not including, the next crusher, grinding mill, or dry screening operation.

* * * * *

(d) * * *

(2) An owner or operator complying with this paragraph shall submit the information required in § 60.676(a).

* * * * *

(f) Table 1 of this subpart specifies the provisions of subpart A that apply and those that do not apply to owners and operators of affected facilities subject to this subpart.

2a. It is proposed to add Table 1 to Subpart OOO to read as follows:

TABLE 1.—APPLICABILITY OF SUBPART A TO SUBPART OOO

| Subpart A reference | Applies to subpart OOO? | Comment |
|---|---|---|
| 60.1 Applicability | Yes. | |
| 60.2 Definitions | Yes. | |
| 60.3 Units and abbreviations | Yes. | |
| 60.4 Address—(a) | Yes. | |
| (b) | Yes. | |
| 60.5 Deter. of construction or modification | Yes. | |
| 60.6 Review of plans | Yes. | |
| 60.7 Notification and recordkeeping | Yes | Except in (a)(2), report of anticipated date of initial startup is not required [60.676(g)]. |
| 60.8 Performance tests | Yes. | Except in (d), after 30 days notice for an initially scheduled perf. test, any rescheduled perf. test requires 7 days notice, not 30 days [60.675(g)]. |
| 60.9 Availability of information | Yes. | |
| 60.10 State authority | Yes. | |
| 60.11 Compliance with standards and maintenance requirements. | Yes | Except in (b), under certain conditions [sec. 60.675 (c)(4) and (c)(5)], Method 9 observation may be reduced from 3 hrs. to 1 hr. |
| 60.12 Circumvention | Yes. | |
| 60.13 Monitoring requirements | Yes. | |
| 60.14 Modification | Yes. | |
| 60.15 Reconstruction | Yes. | |
| 60.16 Priority list | Yes. | |
| 60.17 Incorporations by reference | Yes. | |
| 60.18 General control device requirements | No | Flares will not be used to comply with the emission limits. |
| 60.19 General notification and reporting requirements | Yes. | |

3. It is proposed to amend § 60.671 by adding in alphabetical order the definition of *Wet screening operation* to read as follows:

**§ 60.671 Definitions.**

* * * * *

*Wet screening operation* means a screening facility designed and operated at all times to remove unwanted material from the product by a washing process whereby the product is completely saturated with water.

* * * * *

4. It is proposed to amend § 60.672 by removing the word ''or'' after paragraph (a)(1), by revising paragraphs (b) and (c), and by adding paragraphs (f) and (g) to read as follows:

**§ 60.672 Standard for particulate matter.**

(a) * * *

(1) Contain particulate matter in excess of 0.05 g/dscm.

(2) * * *

(b) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup as required under § 60.11, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any transfer point on belt conveyors or from any other affected facility any fugitive emissions which exhibit greater than 10 percent opacity, except as provided in paragraphs (c), (d), (e), (f), and (g) of this section.

(c) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup as required under § 60.11, no owner or operator shall cause to be discharged into the atmosphere from any crusher, at which a capture system is not used, fugitive emissions which exhibit greater than 15 percent opacity.

* * * * *

(f) On and after the sixtieth day after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup as required under § 60.11, no owner or operator shall cause to be discharged into the atmosphere from any baghouse that only

controls emissions from an individual enclosed storage bin, stack emissions which exhibit greater than 7 percent opacity.

(g) Owners or operators of multiple storage bins with combined stack emissions shall comply with the emission limits in paragraph (a) of this section.

5. It is proposed to amend § 60.675 by revising paragraph (d) and adding paragraph (g) to read as follows:

**§ 60.675 Test methods and procedures.**

* * * * *

(d) When determining compliance with the fugitive emissions standard for any affected facility described under § 60.672(b) and where there are no individual readings greater than 10% opacity and where there are no more than 3 readings of 10% opacity for the first hour of testing of this affected facility and the opacity of stack emissions from any baghouse that only controls emissions from an individual, enclosed storage bin under § 60.672(f), using Method 9, the duration of the Method 9 observations shall be 1 hour (10 6-minute averages).

* * * * *

(g) If, after 30 days notice for an initially scheduled performance test, there is a delay (due to operational problems, etc.) in conducting any rescheduled performance test required in this section, the owner or operator of an affected facility shall submit to the Administrator at least 7 days prior notice of any rescheduled performance test.

6. Section 60.676 is amended by removing and reserving paragraph (b), revising paragraph (f), redesignating paragraph (g) as paragraph (j) and revising newly designated (j), and adding new paragraphs (g), (h), and (i) to read as follows:

**§ 60.676 Reporting and recordkeeping.**

* * * * *

(b) [reserved]

* * * * *

(f) The owner or operator of any affected facility shall submit written reports of the results of all performance tests conducted to demonstrate compliance with the standards set forth in § 60.672, including reports of opacity observations made using Method 9 to demonstrate compliance with § 60.672 (b), (c), and (f), and reports of observations using Method 22 to demonstrate compliance with § 60.672(e).

(g) The owner or operator of any wet screening operation and associated conveyor shall keep a record describing the location of these operations and shall submit an initial report describing the location of these operations within 30 days. If, subsequent to the initial report, any screening operation ceases to operate as wet screening, the owner or operator shall submit a report of this change and shall immediately comply with all of the requirements of the regulation for an affected facility. These reports shall be submitted within 30 days following such change.

(h) The Subpart A requirement under § 60.7(a)(2) for notification of the anticipated date of initial startup of an affected facility shall be waived for owners or operators of affected facilities regulated under this subpart.

(i) A notification of the actual date of initial startup of each affected facility shall be submitted to the Administrator. For a combination of affected facilities in a production line that begin actual initial startup on the same day, a single notification of startup may be submitted by the owner or operator to the Administrator. The notification shall be postmarked within 15 days after such date and shall include a description of each affected facility, equipment manufacturer, and serial number of the equipment, if available.

(j) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111 of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected facilities within the State will be relieved of the obligation to comply with the reporting requirements of this section, provided that they comply with requirements established by the State.

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## 40 CFR Part 86

**[AMS-FRL–5526–9]**

## Control of Emissions of Air Pollution from Highway Heavy-Duty Engines

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** In this action, EPA proposes new emission standards and related provisions for heavy-duty engines intended for highway operation, beginning in the 2004 model year. The proposed provisions represent a large reduction (approximately 50 percent) in emission of oxides of nitrogen ($NO_X$), as well as reductions in hydrocarbons (HC) and nitrate particulate matter (PM) from trucks and buses. If the proposed standards are implemented, the resulting emission reductions would translate into significant, long-term improvements in air quality in many areas of the U.S. This would provide much-needed assistance to a range of states and regions facing ozone and particulate air quality problems that are causing a range of adverse health effects for their citizens, especially in terms of respiratory impairment and related illnesses.

EPA is also proposing several provisions to increase the durability of emission controls and to provide flexibility for manufacturers in complying with the stringent new standards. The Agency previously published an Advance Notice of Proposed Rulemaking relating to this action and addresses here a number of the comments received on the Advance Notice. EPA believes the proposed program would result in significant progress throughout the country in protecting public health and the environment.

**DATES:** EPA requests comment on the proposal rulemaking no later than August 26, 1996.

EPA will hold a public hearing on this proposal on July 25, 1996.

EPA will also hold a public meeting on July 19, 1996, to discuss the proposed HDE regulations and receive informal public input on them, and to discuss other potential mobile source controls identified in the California Ozone State Implementation Plan for the South Coast (the greater Los Angeles area).

More information about commenting on this action and on the public hearing and meeting may be found under Public Participation, in Section II of **SUPPLEMENARY INFORMATION**.

**ADDRESSES:** Materials relevant to this proposal including the draft regulatory text and Regulatory Impact Analysis (RIA) are contained in Public Docket A–95–27, located at room M–1500, Waterside Mall (ground floor), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460. The docket may be inspected from 8:00 a.m. until 5:30 p.m., Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

Comments on this proposal should be sent to Public Docket A–95–27 at the above address. EPA requests that a copy of comments also be sent to Chris Lieske, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, MI 48105.

The hearing on this proposal will be held at the Marriott Hotel and