state-enforceability. Moreover, EPA's disapproval of the submittal would not impose a new Federal requirement. Therefore, EPA certifies future conversion to a disapproval would not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor would it substitute a new federal requirement.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed/promulgated 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 Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 8, 1997.

Filing a petition for reconsideration by the Administrator of this final interim rule, does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Administrative Procedures Act).

List of Subjects in 40 CFR part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Reporting and record keeping requirements.

Dated: May 21, 1997.

Patricia D. Hull,

For Acting Regional Administrator, Region VIII.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

SUBPART TT–UTAH

2. Section 52.2348 is added to Subpart TT to read as follows:

§ 52.2348 National Highway Systems Designation Act Motor Vehicle Inspection and Maintenance (I/M) Programs

On March 15, 1996 the Governor of Utah submitted a revised I/M program for Utah County which included a credit claim, a basis in fact for the credit claimed, a description of the County's program, draft County ordinances, and authorizing legislation for the program. Approval is granted on an interim basis for a period of 18 months, under the authority of section 348 of the National Highway Systems Designation Act of 1995. If Utah County fails to start its program by November 15, 1997 at the latest, this approval will convert to a disapproval after EPA sends a letter to the State. At the end of the eighteen month period, the approval will lapse. At that time, EPA must take final rulemaking action upon the State's SIP, under the authority of section 110 of the Clean Air Act. Final action on the State/County's plan will be taken following EPA's review of the State/County's credit evaluation and final regulations (State and County) as submitted to EPA.

[FR Doc. 97–14986 Filed 6–6–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[IL–64–2–5807; FRL–5836–2]

RIN 2060–AG33

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates revisions and clarifications to several provisions of the standards of performance for nonmetallic mineral processing plants, which were proposed in the **Federal Register** on June 27, 1996 (61 FR 33415). This action presents the final revisions to the applicability, definitions, test methods and procedures, and reporting and recordkeeping requirements of the standards, and the basis for those revisions. The affected industries and numerical emission limits remain unchanged.

EFFECTIVE DATE: June 9, 1997. See the Supplementary Information section concerning judicial review.

ADDRESSES: *Docket.* Docket No. A–95–46, containing information considered by the EPA in development of the promulgated revisions to the new source performance standards (NSPS) is available for public inspection and copying between 8 a.m. and 4 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 docket materials.

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 promulgated rule are new, modified, or reconstructed affected facilities in nonmetallic mineral processing plants that process any of the 18 nonmetallic minerals listed in Table 1.

TABLE 1.—REGULATED CATEGORIES AND ENTITIES

Entity category	Description
Industrial	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 processing plants.
Federal Government	Same as above
State/Local/ Tribal	Same as above

The provisions of this final rule apply to the following affected facilities at 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. To determine whether your facility is regulated by this final action, you should 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.

Judicial Review

Under section 307(b)(1) of the Act, judicial review of the final rule is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this final rule. Under section 307(b)(2) of the Act, the revised requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

The information presented in this preamble is organized as follows:

I. Background and Public Participation
II. Comments and Changes to the Proposed Revisions to the NSPS
A. Summary of Changes to the Proposed Revisions to the NSPS
B. Responses to Comments
III. Administrative Requirements
A. Docket
B. Clean Air Act Procedural Requirements
C. Office of Management and Budget Reviews
1. Paperwork Reduction Act
2. Executive Order 12866
D. Unfunded Mandates Reform Act
E. Regulatory Flexibility Act Compliance
F. Submission to Congress and the General Accounting Office

I. Background and Public Participation

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.

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, the 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, the NSA requested that several of the recordkeeping and reporting requirements be reduced or eliminated.

Before proposal of the amendments to the NSPS, meetings were held with representatives of several companies regulated under the NSPS for nonmetallic mineral processing plants and the NSA to discuss potential changes to the NSPS (subpart OOO). The EPA also received input from representatives of State and local environmental agencies before the proposed amendments were published in the **Federal Register**.

The amendments to the new source performance standards (NSPS) for nonmetallic mineral processing plants were proposed on June 27, 1996 (61 FR 33415). The public comment period ended on August 26, 1996. Industry representatives, regulatory authorities, and environmental groups had the opportunity to comment on the proposed revisions and to provide additional information during the public comment period that followed proposal. A public hearing was offered at proposal to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposed amended rule. However, no one requested a hearing and, therefore, no hearing was held. Forty-three comment letters were received. The commenters included industry, one national and several State trade associations, several State regulatory agencies, and one environmental consultant. These comments were considered and, today's final amended rule reflects consideration of these comments. The public comments that were received along with EPA's responses to the comments on the proposed amended rule are summarized in this preamble. The summary of comments and responses serves as the basis for the revisions that have been made to the final amended rule between proposal and promulgation. The following section discusses changes made as a result of public comments on the proposed amendments to the NSPS. A more detailed discussion of comments and responses is contained in the docket (Docket No. A–95–46; Item V–C–1.)

II. Comments and Changes to the Proposed Revisions to the NSPS

A. Summary of Changes to the Proposed Revisions to the NSPS

There was general support for the amendments which reduced or eliminated several of the paperwork requirements on the industry, greatly reduced the costs of emission testing without sacrificing air quality, provided a table specifying the applicability of subpart A (General Provisions for part 60) to subpart OOO affected facilities, and clarified that facilities located in underground mines are not subject to the NSPS. The commenters requested further clarification of the applicability of the NSPS to certain operations, additional reductions in the Method 9 test duration for certain affected facilities, and further reductions in the reporting and recordkeeping requirements.

The following is a summary of the changes made to the proposed revisions as a result of EPA's evaluation of the public comments. Some of these changes are clarifications of EPA's original intent. The rationale for these changes is discussed in section II.B.

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

(a) To clarify the original intent of the NSPS that stand-alone screening operations at plants without crushers or grinding mills are not subject to the NSPS;

(b) To clarify the original intent of the NSPS that crushers and grinding mills at hot mix asphalt facilities that reduce the size of nonmetallic minerals embedded in recycled asphalt pavement, and subsequent affected facilities in the production line up to, but not including, the first storage silo or bin are subject to the NSPS; and

(c) To remove the exemption of wet screening and associated belt conveyors from all provisions of this subpart

except reporting and recordkeeping because these sources are subject to all provisions of this subpart except for Method 9 opacity tests.

2. Section 60.671, Definitions, is revised to add a definition of wet mining operation and to make minor changes in the proposed definition of wet screening operation.

3. Section 60.672, Standard for particulate matter, is revised to require no visible emissions from

(a) Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors in the production line that process saturated materials up to the next crusher, grinding mill, or storage bin in the production line;

(b) Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, that process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

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

(a) To exempt from the initial requirement in § 60.11 for Method 9 emission testing;

(i) Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors in the production line that process saturated materials up to the next crusher, grinding mill, or storage bin in the production line;

(ii) Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, that process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

(b) To correct typographical error in paragraph (b).

(c) To allow crushers without emission capture systems to reduce the duration of Method 9 observations of fugitive emissions for compliance from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) if there are no individual readings greater than 15 percent opacity and there are no more than 3 readings of 15 percent for the first 1-hour period.

(d) To add wording to clarify that if qualifying conditions are not met by affected facilities subject to applicable fugitive emission limits, then 3 hours, rather than 1 hour, of Method 9 testing would be required to determine compliance.

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

(a) To require that both the address of the home office and the current address/location of the portable aggregate plant be included in the notification of the actual date of initial startup;

(b) To require the reporting within 30 days of any affected facility that changes the saturated or unsaturated nature of the material being processed. The affected facility is then subject to the provisions of the standard applicable to the type of material being processed.

B. Responses to Comments

Several commenters remarked that the proposed changes to the rule were an important milestone in EPA's partnering efforts with the regulated community to help reduce the administrative burden of subpart OOO while maintaining protection of the health and welfare of the general public.

The comments, the issues they address, and the EPA's responses to comments are presented in the following sections according to the following topics: (1) Applicability; (2) Definitions; (3) Standard for Particulate Matter; (4) Test Methods and Procedures; and (5) Reporting and Recordkeeping.

1. Applicability

(a) *Comment.* One commenter disagreed with the Agency's clarification to exempt nonmetallic mineral processing facilities located in underground mines from subpart OOO.

Response. Underground mining operations will continue to be exempted from this regulation. As stated in the preamble to the proposed amendments to the new source performance standards (NSPS) for nonmetallic mineral processing plants, this regulation does not apply to facilities located in underground mines because 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 regulation. In addition, a response to a comment in the background information document for the original promulgated standards (EPA–450/3–83–001b, April 1985, page 2–44) stated specifically that mining operations are not covered under the proposed or final standards for nonmetallic mineral processing plants.

(b) *Comment.* Four commenters were concerned whether ''wet mining operations'' and subsequent processing of the mineral material should be subject to this NSPS. Two of these commenters requested EPA to include wet dredging operations/equipment in the definition of ''wet screening operation'' to exempt those operations from all NSPS requirements except for the reporting and recordkeeping requirements. One of the two commenters suggested that the equipment exemption include all screening, crushing and transfer operations (conveyors) associated with dredging operations up to, but not including, the next crusher, grinding mill or dry screening operation in the production line of the plant. According to the commenter, fugitive dust emissions from wet dredging operations have never been recorded during any site visit by this State agency.

One of the previously mentioned commenters requested that overland conveyor systems that are transporting sand and gravel that has been mined below the water table be exempted from testing requirements. An alternative performance testing program for these field conveyor systems previously approved by an EPA Regional Office was recommended. This alternative testing program consisted of reducing the Method 9 testing from 3 hours to 1 hour; conducting the Method 9 test at the first and last transfer points in a series of transfer points; and waiving the performance test for all intermediate transfer points if no visible emissions are observed at the first and last transfer points. Another commenter requested an exemption from emission testing requirements or total exemption for facilities, such as sand and gravel, dredge, and marine limestone, that mine and process a ''wet'' product with an inherent natural moisture content that does not have the potential to create emissions. This commenter stated that many State agencies already offer testing exemptions for these types of facilities.

Another commenter suggested adding a definition of ''wet mining operation'' in the regulation and revising the rule to exempt operations at mining facilities that extract limestone, dolomite or sand and gravel from deposits below the water table and saturated with water except for reporting requirements.

Response. The EPA has considered these comments and agrees that there is no potential for emissions from belt conveyors transporting nonmetallic minerals that are saturated with water. Also, there is no potential for emissions from other processes such as screens and bucket elevators that handle nonmetallic minerals that are saturated with water. Therefore, belt conveyors, screening operations and bucket elevators that process materials saturated with water from wet mining operations up to the first crusher, grinding mill, or stockpile in the production line are exempted from the initial Method 9 performance testing under § 60.11 but are required to have no visible emissions from these sources.

The no visible emission standard would allow plant and enforcement officials to verify that the materials being processed were indeed saturated with water.

If an affected facility that processes saturated material later processes unsaturated material, a report of this change shall be sent to EPA within 30 days of this change. Also, this affected facility becomes subject to the Method 9 opacity test requirements of this subpart and the 10 percent opacity limit in § 60.672(b).

As recommended by the last mentioned commenter, a definition of ''Wet mining operation'' has been added to ''Definitions'' in § 60.671 to identify which affected facilities are exempt from Method 9 emission testing. To assure no emissions are possible, the definition will state that the nonmetallic mineral must be saturated.

Crushers reduce the size of the process material and in so doing increase the surface area of the material being processed. This crushed material then has new surfaces which are not saturated and have the potential to create air emissions. Therefore, crushers at dredging operations are not exempt.

(c) *Comment.* A commenter requested clarification whether the NSPS applies to stand-alone screening operations at plants without any crushers.

Response. The commenter is correct that EPA did not intend to regulate stand-alone screening operations at plants that have no crushers. Subpart OOO affected facilities begin with the initial crushing or grinding operation at the plant. Plants that do not employ crushing or grinding, by definition, are not considered nonmetallic mineral processing plants and thus are not subject to subpart OOO.

(d) *Comment.* One commenter supported the proposed exemption of wet screening operations and associated conveyors and recommended that the wet screening exemption be expanded to include all pieces of equipment where the use of water is necessary to the operation of the process, such as pugmills. Another commenter believed that the term ''dry'' in the definition of wet screening operation was confusing because a screen operated downstream from a wash screen will handle material that is saturated by the wash process. Also, another commenter recommended that the wet screening operations and associated downstream conveyors exemption be expanded to include loadout bins and other wet process operations.

Response. Equipment other than crushers and grinding mills where the use of water may be necessary to the operation, such as pugmills used for reblending of materials at the end of the process, are not affected facilities and therefore not subject to subpart OOO. Therefore, no further change has been made to expand the wet screening exemption as requested by the first-mentioned commenter.

Screening is the process by which material is separated according to size. Screening may be performed either wet or dry. Wet screening where the product is saturated with water removes material from the product, such as silt, clay, grit, etc., or separates marketable fines by a washing process and there is no potential for air emissions.

Wet screening operations, which use a washing process, and subsequent screening operations, bucket elevators, and belt conveyors up to the next crusher, grinding mill, or storage bin are also exempt from Method 9 initial performance tests per § 60.11 and are required to meet a no visible emissions standard. To assure there is no potential for emissions from these operations following the wet screens, the material that is being processed is required to be saturated. The no visible emission standard is a means for both plant and enforcement personnel to verify that the material being processed is indeed saturated.

If an affected facility processes saturated material later processes unsaturated material, a report of this change shall be sent to EPA within 30 days of this change. Also, this affected facility becomes subject to the Method 9 opacity test requirements of this subpart and the opacity limit in § 60.672(b).

(e) *Comment.* A commenter requested clarification as to whether recycled asphalt operations are covered under the NSPS. The commenter attached a memo from an EPA Region which stated that during a visit to a recycled asphalt facility, nonmetallic minerals of two to three inches within the recycled asphalt were being crushed to less than half an inch. The Region stated if the nonmetallic mineral is crushed or ground by a recycled asphalt crusher, the crusher would be subject to this NSPS.

Response. The EPA concurs with this determination as this is the intent of the rule. A new, modified or reconstructed asphalt crusher or grinding mill that reduces the size of a nonmetallic mineral embedded in recycled asphalt pavement and subsequent affected facilities up to, but not including, the storage silo or bin at a hot mix asphalt facility are subject to subpart OOO. A sentence has been added to § 60.670 Applicability that such a crusher or grinding mill is subject to this NSPS.

2. Definitions

(a) *Comment.* Three commenters fully supported the Agency's exemption of wet screening operations, except for reporting and recordkeeping from the NSPS, but requested that the definition of ''wet screening operation'' be revised to remove the term ''completely'' in the definition because they believe it gives the connotation that the rock is wet throughout and because the term is subject to various interpretations by industry and regulatory personnel. In addition, one commenter requested that the Agency change the term ''unwanted material to ''fines'' in the definition. Quite often the ''unwanted material,'' or fines, that are washed from the rock surface on a washing screen are collected and sold as a natural or manufactured sand or other marketable product. Also, one commenter suggested that the definition of wet screening operation be changed to a definition of ''wet process'' to include other wet process operations such as log washers, classifiers, sand screws, pugmills, belt presses, and dewatering screens. However, if this change is not made, then he recommended further defining the terms ''saturated'' and ''unwanted material'' to avoid numerous interpretation conflicts.

Response. After review and consideration of these comments, the EPA has decided to make changes in the definition of ''wet screening operation.'' The term ''completely'' has been deleted from the definition. ''Saturated'' is defined as ''to soak or load to capacity'' and therefore the term ''completely'' is not necessary to convey the intent. Also, the revised definition includes the separation of marketable fines and now more closely describes the types of screening operations in the wet/wash end of a nonmetallic minerals processing plant without changing the original intent of the definition. It is not necessary to define ''unwanted material'' in the definition, which could include silt, grit, etc., as requested.

''Wet screening operation'' is the appropriate term to be defined, not ''wet process'' as suggested by one of the commenters. The other processes cited are not affected facilities and therefore are not subject to this NSPS. As stated in the preamble to the proposed amendments, there is no potential for air emissions from either screening or conveying operations in the wash process.

3. Test Methods and Procedures

(a) *Comment.* Several commenters maintained that the cost of dual compliance tests for both the stack

emission limit and stack opacity standard was prohibitive to the industry and requested that Method 9 testing be the sole test for compliance of any affected facility. In addition, another commenter disagreed with the dual stack emission testing of particulate and opacity which he believes greatly increases the testing costs with no data to support the environmental benefits.

Response. This NSPS requires an initial performance test to measure the concentration of particulate matter in stack emissions for each affected facility because the EPA has found that facilities with similar control devices may not have the same emissions characteristics due to variables in the processes, process operating conditions, and control system design, installation, and operation. Because of this variability, performance tests are necessary to demonstrate the capability of each facility to meet the PM emission limit. The stack opacity test is used as a continuing compliance tool during any subsequent inspections by State and local air pollution agency personnel. During the development of this NSPS, the cost of performance testing was estimated and found to be reasonable and no new data was submitted by the commenter.

(b) *Comment.* Two national trade associations and one State trade association stated that many nonmetallic mineral producers that use enclosed aggregate storage bins often have more than one of these bins ducted to a fabric filter collection system and requested that the NSPS require only Method 9 testing for single fabric filter systems that control emissions from more than one enclosed storage bin.

Response. As stated in the preamble to the proposed amendments to the NSPS, Method 5 testing cannot be performed for baghouses that only control emissions from individual, enclosed storage bins due to very low air flows from individual, enclosed storage bins. However, if emissions from multiple storage bins are ducted to a single fabric collection system, the air flow is high enough for Method 5 testing, accordingly, the combined emissions are subject to both Method 5 stack emission testing and Method 9 opacity testing for determining compliance. This requirement is specified in § 60.672(g).

(c) *Comment.* A commenter referred to the original proposed rule for subpart OOO that was published on August 31, 1983 (48 FR 39574), which stated that ''Performance tests would not be required for fugitive emission sources.'' Fugitive emissions as defined in that proposal include emissions from crushers, conveyors, and screens that have no capture system. According to the commenter, neither the current rule nor the proposed amended rule for subpart OOO contain language that would require performance testing immediately after startup for fugitive emission sources. According to the commenter, §§ 60.675 (b) and (c) explain only how to determine compliance for the fugitive emission limitations, not that performance testing is required. The State agency requested that the wording, and true intent, of subpart OOO be clarified so as to explicitly state whether performance testing for fugitive emissions is required.

Response. The intent of subpart OOO is to require initial compliance testing for fugitive emissions from applicable affected facilities. The commenter referred to the statement in the proposed rule published on August 31, 1983 at page 48 FR 39574. This statement was in regard to performance tests by Method 5, which are not applicable to fugitive emission sources. It was not intended to exempt fugitive emission sources from initial compliance using Method 9 or Method 22 as appropriate.

Section 60.8 of the General Provisions for 40 CFR part 60 requires performance testing for affected facilities in each subpart (regulation) and § 60.11 contains requirements for compliance with opacity standards. Each subpart specifies the applicable test methods and any additional test procedures or exemptions specific to the affected facility being regulated. The test methods and procedures for affected facilities under subpart OOO, § 60.675, require performance tests on fugitive emission sources. This is also indicated by the General Provisions requirements which are included in Table 1 of § 60.670 in these amendments to this NSPS. This Table has been added to make clear in the regulation itself the requirements of this NSPS.

(d) *Comment.* There was total support in the public comments for the proposed reduction of visible emission testing from 3 hours to 1 hour (subject to the level of visible emissions observed during the first hour) for fugitive emission sources. However, one commenter stated that since crushers without capture systems are allowed 15 percent opacity, a 3-hour test should not be required if three 10 percent opacity readings are observed in the first hour. The commenter asserted that a crusher operating uniformly at 5 percent opacity with several 10 percent puffs or constantly at 10 percent is well within compliance. Several commenters also strongly believe that affected facilities should be allowed to demonstrate compliance during the 1-hour test with the existing opacity limits that are applicable for each affected facility, i.e., 15 percent for crushers at which a capture system is not used and 10 percent for other affected facilities as required in the NSPS.

Response. The proposed revised rule did not change the existing 15 percent opacity limit for crushers without capture systems as interpreted by several of the commenters, nor did the proposed revised rule allow the Method 9 test reduction from 3 hours to 1 hour for these crushers. However, the EPA's review of visible emission data submitted by a State agency for crushers without capture systems showed that these crushers generally had no emissions during 1-hour Method 9 observations. The visible emission data was from crushers using wet suppression and from screens and conveyor transfer points without capture systems. The test data showed 3 crushers with all Method 9 readings at 0 percent and 1 crusher with a few readings at 5 percent; 1 conveyor (prior to crushing) test showed several readings at 10 percent and some at 15 percent. Therefore, based on this test data, the Method 9 emission test period for crushers without capture systems is reduced from 3 hours to 1 hour to demonstrate compliance with the 15 percent fugitive emissions limit if there are no individual readings greater than 15 percent opacity and there are no more than 3 readings of 15 percent for the first 1-hour period. If these qualifying conditions are not met during the first hour, then testing of crushers without capture systems would be required for 3 hours.

(e) *Comment.* According to one commenter, the proposed revisions fail to specify what an inspector or industry personnel must do to demonstrate compliance if visible emissions are seen using Method 22 outside a building which does not comply with § 60.672(e). The commenter stated that the inspector must enter the building in these cases. As an example, the commenter cited an incident that took place after promulgation of the original rule in which an EPA inspector found it impossible to read opacity inside a building located at a rock crushing plant due to the lack of proper visibility. The commenter stated that in some cases there was no room for an inspector to enter, much less read the opacity from affected facilities. The commenter also referred to OSHA rules which define such structures as confined spaces and caution against exposing personnel to

such dangers. The commenter recommended that if visible emissions are seen outside the building and it is unsafe to enter the building then Method 9 readings should be taken outside the building. The recommended opacity limit would be the same as allowed under § 60.672 (b) or (c).

Response. The commenter was concerned that the original rule failed to address what must be done if the visible emission requirements that apply to emissions observed outside the building are not met. Section 60.672(e)(standard for particulate matter) clearly states that compliance is shown by complying with either § 60.672 (a), (b) and (c) or by complying with § 60.672(e). Also, the requirements are discussed in the preamble for the final rule published on August 1, 1985; at 50 FR 31333 and 31334. Accordingly, no change is required to the regulation.

This NSPS is a national standard and it is impossible to prepare a regulation that addresses every possible situation. This NSPS gives industry flexibility by giving them the option of complying with § 60.672(e) or with § 60.672 (a), (b) and (c). Section 60.672(e) allows no visible emissions from a building except from a vent. Emission limits from a vent are the same as for any stack emissions; 0.05 g/dscm and 7 percent opacity. Thus, by complying with § 60.672(e) no one is required to enter the building. Sections 60.672 (a),(b) and (c) limit the stack emissions as mentioned above as well as setting Method 9 opacity limits for fugitive emissions from individual affected facilities. If Method 9 limits are set for the building as suggested by the commenter, there is the potential of allowing dilution air to be added to general building ventilation. Also, the Method 9 opacity limits for fugitive emissions as shown in §§ 60.672 (b) and (c) are based on emission test data obtained while observing emissions from individual affected facilities such as crushers and belt conveyors and not from buildings containing these affected facilities. Therefore, there will be no change made to the proposed revisions based on this comment.

(f) *Comment.* One commenter recommended waiving the Method 9 opacity compliance testing requirement for screens and conveyor transfer points subject to this NSPS pursuant to § 60.8(b)(4) of the General Provisions, subpart A (which waives the requirement for performance tests because an owner or operator has demonstrated compliance to EPA by other means). The commenter based this request on more than 80 emissions evaluations performed at nonmetallic mineral processing plants during the past nine years which demonstrate that these affected facilities are in compliance with the opacity standard for fugitive emissions. If a waiver of the initial testing requirement is not granted, it was suggested that the cut-off point as applied to the testing requirement for 3 hours of testing be 50 percent of the largest applicable federally enforceable opacity standard.

A Regional Air Pollution Control Agency provided copies of a number of actual Method 9 observation sheets that illustrated their experience of gathering mostly ''zeros'' when conducting the subpart OOO visible emission readings and offered these as corroboration that the proposed Method 9 testing reduction from 3 hours to 1 hour, if there is not a visible emission problem, should be promulgated. The visible emission data were from crushers using wet suppression and from screens and conveyor transfer points.

Response. With regard to the first comment, the EPA does not believe that a waiver of the initial compliance testing requirement for screening operations and conveyor transfer points is justified under § 60.8(b)(4). A Method 9 performance test is only required one time (initially) under the regulation. This performance test is necessary to demonstrate that the capture system is properly designed, installed and operated to comply with this NSPS. The emission test data submitted by the local agency support the use of this performance test. As to the suggestion that the cut-off point for requiring 3 hours of testing be 50 percent of the largest applicable federally enforceable opacity standard, the EPA believes that the proposed qualifying conditions in § 60.675(d) (no reading greater than 10 percent or 3 readings equal to 10 percent) are more appropriate since these were based on several emission tests submitted by industry and air pollution control agencies. No emission test data were submitted by the commenter.

(g) *Comment.* A commenter requested further consideration of alternate testing procedures for periodic operations such as enclosed storage bins and loadout stations. The commenter provided procedures approved previously by an EPA Regional Office and requested that these procedures be incorporated into the final rule. The EPA Regional Office agreed that if a storage tank's baghouse exhaust is in compliance with this NSPS by using Method 9, Method 5 particulate emission testing would not be required. Also the EPA Regional Office approved Method 9 testing that was conducted over two or three loading cycles of the product storage tank in lieu of 3 hours of Method 9 observations. For truck loadout stations, 30 minutes of visible emission testing were allowed.

Response. As noted by the commenter, the proposed amended rule, 60.672(f), requires individual, enclosed storage bins to only comply with the opacity standard. Also, the testing period has been reduced from three hours to one hour. Section 60.8(b) of the General Provisions allows the use of alternatives to performance testing based on the review and approval by EPA of relevant supporting information. The supporting data and information in requests for alternative testing are evaluated for approval by EPA on a case-by-case basis. Even though these alternate testing procedures that reduced the duration of Method 9 testing were approved by EPA under certain conditions for certain affected facilities, no emission test data were submitted to warrant incorporating these changes into the final rule for regulating such affected facilities throughout the entire industry.

4. Reporting and Recordkeeping Requirements

(a) *Comment.* Several commenters were opposed to the requirement under § 60.4(a) of the General Provisions that all notifications, reports, etc. be sent in duplicate to both the EPA Regional Office and one copy to the State regulatory agency, provided the State has been delegated authority for the NSPS. Also, the commenters recommended that if the State has been delegated authority for this NSPS, notifications, reports, etc. should only be sent to the States. According to the commenters, for those States not delegated NSPS authority, notifications and correspondence should be sent only to the appropriate EPA Regional Office.

Response. The submittals of duplicate copies of notifications, reports, etc. to the EPA Regional Offices and a copy to State agencies with delegated authority are needed so that both groups can keep track of this NSPS.

The commenters are correct that if a State has not been delegated authority; notifications, reports, etc. are required to be sent only to the appropriate EPA Regional Office.

(b) *Comment.* One commenter suggested that EPA consider the use of fax or telephone notifications to States of the date of actual construction and initial start-up.

Response. On September 11, 1996 (61 FR 47840), revisions to the General Provisions, subpart A, 40 CFR parts 60, 61, and 63, were proposed allowing the use of electronic notifications if

approved by the relevant permitting authority.

(c) *Comment.* One commenter supported the proposed revision that allowed a single notification for the actual date of initial startup for multiple affected facilities that plan to begin initial startup simultaneously (on the same day), in circumstances where, due to delays and the time required to install the affected facilities, startup of every affected facilities does not occur at the same time. Due to these different startup times, the commenter requested a single notification of startup for all affected facilities that startup within a 30-day timeframe.

Response. If a 30-day window were allowed, sufficient prior notification to the State or local agencies for the first affected facilities that commence operations would not be provided. Companies that choose to submit a single notification of initial startup for multiple affected facilities must do appropriate planning to avoid such simultaneous equipment installation delays. If such equipment installation delays cannot be avoided, then a notification of initial startup for each affected facility is required. Accordingly, a change to accommodate this request is not appropriate.

(d) *Comment.* One commenter requested that the Agency eliminate the notification in subpart A, General Provisions, § 60.7(a)(1), of the date of when construction commences of an affected facility (postmarked no later than 30 days after construction commences) because the company did not believe it served any useful purpose.

Response. The requirement under the General Provisions, § 60.7(a)(1), for an owner or operator to notify the EPA or State agencies of the date of construction of an affected facility is necessary for tracking purposes and enforcement. The EPA or State agencies enforcing the standards have to track, or keep records of, new equipment at both new plants and capacity expansions at existing plants. Administrative reporting and recordkeeping requirements for these standards are similar to those for other NSPS.

(e) *Comment.* One commenter suggested that under § 60.676(i), the current address/location be included in the notification of the actual date of initial startup of each affected facility. Many aggregate processing plants are portable, and are routinely moved from place-to-place. In the past, this has led to confusion on where the plant is located and where the visible emission observations are going to take place. Currently, portable aggregate processing plants in the particular State retain the identification address from the owner/operator's business headquarters. When the portable plant is relocated, it is still identified with that home office address even though it is actually located elsewhere.

Response. The EPA agrees that, in the case of portable plants that are routinely moved from place to place, the current address/location should be included in the notification of the actual date of initial startup of such portable plants. Therefore, § 60.676(i) of the final amended rule has been revised to require both the home office address and the current address/location of the portable plant.

(f) *Comment.* One aggregate company requested 14 days lead time, in lieu of 30 days for notifications of relocation of portable plants and other notifications such as emission testing and date of construction because portable plants have trouble anticipating the new location 30 days in advance.

Response. Notifications of relocations of portable plants are a requirement of individual State and local agencies. For notifications of emission testing, these agencies need adequate notice so that they can observe opacity and emission testing. Personnel from these agencies have stated they need 30 days prior notice to adequately plan to attend opacity and emission testing. The requirements for other notifications have decreased. The notification requirement of the actual date of initial startup under § 60.7(a)(2) is already 15 days and the anticipated date of initial startup requirement under § 60.7(a)(2) has already been waived under subpart OOO. Therefore, no additional changes in notification lead times have been made for portable plants.

III. 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 final rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking process. 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)).

B. Clean Air Act Procedural Requirements

1. The effective date of this revised regulation is June 9, 1997. Section 111(b)(1)(B) of the CAA provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities of which the construction or modification was commenced after the date of proposal, June 27, 1996.

2. 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.

3. External Participation—In accordance with section 117 of the Act, publication of the final revisions to the NSPS was preceded by consultation with a national trade association composed of 570 member companies and several States.

4. 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 final amended rule 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 final amended rule 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 or final revisions to the rule was conducted.

C. 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. 1084.05) to reflect the revised/reduced information requirements of the final revised regulation and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division (2136), U.S. Environmental Protection Agency, 401 M St., SW., 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 were estimated at 820 hours and $27,060 for the first year of operation. The vast majority of the estimated hours (670) was attributed to required Method 5 and Method 9 performance testing of affected facilities. Under the final 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 fugitive emission sources has been reduced from 3 hours to 1 hour if qualifying conditions are met as discussed in Section II.3.3.d. 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 final 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 $16,000, the majority of which is due to performance testing. This represents an estimated reduction in the average annual recordkeeping and reporting burden of 340 hours and $11,000 per plant. 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 chapter 15.

2. Executive Order 12866

Under Executive Order 12866 (58 FR 51735 (October 4, 1993)), the EPA must determine whether the final 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 final revisions to the NSPS are ''not significant'' because none of the above criteria are triggered by the final revisions. The final amended rule would decrease the cost of complying with the revised NSPS.

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final standards that include a Federal mandate that may result in estimated costs to State, local, or tribal governments, or to the private sector, of, in the aggregate, $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the standard and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the standards.

The EPA has determined that today's action, which promulgates revisions and clarifications to the existing regulation, decreases the cost of compliance with this final revised regulation. Also, the final revised regulation does not contain any requirements that apply to State, local or tribal governments. Therefore, the requirements of the Unfunded Mandates Act do not apply to this final 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 Clean Air 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 final 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 final revisions to the standards is a reduction of the reporting and recordkeeping requirements for owners and operators of all affected facilities.

Thus, EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities.

F. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Administrative Procedures Act (APA), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

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

Dated: May 30, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, 40 CFR part 60, subpart OOO is amended to read 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, 7412, 7413, 7414, 7470–7479, 7501–7508, 7601, and 7602.

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

§ 60.670 Applicability and designation of affected facility.

(a)(1) Except as provided in paragraphs (a)(2), (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. Also, crushers and grinding mills at hot mix asphalt facilities that reduce the size of nonmetallic minerals embedded in recycled asphalt pavement and subsequent affected facilities up to, but not including, the first storage silo or bin are subject to the provisions of this subpart.

(2) The provisions of this subpart do not apply to the following operations: All facilities located in underground mines; and stand-alone screening operations at plants without crushers or grinding mills.

* * * * *

(d) * * *

(2) An owner or operator complying with paragraph (d)(1) of this section shall submit the information required in § 60.676(a).

* * * * *

(f) Table 1 of this subpart specifies the provisions of subpart A of this Part 60 that apply and those that do not apply to owners and operators of affected facilities subject to this subpart.

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, Determination 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(h)).
60.8, Performance tests	Yes	Except in (d), after 30 days notice for an initially scheduled performance test, any rescheduled performance 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 (§§ 60.675 (c)(3) and (c)(4)), Method 9 observation may be reduced from 3 hours to 1 hour. Some affected facilities exempted from Method 9 tests (§ 60.675(h)).
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	No	Flares will not be used to comply with the emission limits.
60.19, General notification and reporting requirements.	Yes.	

3. Section 60.671 is amended by adding in alphabetical order the definitions of *Wet mining operation* and *Wet screening operation* to read as follows:

§ 60.671 Definitions.

* * * * *

Wet mining operation means a mining or dredging operation designed and operated to extract any nonmetallic mineral regulated under this subpart from deposits existing at or below the water table, where the nonmetallic mineral is saturated with water.

Wet screening operation means a screening operation at a nonmetallic mineral processing plant which removes unwanted material or which separates marketable fines from the product by a washing process which is designed and operated at all times such that the product is saturated with water.

* * * * *

4. Section 60.672 is amended by removing the word ''or'' and adding the word ''and'' after paragraph (a)(1); by revising paragraphs (b) and (c); and by adding paragraphs (f), (g), and (h) to read as follows:

§ 60.672 Standard for particulate matter.

* * * * *

(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 of this part, 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), and (e) 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 of this part, 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 of this part, no owner or operator shall cause to be discharged into the atmosphere from any baghouse that controls emissions from only 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)(1) and (a)(2) of this section.

(h) 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, no owner or operator shall cause to be discharged into the atmosphere any visible emissions from:

(1) Wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to the next crusher, grinding mill or storage bin.

(2) Screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, where such screening operations, bucket elevators, and belt conveyors process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

5. Section 60.675 is amended by revising paragraph (b), introductory text, redesignating paragraphs (c) introductory text, (c)(1), (c)(2), and (c)(3) as paragraphs (c)(1), (c)(1)(i), (ii), and (iii) and adding new paragraphs (c)(2), (c)(3), (c)(4), (g), and (h) to read as follows:

§ 60.675 Test methods and procedures.

* * * * *

(b) The owner or operator shall determine compliance with the particulate matter standards in § 60.672(a) as follows:

* * * * *

(c) * * *

(2) In determining compliance with the opacity of stack emissions from any baghouse that controls emissions only from an individual enclosed storage bin under § 60.672(f) of this subpart, using Method 9, the duration of the Method 9 observations shall be 1 hour (ten 6-minute averages).

(3) When determining compliance with the fugitive emissions standard for any affected facility described under § 60.672(b) of this subpart, the duration of the Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

(i) There are no individual readings greater than 10 percent opacity; and

(ii) There are no more than 3 readings of 10 percent for the 1-hour period.

(4) When determining compliance with the fugitive emissions standard for any crusher at which a capture system is not used as described under § 60.672(c) of this subpart, the duration of the Method 9 observations may be reduced from 3 hours (thirty 6-minute averages) to 1 hour (ten 6-minute averages) only if the following conditions apply:

(i) There are no individual readings greater than 15 percent opacity; and

(ii) There are no more than 3 readings of 15 percent for the 1-hour period.

* * * * *

(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 a notice to the Administrator at least 7 days prior to any rescheduled performance test.

(h) Initial Method 9 performance tests under § 60.11 of this part and § 60.675 of this subpart are not required for:

(1) wet screening operations and subsequent screening operations, bucket elevators, and belt conveyors that process saturated material in the production line up to, but not including the next crusher, grinding mill or storage bin.

(2) screening operations, bucket elevators, and belt conveyors in the production line downstream of wet mining operations, that process saturated materials up to the first crusher, grinding mill, or storage bin in the production line.

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

§ 60.676 Reporting and recordkeeping.

* * * * *

(b) [Removed and 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 of this subpart, 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 screening operation, bucket elevator, or belt conveyor that processes saturated material and is subject to § 60.672(h) and subsequently processes unsaturated materials, shall submit a report of this change within 30 days following such change. This screening operation, bucket elevator, or belt conveyor is then subject to the 10 percent opacity limit in § 60.672(b) and the emission test requirements of § 60.11 and this subpart. Likewise a screening operation, bucket elevator, or belt conveyor that processes unsaturated material but subsequently processes saturated material shall submit a report of this change within 30 days following such change. This screening operation, bucket elevator, or belt conveyor is then subject to the no visible emission limit in § 60.672(h).

(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.

(1) 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.

(2) For portable aggregate processing plants, the notification of the actual date of initial startup shall include both the home office and the current address or location of the portable plant.

(j) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) 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.

[FR Doc. 97–14856 Filed 6–6–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–5836–8]

National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions From Wood Furniture Manufacturing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On December 7, 1995 (60 FR 62930), the EPA promulgated National Emission Standards for Hazardous Air Pollutants; Final Standards for Hazardous Air Pollutant Emissions from Wood Furniture Manufacturing Operations under section 112 of the Clean Air Act (CAA), 42 U.S.C. 7412. The national emission standards for hazardous air pollutants (NESHAP) requires existing and new major sources to control emissions using maximum achievable control technology (MACT) to control hazardous air pollutants. This action revises the definition of wood furniture component in the NESHAP to exclude foam seat cushions not made at a wood furniture manufacturing facility from this definition. The revisions clarify the applicability of the final rule to eliminate potential overlapping requirements with other NESHAP.

DATES: The direct final rule will be effective August 8, 1997 unless significant adverse comments are received by July 9, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Interested parties may submit written comments (in duplicate, if possible) on the proposed changes to the NESHAP to: Air and Radiation Docket and Information Center (6102), Attention, Docket No. A–93–10, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina.

FOR FURTHER INFORMATION CONTACT: For information concerning the standards and the proposed changes, contact Mr. Paul Almodóvar, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone (919) 541–0283. For information regarding the applicability of this action to a particular entity, contact Mr. Robert Marshall, Manufacturing Branch, Office of Compliance, (2223A), U.S. EPA, 401 M Street, SW, Washington, DC 20460; telephone (202) 564–7021.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are owners or operators of facilities that are engaged, either in part or in whole, in wood furniture manufacturing operations and that are major sources as defined in 40 CFR Part 63, subpart A, section 63.2. Regulated categories include:

Category	Examples of regulated entities
Industry	Facilities which are manor sources of hazardous air pollutants and manufacture wood furniture or wood furniture components.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities that EPA is now aware potentially could be regulated by this action. Other types of entities not listed in the table also could be regulated. To determine whether your facility [company, business, organization, etc.] is regulated by this action, you should carefully examine the applicability criteria in section 63.800 of the NESHAP for Wood Furniture Manufacturing Operations that was promulgated in the **Federal Register** on December 7, 1995 (60 FR 62930) and codified at 40 CFR part 63, subpart JJ. If you have questions regarding the applicability of this action to a particular entity, consult Mr. Robert Marshall at the address listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Any significant and timely adverse comments received on any portion of this direct final rule will be addressed in a subsequent final rule based on the proposed rule contained in the Proposed Rules Section of this **Federal Register** that is identical to this direct final rule. If no significant and timely adverse comments are received on this direct final rule, then the direct final rule will become effective August 8, 1997 and no further action will be taken on the parallel proposal published today.

The information presented below is organized as follows:

I. Background
II. Summary of and Rationale for Rule Changes
III. Administrative Requirements
A. Docket
B. Paperwork Reduction Act
C. Executive Order 12866
D. Regulatory Flexibility Act
E. Regulatory Review
F. Unfunded Mandates Act
G. Submission to Congress and the General Accounting Office

I. Background

On December 7, 1995 (60 FR 62930), the EPA promulgated the NESHAP for Wood Furniture Manufacturing Operations. These standards were codified as subpart JJ in 40 CFR part 63. These standards established emission limits for, among other things, coating and gluing of wood furniture and wood furniture components. Wood furniture components were defined to include ''seat cushions,'' some of which are made of foam and are manufactured and glued to the wood furniture at the wood furniture manufacturing facility. Others are manufactured off-site at a foam fabrication facility, and provided to the wood furniture manufacturing facility to include with the final wood furniture product.

This action clarifies the applicability of the final rule by revising the definition of ''wood furniture component'' to exclude from this definition, seat cushions manufactured and fabricated at a facility that does not engage in any other wood furniture or wood furniture component manufacturing operations. The manufacture of these foam seat cushions will be subject to a different NESHAP as discussed in more detail below.

II. Summary of and Rationale for Rule Changes

The EPA has revised the definition of ''wood furniture component'' in the Wood Furniture Manufacturing NESHAP to exclude foam seat cushions not made at a wood furniture manufacturing facility from this