

areas attained the 1-hour ozone NAAQS and are not required to impose section 185 penalty fees does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: April 15, 2008.

**W.T. Wisniewski,**

*Acting Regional Administrator, Region III.*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

[EPA-HQ-OAR-2008-0260; FRL-8556-6]

RIN 2060-AO57

**Standards of Performance for Coal Preparation Plants**

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to section 111(b)(1)(B) of the Clean Air Act (CAA), EPA has reviewed the emissions limits in the standards of performance for coal preparation plants which were promulgated January 15, 1976. This action presents the results of EPA's review and proposes amendments to limits for coal preparation plants consistent with those results. Specifically, we are proposing to tighten and add additional particulate matter (PM) emissions limits for sources constructed after April 28, 2008. In addition, we are proposing to clarify the procedures used to measure emissions from coal preparation plants and add new monitoring requirements for sources constructed after April 28, 2008.

**DATES:** *Comments.* Comments must be received on or before June 12, 2008. If anyone contacts EPA by May 8, 2008

requesting to speak at a public hearing, EPA will hold a public hearing on May 13, 2008. Under the Paperwork Reduction Act, comments on the information collection provisions must be received by the Office of Management and Budget (OMB) on or before May 28, 2008.

**ADDRESSES:** *Comments.* Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2008-0260, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

- *E-mail: a-and-r-docket@epa.gov.*
- *By Facsimile:* (202) 566-1741.
- *Mail:* Air and Radiation Docket, U.S. EPA, Mail Code 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503. EPA requests a separate copy also be sent to the contact person identified below (see **FOR FURTHER INFORMATION CONTACT**).

- *Hand Delivery:* EPA Docket Center, Docket ID Number EPA-HQ-OAR-2008-0260, EPA West Building, 1301 Constitution Ave., NW., Room 3334, Washington, DC, 20004. Such deliveries are accepted only during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OAR-2008-0260. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an

e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

*Docket:* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christian Fellner, Energy Strategies Group, Sector Policies and Programs Division (D243-01), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-4003, facsimile number (919) 541-5450, electronic mail (e-mail) address: *fellner.christian@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

*Regulated Entities.* Entities potentially affected by this proposed action include, but are not limited to, the following:

Category	NAICS <sup>1</sup>	Examples of regulated entities
Industry .....	212111	Bituminous Coal and Lignite Surface Mining.
	212112	Bituminous Coal Underground Mining.
	221112	Fossil Fuel Electric Power Generation.
	212113	Anthracite Mining.

Category	NAICS <sup>1</sup>	Examples of regulated entities
Federal Government .....	213113	Support Activities for Coal Mining.
	322121	Paper (except Newsprint) Mills.
	324199	All other petroleum and coal products manufacturing.
	325110	Petrochemical Manufacturing.
	327310	Cement Manufacturing.
	331111	Iron and Steel Mills.
State/local/tribal government .....	22112	Fossil fuel-fired electric utility steam generating units owned by the Federal Government.
	22112	Fossil fuel-fired electric utility steam generating units owned by municipalities. Fossil fuel-fired electric steam generating units in Indian Country.
	921150	

<sup>1</sup> North American Industry Classification System (NAICS) code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the proposed rule. This table lists categories of entities that may have coal preparation plants regulated by this proposed rule. To determine whether your facility is regulated by the proposed rule, you should examine the applicability criteria in § 60.250 and the definitions in § 60.251. If you have any questions regarding the applicability of the proposed rule to a particular entity, contact the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

**WorldWide Web (WWW).** Following the Administrator's signature, a copy of the proposed amendments will be posted on the Technology Transfer Network's (TTN) policy and guidance page for newly proposed or promulgated rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control.

**Public Hearing.** If a public hearing is requested, it will be held at 10 a.m. at the EPA Facility Complex in Research Triangle Park, North Carolina or at an alternate site nearby. Contact Mr. Christian Fellner at 919-541-4003 to request a hearing, to request to speak at a public hearing, to determine if a hearing will be held, or to determine the hearing location.

**Outline.** The information presented in this preamble is organized as follows:

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  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
  - H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer Advancement Act
  - J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

**I. Background**

New source performance standards (NSPS) implement CAA section 111(b) and are issued for categories of sources which have been identified as causing, or contributing significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The primary purpose of the NSPS are to help States attain and maintain ambient air quality by ensuring that the best demonstrated emission control technologies are installed as the industrial infrastructure is modernized. Since 1970, the NSPS have been successful in achieving long-term emissions reductions at numerous industries by assuring cost-effective controls are installed on new, reconstructed, and modified sources.

CAA section 111 requires that NSPS reflect the degree of emission limitation achievable through application of the best system of emissions reductions which (taking into consideration the cost of achieving such emissions reductions, any non-air quality health

and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. This level of control is commonly referred to as best demonstrated technology (BDT). CAA section 111(b)(1)(B) requires the EPA to periodically review and revise the standards of performance, as necessary, to reflect improvements in methods for reducing emissions.

The current NSPS for coal preparation plants are contained in 40 CFR part 60, subpart Y, and were promulgated in the **Federal Register** on January 15, 1976 (41 FR 2232). Subpart Y is applicable to facilities which process more than 181 megagrams (Mg) (200 tons) of coal per day that commenced construction, reconstruction, or modification after October 24, 1974. The first review of the Coal Preparation Plants NSPS was completed on April 14, 1981 (46 FR 21769). The second review of the Coal Preparation Plants NSPS was completed on April 03, 1989 (54 FR 13384). EPA did not make changes to the NSPS as a result of these reviews.

**II. Summary of Proposed Amendments**

We are proposing to amend 40 CFR part 60, subpart Y, to revise emissions limits and monitoring requirements for affected facilities constructed, reconstructed, or modified after April 28, 2008 at coal preparation plants processing more than 181 Mg (200 tons) of coal per day. We are also proposing to add provisions to subpart Y to clarify procedures for monitoring opacity at facilities presently subject to subpart Y. A summary of the proposed substantive amendments is presented below.

**A. Applicability**

Subpart Y presently applies to the following affected facilities located at coal preparation plants which process more than 181 Mg (200 tons) of coal per day: Thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems, and transfer and

loading systems. The terms “thermal dryer” and “pneumatic coal-cleaning equipment” are defined to include only facilities that process bituminous coal and “Coal storage system” is defined to exclude open storage piles. We are proposing not to amend the designation of affected facilities or the definitions of thermal dryer, pneumatic coal-cleaning equipment, coal processing and conveying equipment, coal storage system, or transfer and loading system.

#### *B. PM Emission Limit*

For thermal dryers constructed, modified, or reconstructed after April 28, 2008, we are proposing to revise the PM emission limit to 0.046 grams per dry standard cubic meter (g/dscm) (0.020 grains per dry standard cubic foot (gr/dscf)). For pneumatic coal-cleaning equipment constructed, modified, or reconstructed after April 28, 2008, we are proposing to revise the PM emissions limit to 0.011 g/dscm (0.0050 gr/dscf) and the opacity limit to 5 percent. For coal processing and conveying equipment, coal storage systems, and transfer and loading systems that commenced construction, reconstruction, or modification after April 28, 2008, we are proposing to revise the opacity limit to 5 percent. Finally, for coal processing and conveying equipment, coal storage systems, and transfer and loading systems processing coals other than bituminous coals that commenced construction or reconstruction after April 28, 2008 or were modified after April 28, 2008 and are enclosed, we are proposing to require that all PM emissions be vented to a stack and that emissions from the stack meet a PM standard of 0.011 g/dscm (0.0050 gr/dscf).

#### *C. Monitoring and Recordkeeping Requirements*

We are proposing to clarify the procedures that should be used by sources covered by subpart Y to monitor opacity. We are also proposing to require owners/operators of thermal dryers and pneumatic coal-cleaning equipment constructed, modified, or reconstructed after April 28, 2008 to either install and operate a PM continuous emissions monitoring system (PM CEMS) or to conduct annual PM performance tests. In addition, we are proposing to require owners/operators of pneumatic coal-cleaning equipment or thermal dryers using fabric filters constructed, modified, or reconstructed after April 28, 2008 not using PM CEMS to install a bag leak detection system. Finally, we are proposing to eliminate the opacity limit

for owners/operators of affected facilities that properly install and continuously operate a PM CEMS.

To monitor the opacity at coal processing and conveying equipment, coal storage systems, and transfer and loading systems constructed, modified, or reconstructed after April 28, 2008, owner/operators of affected facilities shall conduct EPA Test Method 22, Appendix A-7, 40 CFR part 60, observations each calendar month that the coal preparation plant operates. If the results of the Method 22 observations indicate the presence of visible emissions for more than 5 percent of the observation period, the owner/operator would be required to conduct an EPA Test Method 9, Appendix A-4 of 40 CFR part 60, performance test on that affected facility within 24 hours. The data from the Method 9 test would be compared to the applicable opacity limit.

Finally, we are proposing to add specific recordkeeping requirements to subpart Y that would require the owner/operator of an affected facility that commenced construction, reconstruction, or modification after April 28, 2008 to maintain a logbook that records the visual opacity observations, the amount of chemical stabilizer or water purchased to control PM emissions, and the amount and ranks of coal processed each month.

#### *D. Additional Proposed Amendments*

We are proposing to add a definition for a bag leak detection system. In addition, we are proposing to amend the definitions of bituminous coal and coal to include the most recent ASTM test procedures. Finally, for a venturi scrubber, liquid flow rate is a better indicator of performance than liquid pressure monitoring, and we are proposing to add flow rate monitoring as an alternative to pressure monitoring. These changes update the definitions sections and are only intended to clarify the monitoring provisions, but do not substantively change the standards that apply to sources constructed before April 28, 2008.

### **III. Rationale for the Proposed Amendments**

#### *A. Determination of Best Demonstrated Technology (BDT)*

We reviewed air permits for coal handling/processing/preparation/cleaning (process type 90.011) in the RACT/BACT/LAER Clearinghouse (RBLC) clearinghouse to determine BDT for existing coal preparation plants. In this review, we did not identify any emerging pollution prevention measures

or PM control technologies at coal mines, electric power plants, or other industrial facilities. Therefore, we assumed that the following PM controls can be used on thermal dryers and pneumatic coal-cleaning equipment: A centrifugal (cyclone) collector, followed by a venturi scrubber and fabric filter respectively. Based on this review, we also concluded that the following PM controls can be used at coal processing and conveying equipment, coal storage systems, and transfer and loading systems at coal preparation plants: Enclosures in conjunction with either wet or chemical suppression or venting to a fabric filter.

#### *B. Selection of Thermal Dryer PM Emission Limit*

When developing the proposed standards, we concluded that it is appropriate to use a fuel-neutral approach. The fuel-neutral principle dictates that emission standards should be as neutral as possible between clean fuels (fuels that have inherently low emissions) and other fuels. We are proposing to adopt this approach in order to set a nationwide emission standard that can be achieved by all new facilities in this source category, including facilities that do not have long-term access to clean fuels at a reasonable cost. In addition, we have concluded that the most bituminous coal mines are located away from major population centers and are not connected to the natural gas distribution system and that the use of natural gas as the thermal dryer fuel is not an option. Therefore, we concluded that the thermal dryer limit should be based on the combustion of coal.

A review of EPA's RBLC database over the past decade indicated that three new permits have been granted for new and modified coal-fired thermal dryers located at coal mines. The first permit was granted to the Island Creek coal preparation plant to modify an existing thermal dryer. The other two permits were granted to the Buchanan coal preparation plant. One was to modify an existing thermal dryer, and the other was to construct a new thermal dryer. All three coal-fired thermal dryers have PM permit limits of 0.025 gr/dscf; however, the new thermal dryer was never constructed at the Buchanan unit. To gather additional data, EPA reviewed permits for thermal dryers built more than 10 years ago to identify permit conditions that were more stringent than the existing NSPS. One of the identified plants was Mettiki general coal preparation plant, which had a permit limit of 0.020 gr/dscf. EPA reviewed PM performance test from

2000 from the Metikki facility, 1997 data from the Island Creek facility, and PM and opacity performance test data from 2003 and 2006 from the modified Buchanan thermal dryer. The average PM performance test results were 0.013, 0.019, 0.020, and 0.018 gr/dscf, respectively. The maximum opacity readings for the 2003 and 2006 performance tests at the Buchanan plant were 10 and 20 percent, respectively. We selected 0.020 gr/dscf as the proposed PM limit because this level is currently being achieved by the thermal dryer located at the three facilities subject to the most stringent PM limits, and because we did not identify any emerging pollution prevention or emission control technologies. In addition, we have concluded that the existing opacity limit of 20 percent is appropriate since the opacity data from the Buchanan plant demonstrates that compliance with the PM mass emission limit is possible at an opacity of 20 percent and has decided not to revise the limit.

We are not proposing to set separate limits for condensable PM, PM<sub>2.5</sub>, or PM<sub>10</sub> emissions. Based on AP-42 emission factors, condensable PM accounts for only approximately 1 percent of total PM emissions from a fluidized bed dryer. Based on AP-42 emissions factors, a high efficiency venturi scrubber controls 75 percent of condensable PM, and 99 percent of the total filterable PM. PM<sub>2.5</sub> accounts for approximately 15 percent of filterable PM emissions from a fluidized bed dryer. Even though the collection efficiency for a venturi scrubber decreases with decreasing PM size, we have concluded that the improvements in design required to comply with the amended PM standard will result in 50 percent collection efficiency of submicron particles. Therefore, we concluded that setting a total filterable PM limit is sufficient. Further, at this time we do not have sufficient performance test data on condensable PM or PM<sub>2.5</sub> emissions from thermal dryers to determine what limits would be reasonable. Finally, although we acknowledge that the addition of controls after the high efficiency venturi scrubber could result in lower condensable and PM<sub>2.5</sub> emissions, we do not have any way to estimate the performance of such controls to conduct a cost analysis. Therefore we cannot conclude at this time that such controls would constitute the best demonstrated technology for this source category.

### *C. Selection of Pneumatic Coal-Cleaning Equipment PM Emission Limit*

We are proposing to revise the PM and opacity limits that would apply to pneumatic coal-cleaning equipment constructed, modified, or reconstructed after April 28, 2008. A review of the RBLC database indicated that no new pneumatic coal-cleaning equipment has been permitted in the past decade. We concluded, however, that performance from baghouses on coal processing and conveying equipment, coal storage systems, and transfer and loading systems is representative of the performance that would be expected of new pneumatic coal-cleaning equipment. Therefore, we determined that the level of control that reflects the BDT for coal processing and conveying equipment, coal storage systems, and transfer and loading systems standards also reflects the BDT for pneumatic coal-cleaning equipment. The following section describes how the proposed PM and opacity standards for these affected facilities were developed.

### *D. Selection of Coal Processing and Conveying Equipment, Coal Storage Systems, and Transfer and Loading System PM and Opacity Limits*

To determine the best demonstrated technology for coal processing and conveying equipment, coal storage systems, and transfer and loading systems, we reviewed control measures currently in use at coal preparation plants to reduce emissions from coal processing and conveying equipment, coal storage systems, and transfer and loading systems. This review indicated that most new facilities use either partial or total enclosures in conjunction with either wet or chemical suppression or venting to a baghouse. However, no single PM control scheme works for all coal ranks throughout the country. Bituminous coals typically have high surface moisture contents and low uncontrolled PM emissions. Facilities currently utilizing bituminous coal typically use enclosures with either wet suppression or chemical suppression to control PM emissions from the various processing and handling operations at a coal preparation plant. Low rank coals (subbituminous and lignite) tend to have low surface moisture and higher uncontrolled PM emissions, but the use of wet suppression can significantly decrease the coal's heating value. In addition, water resources are often limited in the regions where low rank coals are processed. Consequently, facilities currently utilizing low rank coals typically use enclosures and

controls other than wet suppression (e.g., chemical sprays, fogging systems, or venting to a fabric filter) to control PM emissions from the various processing and handling operations at a coal preparation plant.

We developed uncontrolled emission rates for coal processing and conveying equipment, coal storage systems, and transfer and loading systems using emissions information from three references (i.e., EPA's AP-42 emission factors, the CHEER workshop proceedings, and the Emission Estimation Technique Manual for Mining). We are not aware of any additional sources of information for uncontrolled emissions rates for these operations and, for the purposes of this analysis, we selected the uncontrolled emissions factor for each coal preparation operation based on the information contained in these references. We also selected default percent control efficiencies for different control devices based on information contained in these references. Using the default uncontrolled emission rates and the default control efficiencies, we determined the cost effectiveness of the various control options.

We developed six model coal preparation plants to evaluate the cost effectiveness of the control options. The model plants are located at a bituminous coal mine, a subbituminous coal mine, an electric utility steam generating unit, a coke production facility, a cement manufacturing facility, and an industrial site. For each model coal preparation plant, we compared the use of chemical suppressants to venting to a fabric filter because these are the options with the highest level of control. Based on an analysis of these model coal preparation plants, we drew the following conclusions regarding the BDT for affected facilities at these plants. Control technologies and costs, and therefore BDT, differ depending on the type of coal processed.

For coal preparation plants processing bituminous coal at end-user locations (the electric utility steam generating unit, the coke production facility, the cement manufacturing facility, and the industrial site), we concluded that requiring fabric filters instead of using chemical suppressants would result in an annual reduction of 7 tons of PM, but cost an additional \$640,000 annually. In addition, the incremental benefit and cost of fabric filters at a bituminous mine compared to application of chemical suppressants is a reduction of an additional 33 tons of PM, but the annual cost is an additional \$200,000. Due to these high costs, we concluded that fabric filters are not BDT for any

coal preparation plant processing bituminous coal. Therefore, BDT for affected facilities at coal preparation plants processing bituminous coal is the use of enclosures and chemical suppression.

In contrast, for coal preparation plants processing coals other than bituminous coal (the subbituminous mine), we determined that fabric filters do constitute BDT. The high uncontrolled PM emissions of subbituminous coal results in higher chemical costs and more cost effective fabric filters. The cost of a baghouse is \$580,000 less than the use of chemicals at a subbituminous mine; the higher control efficiency of fabric filters results in a 230 ton annual decrease in PM emissions. Therefore, since fabric filters provide the highest level of control and are cost effective, they are considered BDT. Lignite has similar uncontrolled PM emissions as subbituminous coal and fabric filters are also considered BDT for coal preparation plants processing lignite.

We determined that BDT for new and reconstructed coal preparation plants processing coals other than bituminous coal is enclosure of the affected facilities and venting of emissions through a stack equipped with fabric filters. However, for modified facilities, we determined that enclosure is not BDT. Modified facilities could face technical challenges due to the layout of existing equipment. Therefore, BDT for these facilities is enclosure and venting through a stack equipped with fabric filters only if the affected facility was already enclosed before the modification. For modified facilities at coal preparation plants processing coal other than bituminous coal that are not enclosed prior to the modification BDT is the use of chemical suppressants. A detailed explanation of the emission factors and cost analysis is available in the docket.

In addition, we analyzed whether it was appropriate to set a mass PM or an opacity standard for coal processing and conveying equipment, coal storage systems, and transfer and loading systems. As discussed above, we concluded that BDT was enclosure and venting to a stack equipped with fabric filters only for new or reconstructed affected facilities that process coals other than bituminous coals, and modified affected facilities that are enclosed and process coals other than bituminous coals. BDT for processing and conveying equipment, coal storage systems, and transfer and loading systems processing bituminous coal and unenclosed modified processing and conveying equipment, coal storage systems, and transfer and loading

systems processing coals other than bituminous coal was determined to be enclosure and the use of chemical suppression. Because it is not technically difficult or economically prohibitive to measure both PM emissions and opacity from sources venting emissions through a stack, we concluded that it was appropriate to set both a PM and opacity standard for new or reconstructed affected facilities that process coals other than bituminous coals, and modified affected facilities that are enclosed and process coals other than bituminous coals. For all other coal processing and conveying equipment, coal storage systems, and transfer and loading systems, we concluded that, at this time, it is appropriate to continue to use only an opacity standard. While measuring emissions of uncontrolled and controlled fugitive PM emissions from coal preparation facilities is technically possible, due to economic limitations it is often not presently practicable to measure the mass of PM emissions for operations that are not vented to a stack. Therefore, we are not proposing to set a separate PM standard for these affected facilities.

To identify the opacity standard that reflects the degree of emission limitation achievable through the application of the best demonstrated technology, we reviewed the RBLC database for opacity conditions applied in permits for coal handling facilities. Thirty-eight permits had opacity conditions, all for baghouses. Five of these permit conditions repeat the existing NSPS limit of 20 percent opacity, 1 was at 10 percent, and the remaining 32 were at 5 percent opacity or less. Based on this, we concluded that 5 percent opacity is BDT for a baghouse at a coal preparation plant. To further evaluate the actual performance of fabric filters, we conducted a review of test reports collected in support of the subpart OOO (non-metallic mineral processing facilities) review. These data were recently collected for review of subpart OOO, 40 CFR part 60, and we concluded the results are representative of results that would be expected from baghouses located at coal preparation plants since the size distribution and total mass of PM emissions are similar. We found that the results from all 102 relevant opacity performance tests on baghouses from the review showed maximum opacity readings of 5 percent or less.

To determine the appropriate opacity for affected facilities that do not vent PM emissions through a stack, we reviewed 383 Method 9 performance tests on facilities processing non-

metallic minerals and using wet suppression (water-mixed surfactant sprays) to control fugitive dust. Again, we concluded that this data is comparable to what could be expected from non-enclosed affected facilities at a coal preparation plant since the size distribution and total uncontrolled PM emissions are similar for affected facilities covered by both subparts. None of the performance tests resulted in any 6-minute opacity readings in excess of 10 percent, and 91 percent of the performance tests had opacity readings of 5 percent or less. Since the assumed BDT for coal preparation plants processing bituminous coal is the use of enclosures and chemical suppressants, which is superior to standard wet suppression technology, we have concluded that an opacity limit of 5 percent is appropriate for new, modified, and reconstructed coal processing equipment. Even though many of the opacity readings are zero, opacity is measured in 5 percent increments. If the observer sees anything at all the minimum opacity they can report is 5 percent. We have concluded that a zero opacity limit is not appropriate since then even the smallest amount of visible emissions for any period would be an excess emission.

We concluded that a PM limit of 0.011 g/dscm (0.0050 gr/dscf) reflects the degree of emission limitation achievable through the application of the BDT at new or reconstructed affected facilities that process coals other than bituminous coals, and modified affected facilities that are enclosed and process coals other than bituminous coals. To determine what PM limit would be achievable through the application of best demonstrated technology at affected facilities processing coals other than bituminous coal, we reviewed data from the RBLC over the past decade for permit conditions for recent baghouses at coal handling facilities. Twenty-four of the 47 baghouse permits that list the gr/dscf stack limit were at 0.0050 gr/dscf or less, 22 were between 0.0050 and 0.010 gr/dscf, and 1 was above 0.010 gr/dscf. Since the cost difference in designing a baghouse to meet either 0.010 or 0.0050 gr/dscf is insignificant and the majority of new permits require stack limits of 0.0050 gr/dscf, EPA concluded that 0.0050 gr/dscf is BDT for a baghouse at a coal preparation plant. To further evaluate the actual performance of fabric filters, we reviewed performance test data from baghouses installed at affected facilities subject to subpart OOO. These data were recently

collected for review of subpart OOO, and we concluded the results are representative of results that would be expected from baghouses located at coal preparation plants. One important distinction is that the majority of baghouses that submitted performance test data for the subpart OOO review had design emissions rates of 0.010 gr/dscf or higher. Of the 143 performance test results, 71 percent had results of 0.0050 gr/dscf or less and 87 percent had results of 0.010 gr/dscf or less. Based on this review, we selected a PM limit of 0.0050 gr/dscf of filterable PM for new or reconstructed affected facilities that process coals other than bituminous coals, and modified affected facilities that are enclosed and process coals other than bituminous coals because it is achievable on a consistent basis for a baghouse designed to achieve 0.0050 gr/dscf. For the same reasons, we also determined that a PM limit of 0.0050 gr/dscf represented the emissions limitation achievable through the application of BDT at new, modified, and reconstructed pneumatic coal-cleaning equipment. Even though some individual PM performance test results are less than 0.0050 gr/dscf, we have concluded that the permit limit and manufacturer guarantees have an appropriate compliance margin built in. A detailed analysis of the performance test data is available in the docket.

We concluded that there are insignificant condensable PM emissions from coal processing and conveying equipment, coal storage systems, and transfer and loading systems and, therefore, decided not to establish a separate PM limit for condensable PM emissions.

We also concluded that it was not appropriate to establish separate PM<sub>2.5</sub> or PM<sub>10</sub> limits. Based on AP-42 emission factors, PM<sub>10</sub> accounts for approximately half of the total PM emissions from coal handling operations and PM<sub>2.5</sub> accounts for approximately 7 percent. We have concluded that both fabric filters and chemical dust suppressants control PM equally across the size distribution, and setting an overall PM limit is sufficient to control both PM<sub>10</sub> and PM<sub>2.5</sub>. Even if we were to set a PM<sub>10</sub> or PM<sub>2.5</sub> limit, it would not result in any environmental benefit, but would increase compliance costs due to testing and reporting requirements. In addition, we do not have sufficient performance test data to establish reasonable PM<sub>10</sub> and PM<sub>2.5</sub> limits that could be achieved on a consistent basis.

#### *E. Monitoring and Recordkeeping Requirements*

We have concluded that it is appropriate to eliminate the opacity limit for affected facilities that use a PM CEMS to monitor emissions. For affected facilities at coal preparation plants, a PM CEMS will give a more direct measurement of the pollutant of interest causing opacity at these facilities (i.e., filterable PM) and provide data in units of the standard. We are not proposing, however, to require all affected facilities to install a PM CEMS, and the opacity standard will continue to apply to all facilities without a PM CEMS. For those facilities that elect not to install PM CEMS, and for those emissions at a source that are not suitable for monitoring by PM CEMS, it is appropriate to retain the opacity standard.

For new thermal dryers and pneumatic coal-cleaning equipment for which a PM CEMS is not applied, we are requiring a bag leak detection system. Bag leak detection systems that are based on electromagnetic or other electric charge transfer measurement are sensitive to changes in PM concentration and mass emissions rates. These devices are suitable for detecting changes in PM emissions control that suggests potential compliance problems in need of attention well before significant deterioration in control device operation. Bag leak detection systems in most applications act as early detection alarms but do not provide a measure of actual PM emissions. For this reason, we are proposing to retain the opacity standard for sources applying a bag leak detection system.

For monitoring PM emissions from coal processing and conveying equipment, coal storage systems, and transfer and loading systems, we are proposing monthly Method 22 opacity tests. We recognize that there is currently no readily available practical technology for continuously monitoring opacity from sources that do not vent PM emissions to a stack. Method 22 requires an observer, not necessarily certified as a Method 9 observer, to monitor the subject process or area for any visible emissions (i.e., not zero). For a period of time, this observer records all instances and the duration of visible emissions. If the sum of the duration of periods of visible emissions exceeds five percent of the observation period, the source must conduct a Method 9 test to establish compliance with the opacity limit.

We are also proposing as an explicit alternative to Method 22 observations the use of a digital photographic

technique for detecting visible emissions. The proposed rule references an EPA preliminary method entitled "Determination of Visible Emission Opacity from Stationary Sources Using Computer-Based Photographic Analysis Systems" found at <http://www.epa.gov/ttn/emc/prelim/pre-008.pdf>. For this option, the source owner prepares for approval a site-specific monitoring plan based on this technology.

To verify that proper inspections and maintenance procedures are followed, we have concluded that it is necessary for the owner/operator of an affected facility to maintain a logbook. Data in the logbook would include the dates and results of all visual emission observations, the amount of water and/or chemical stabilizer used each month to control PM emissions, and the amount of coal processed each month.

#### **IV. Modification and Reconstruction Provisions**

Existing affected facilities at coal preparation plants that are modified or reconstructed would be subject to the applicable proposed amendments. We have concluded that existing affected facilities that are reconstructed and units that are modified should be able to achieve the proposed limits. Therefore, we are not proposing any amendments to how a facility would conduct the modification and reconstruction analysis.

#### **V. Summary of Cost, Environmental, Energy, and Economic Impacts**

In setting the standards, the CAA requires EPA to consider alternative emission control approaches, taking into account the estimated costs and benefits, as well as energy, solid waste, and other effects. We request comment on whether we have identified the appropriate alternatives and whether the proposed standards adequately take into consideration the incremental effects in terms of emission reductions, energy, and other effects of these alternatives. We will consider the available information in developing the final rule.

The costs and environmental, energy, and economic impacts are expressed as incremental differences between the impacts of coal preparation facilities complying with the proposed amendments and the current common permitting authority requirements (i.e., baseline). We used permit data and raw material use data to determine that new coal preparation plants will be built at 2 bituminous mines, 2 subbituminous mines, 1 coke production plant, 6 utility plants, 10 cement manufacturing plants, and 1 industrial site over the next 5

years. However, the controls presently required by State permitting authorities are equivalent to what would be required by the proposed amendments, and the impacts of the proposed amendments will result in limited environmental benefit or increase in control costs over the next 5 years. Therefore, the primary impact resulting from the proposed amendments to subpart Y for coal preparation facilities is a slight increase in recordkeeping costs for new units subject to subpart Y.

Compliance with the proposed standards would potentially increase the quantity of coal dust collected by fabric filters over the baseline levels. Depending on the practices used at a given coal preparation plant site, the amended regulation would increase the amount of coal dust the company must dispose of as a solid waste either on-site or off-site. In addition, the use of tree resin emulsions and synthetic polymer emulsions as dust suppressants have minimal environmental impacts, but the use of salts and lign products can have negative impacts on the environment. Repeated applications of salts may harm nearby vegetation, and lign products have a high biological oxygen demand in aquatic systems and can lead to fish kills and increases in groundwater concentrations of iron, sulfur compounds, or other pollutants. No significant energy impacts, as measured relative to the regulatory baseline, are expected as a result of the proposed PM limits.

The analysis concludes minimal changes in prices and output for the industries affected by the final rule. The price increase for baseload electricity, cement prices, coke prices, and coal prices are insignificant.

## VI. Request for Comment

We request comments on all aspects of the proposed amendments. All significant comments received will be considered in the development and selection of the final amendments and, if appropriate, we will publish a supplemental proposal. We specifically solicit comments on additional amendments that are under consideration. These potential amendments are described below.

**BDT for Thermal Dryers.** No new thermal dryers have been installed at bituminous coal mines in the past decade, but two new thermal dryers have been installed at metal production facilities in the past decade. Both of those thermal dryers are fueled by natural gas and use fabric filters to control PM emissions. However, we are not aware of a fabric filter that has been used on a thermal dryer located at a

bituminous coal mine. We are requesting comment on whether the high dew point of coal-fired thermal dryer exhaust at bituminous mines could cause potential difficulties with the use of a fabric filter. If we determine that the use of fabric filters at thermal dryers located at bituminous coal mines would not pose any significant technical difficulties and would not be cost prohibitive, we will consider basing the revised PM standard for thermal dryers on the performance of a fabric filter instead of a venturi scrubber. In addition, we are requesting comment on whether the proposed standards for thermal dryers are adequate to control condensable PM, PM<sub>2.5</sub>, and PM<sub>10</sub> or whether additional standards are needed to control these types of PM.

**Alternate requirements for an owner or operator of coal processing and conveying equipment, coal storage systems, and coal transfer equipment.** We are requesting comment on if it is appropriate to establish equipment specifications in addition to, as an alternate to, or in place of the opacity standard for affected facilities not venting emissions to a stack. Affected facilities using chemical suppression or an equivalent dust control application typically do not emit through a conveyance designed to capture the PM emissions. In addition, it may not be practical to measure the mass of actual PM emissions from these facilities and work practice standards might be more appropriate.

**Expanded coverage.** We are requesting comment on expanding the coverage to include open storage piles by changing the definition of coal storage system. The Coal Handling Emissions Evaluation Roundtable (CHEER) workshop proceedings provide default control efficiencies for different technologies. We are requesting comment on the reliability and validity of these default control efficiencies. We have not developed cost estimates for some of these technologies. Also, we do not presently have information relating different control techniques to specific opacity limits and appropriate monitoring requirements. We request comment on both of these issues. If we were to expand the coverage to include open storage piles, work practice standards might be more appropriate than opacity limits. Our current understanding is that it is difficult to control opacity from open storage piles that are being actively worked at all times, and State permitting authorities often use opacity of open storage piles as an indication that a work practice is required as opposed to a strict limit.

**Nonmetallic minerals processing.** We are requesting comment on if it is appropriate to allow owners and operators of a facility processing nonmetallic minerals (as defined by subpart OOO) along with coal at the same property the option of being exempt from the requirements of subpart OOO as long as the nonmetallic mineral(s) is treated as coal for the purposes of compliance with subpart Y. Steam generating units with SO<sub>2</sub> scrubbers and cement manufacturers process limestone along with coal and consolidating the recordkeeping and reporting requirements to a single rule could lower the compliance burden for these facilities while still providing equivalent protection for the environment.

## VII. Statutory and Executive Order Reviews

### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a “significant regulatory action” because it may raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the EO. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866, and any changes made in response to OMB recommendations have been documented in the docket for this action.

### B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 1062.10.

These proposed amendments to the existing standards of performance for Coal Preparation Plants would add new monitoring, reporting, and recordkeeping requirements. The information would be used by EPA to ensure that any new affected facilities comply with the emission limits and other requirements. Records and reports would be necessary to enable EPA or States to identify new affected facilities that may not be in compliance with the requirements. Based on reported information, EPA would decide which units and what records or processes should be inspected.

These proposed amendments would not require any notifications or reports

beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to EPA for which a claim of confidentiality is made will be safeguarded according to EPA policies in 40 CFR part 2, subpart B, Confidentiality of Business Information.

The annual monitoring, reporting, and recordkeeping burden for this collection averaged over the first 3 years of this ICR is estimated to total 32,664 labor hours per year at an average annual cost of \$2,957,707. This estimate includes performance testing, excess emission reports, notifications, and recordkeeping. There are no capital/start-up costs or operational and maintenance costs associated with the monitoring requirements over the 3-year period of the ICR. Burden is defined at 5 CFR 1320.3(b).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA-HQ-OAR-2008-0260. Submit any comments related to the ICR to EPA and OMB. See **ADDRESSES** section at the beginning of the notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, *Attention:* Desk Office for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after April 28, 2008, a comment to OMB is best assured of having its full effect if OMB receives it by May 28, 2008. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

### C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies

that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of the proposed amendments on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities.

We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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 UMRA section 202, 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. Before promulgating an EPA rule for which a written statement is needed, UMRA section 205 generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal

governments, it must have developed under UMRA section 203 a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the proposed amendments contain no Federal mandates that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The total annual control and monitoring costs of the proposed amendments, compared to a baseline of no control, at year five is \$2 million. Thus, the proposed amendments are not subject to the requirements of sections 202 and 205 of the UMRA. EPA has determined that the proposed amendments contain no regulatory requirements that might significantly or uniquely affect small governments because the burden is small and the regulation does not unfairly apply to small governments. Therefore, the proposed amendments are not subject to the requirements of UMRA section 203.

### E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the EO to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

These proposed amendments do not have federalism implications. They will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in EO 13132. These proposed amendments will not impose substantial direct compliance costs on State or local governments; they will not preempt State law. Thus, EO 13132 does not apply to these proposed amendments. In the spirit of EO 13132, and consistent with EPA policy to promote

communications between EPA and State and local governments, EPA specifically solicits comment on these proposed amendments from State and local officials.

*F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." These proposed amendments do not have tribal implications, as specified in EO 13175. We are not aware of any coal preparation facilities owned by an Indian tribe. Thus, EO 13175 does not apply to these proposed amendments. EPA specifically solicits additional comment on these proposed amendments from tribal officials.

*G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

EPA interprets EO 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the EO has the potential to influence the regulation. This proposed action is not subject to EO 13045 because it is based solely on technology performance.

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

This proposed action is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this proposed action is not likely to have any adverse energy effects.

*I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113 (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary

consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking involves technical standards. EPA has decided to use ASME PTC 19.10-1981, "Flue and Exhaust Gas Analyses," for its manual methods of measuring the oxygen or carbon dioxide content of the exhaust gas. These parts of ASME PTC 19.10-1981 are acceptable alternatives to EPA Method 3B. This standard is available from the American Society of Mechanical Engineers (ASME), Three Park Avenue, New York, NY 10016-5990.

The EPA has also decided to use EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, 9 (40 CFR part 60, appendices A-1 through A-4), or 22 (40 CFR part 60, appendix A-7); and Performance Specification 11 (40 CFR part 60, appendix B). While the Agency has identified 13 VCS as being potentially applicable to these methods cited in this rule, we have decided not to use these standards in this proposed rulemaking. The use of these VCS would have been impractical because they do not meet the objectives of the standards cited in this rule. The search and review results are in the docket for this rule.

Under 40 CFR 60.13(i) of the NSPS General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures in the final rule and amendments. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this proposed action.

*J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practical and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high

and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high adverse human health or environmental effects on any populations, including any minority or low-income population. The proposed amendments would assure that all new coal preparation plants install appropriate controls to limit health impacts to nearby populations.

**List of Subjects in 40 CFR Part 60**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 16, 2008.

**Stephen L. Johnson,**  
*Administrator.*

For the reasons stated in the preamble, title 40, chapter I, part 60, of the Code of the Federal Regulations is proposed to be amended as follows:

**PART 60—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401, et seq.

**Subpart A—[Amended]**

2. Section 60.17 is amended as follows:

- a. By revising paragraph (a)(13);
- b. By removing paragraph (a)(14);
- c. By redesignating paragraphs (a)(15) through (a)(92) as paragraphs (a)(14) through (a)(91); and
- d. By revising paragraph (h)(4).

**§ 60.17 Incorporation by reference.**

\* \* \* \* \*

(a) \* \* \*

(13) ASTM D388-77, 90, 91, 95, 98a, 99 (Reapproved 2004), Standard Specification for Classification of Coals by Rank, IBR approved for §§ 60.24(h)(8), 60.41 of subpart D of this part, 60.45(f)(4)(i), 60.45(f)(4)(ii), 60.45(f)(4)(vi), 60.41Da of subpart Da of this part, 60.41b of subpart Db of this part, 60.41c of subpart Dc of this part, 60.251 of subpart Y of this part, and 60.4102.

\* \* \* \* \*

(h) \* \* \*

(4) ANSI/ASME PTC 19.10–1981, Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus], IBR approved for § 60.254(c)(3) of subpart Y, Tables 1 and 3 of subpart EEEE, Tables 2 and 4 of subpart FFFF, Table 2 of subpart JJJJ, and § 60.4415(a)(2) and 60.4415(a)(3) of subpart KKKK of this part.

\* \* \* \* \*

#### Subpart Y—[Amended]

3. Part 60 is amended by revising subpart Y to read as follows:

#### Subpart Y—Standards of Performance for Coal Preparation Plants

Sec.

60.250 Applicability and designation of affected facility.

60.251 Definitions.

60.252 Standards for particulate matter.

60.253 Monitoring of operations.

60.254 Test methods and procedures.

60.255 Reporting and recordkeeping.

#### Subpart Y—Standards of Performance for Coal Preparation Plants

##### § 60.250 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to any of the following affected facilities in coal preparation plants which process more than 181 Mg (200 tons) per day: Thermal dryers, pneumatic coal-cleaning equipment (air tables), coal processing and conveying equipment (including breakers and crushers), coal storage systems, and transfer and loading systems.

(b) Any affected facility under paragraph (a) of this section that commences construction, reconstruction, or modification after October 24, 1974, is subject to the requirements of this subpart.

##### § 60.251 Definitions.

As used in this subpart, all terms not defined herein have the meaning given them in the Act and in subpart A of this part.

*Bag leak detection system* means a system that is capable of continuously monitoring relative particulate matter (dust loadings) in the exhaust of a fabric filter to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to continuously monitor relative particulate matter loadings.

*Bituminous coal* means solid fossil fuel classified as bituminous coal by ASTM Designation D388 (incorporated by reference—see § 60.17).

*Coal* means all solid fossil fuels classified as anthracite, bituminous, subbituminous, or lignite by ASTM Designation D388 (incorporated by reference—see § 60.17).

*Coal preparation plant* means any facility (excluding underground mining operations) which prepares coal by one or more of the following processes: Breaking, crushing, screening, wet or dry cleaning, and thermal drying.

*Coal processing and conveying equipment* means any machinery used to reduce the size of coal or to separate coal from refuse, and the equipment used to convey coal to or remove coal and refuse from the machinery. This includes, but is not limited to, breakers, crushers, screens, and conveying systems.

*Coal storage system* means any facility used to store coal except for open storage piles.

*Cyclonic flow* means a spiraling movement of exhaust gases within a duct or stack.

*Pneumatic coal-cleaning equipment* means any facility which classifies bituminous coal by size or separates bituminous coal from refuse by application of air stream(s).

*Thermal dryer* means any facility in which the moisture content of bituminous coal is reduced by contact with a heated gas stream which is exhausted to the atmosphere.

*Transfer and loading system* means any facility used to transfer and load coal for shipment.

##### § 60.252 Standards for particulate matter.

(a) *Thermal dryers.* On and after the date on which the initial performance test is completed or required to be completed under § 60.8, the owner or operator of thermal dryers subject to the provisions of this subpart must meet the requirements in paragraphs (a)(1) through (3) of this section, as applicable to the affected facility.

(1) For each thermal dryer constructed, reconstructed, or modified on or before April 28, 2008, the owner or operator must ensure that emissions discharged into the atmosphere from the affected facility:

(i) Do not contain particulate matter in excess of 0.070 g/dscm (0.031 gr/dscf); and

(ii) Do not exhibit 20 percent opacity or greater.

(2) For each thermal dryer constructed, reconstructed, or modified after April 28, 2008, the owner or operator must ensure that emissions discharged into the atmosphere from the affected facility do not contain particulate matter in excess of 0.046 g/dscm (0.020 gr/dscf).

(3) For each thermal dryer constructed, reconstructed, or modified after April 28, 2008 that does not use a particulate matter continuous emissions monitoring system (PM CEMS) according to the requirements § 60.253(e), the owner or operator must ensure that emissions discharged into the atmosphere from the affected facility do not exhibit 20 percent opacity or greater.

(b) *Pneumatic coal-cleaning equipment.* On and after the date on which the initial performance test is completed or required to be completed under § 60.8, the owner or operator of pneumatic coal-cleaning equipment subject to the provisions of this subpart must meet the requirements in paragraphs (b)(1) through (3) of this section, as applicable to the affected facility.

(1) For each pneumatic coal-cleaning equipment constructed, reconstructed, or modified on or before April 28, 2008, the owner or operator must ensure that emissions discharged into the atmosphere from the affected facility:

(i) Do not contain particulate matter in excess of 0.040 g/dscm (0.017 gr/dscf); and

(ii) Do not exhibit 10 percent opacity or greater.

(2) For each pneumatic coal-cleaning equipment constructed, reconstructed, or modified after April 28, 2008, the owner or operator must ensure that emissions discharged into the atmosphere from the affected facility do not contain particulate matter in excess of 0.011 g/dscm (0.0050 gr/dscf).

(3) For each pneumatic coal-cleaning equipment constructed, reconstructed, or modified after April 28, 2008 and that does not use a PM CEMS according to the requirements in § 60.253(e), the owner or operator must ensure that emissions discharged into the atmosphere from the affected facility do not exhibit 5 percent opacity or greater.

(c) *Coal processing and conveying equipment, coal storage systems, and coal transfer systems.* On and after the date on which the initial performance test is completed or required to be completed under § 60.8, the owner or operator of coal processing and conveying equipment, coal storage systems, and transfer and loading systems subject to the provisions of this subpart must meet the requirements in paragraph (c)(1) or (2) of this section as applicable to the affected facility.

(1) For each coal processing and conveying equipment, coal storage system, and transfer and loading system constructed, reconstructed, or modified on or before April 28, 2008, the owner or operator must ensure that emissions

discharged into the atmosphere from the affected facility do not exhibit 20 percent opacity or greater.

(2) For each coal processing and conveying equipment, coal storage system, and transfer and loading system constructed, reconstructed, or modified after April 28, 2008, the owner or operator must meet the requirements in paragraphs (c)(2)(i) through (iii) of this section, as applicable to each affected facility.

(i) For each affected facility that does not use a PM CEMS according to the requirements in § 60.253(e), the owner or operator must ensure that emissions discharged into the atmosphere from the affected facility do not exhibit 5 percent opacity or greater.

(ii) For each new and reconstructed affected facility that processes, conveys, stores, transfers, or loads coals, except those that exclusively process, convey, store, transfer, or load bituminous coal, must vent all emissions through a stack and ensure that emissions discharged into the atmosphere from the affected facility do not contain particulate matter in excess of 0.011 g/dscm (0.0050 gr/dscf).

(iii) For each modified affected facility that was in an enclosure prior to the modification and that processes, conveys, stores, transfers, or loads coals, except those that exclusively process, convey, store, transfer, or load bituminous coal must vent all emissions through a stack and ensure that emissions discharged into the atmosphere from the affected facility do not contain particulate matter in excess of 0.011 g/dscm (0.0050 gr/dscf).

(d) Owners and operators of affected facilities constructed, reconstructed, or modified after April 28, 2008 that are subject to a particulate matter emissions limit in this section and do not use a PM CEMS according to the requirements of § 60.253(e) must demonstrate compliance with the applicable particulate matter emissions limit by conducting an initial performance test and, thereafter, an annual performance test according to the requirements in § 60.254(c).

#### **§ 60.253 Monitoring of operations.**

(a) The owner or operator of any thermal dryer constructed, reconstructed, or modified on or before April 28, 2008 shall install, calibrate, maintain, and continuously operate monitoring devices as follows:

(1) A monitoring device for the measurement of the temperature of the gas stream at the exit of the thermal dryer on a continuous basis. The monitoring device is to be certified by

the manufacturer to be accurate within  $\pm 1.7^\circ\text{C}$  ( $\pm 3^\circ\text{F}$ ).

(2) For affected facilities that use a venturi scrubber emissions control equipment:

(i) A monitoring device for the continuous measurement of the pressure loss through the venturi constriction of the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within  $\pm 1$  inch water gauge.

(ii) A monitoring device for the continuous measurement of the water supply pressure or water flow rate to the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within  $\pm 5$  percent of design water supply pressure or flow rate. The pressure sensor or tap or flow rate sensor must be located close to the water discharge point. The Administrator may be consulted for approval of alternative locations.

(b) All monitoring devices under paragraph (a) of this section are to be recalibrated annually in accordance with procedures under § 60.13(b).

(c) The owner or operator of each thermal dryer and pneumatic coal-cleaning equipment constructed, reconstructed, or modified after April 28, 2008 must install, calibrate, maintain, and continuously operate the monitoring devices specified in paragraphs (c)(1) through (3) of this section, as applicable, except as provided for in paragraph (d) of this section.

(1) For a thermal dryer, a monitoring device for the measurement of the temperature of the gas stream at the exit of the thermal dryer on a continuous basis. The monitoring device is to be certified by the manufacturer to be accurate within  $\pm 1.7^\circ\text{C}$  ( $\pm 3^\circ\text{F}$ ).

(2) For a fabric filter (baghouse), a bag leak detection system according to the requirements in paragraph (f) of this section.

(3) For a venturi scrubber, monitoring devices according to the requirements in paragraphs (c)(3)(i) and (ii) of this section.

(i) A monitoring device for the continuous measurement of the pressure loss through the venturi constriction of the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within  $\pm 1$  inch water gauge.

(ii) A monitoring device for the continuous measurement of the water supply pressure or water flow rate to the control equipment. The monitoring device is to be certified by the manufacturer to be accurate within  $\pm 5$  percent of design water supply pressure or flow rate. The pressure sensor or tap

or flow rate sensor must be located close to the water discharge point.

(d) The monitoring requirements in paragraph (c) of this section do not apply to an affected facility if the owner or operator installs, calibrates, maintains, and continuously operates at that facility a particulate matter continuous emission monitoring system (PM CEMS) according to the requirements in paragraph (e) of this section.

(e) Each PM CEMS used in lieu of the monitoring requirements in paragraph (c) of this section must be installed, calibrated, maintained, and continuously operated according to the requirements in paragraphs (e)(1) through (4) of this section.

(1) You must install, certify, operate, and maintain the PM CEMS according to Performance Specification 11 in appendix B of this part and procedure 2 in appendix F of this part.

(2) You must conduct a performance evaluation of the PM CEMS according to the applicable requirements of § 60.13, Performance Specification 11 in appendix B of this part, and procedure 2 in appendix F of this part.

(3) During each relative accuracy test run of the PM CEMS required by Performance Specification 11 in appendix B of this part, collect the particulate matter and stack gas molecular weight data concurrently (or within a 30- to 60-minute period) with both the PM CEMS and the performance testing using the following test methods.

(i) For particulate matter, Method 5 of Appendix A-3 of this part shall be used.

(ii) For stack gas molecular weight determination, Method 3, 3A, or 3B of Appendix A-2 of this part, as applicable shall be used.

(4) Quarterly accuracy determinations and daily calibration drift tests shall be performed in accordance with procedure 2 in appendix F of this part.

(f) Each bag leak detection system used to comply with the monitoring requirements of this subpart must be installed, calibrated, maintained, and continuously operated according to the requirements in paragraphs (f)(1) through (3) of this section.

(1) The bag leak detection system must meet the specifications and requirements in paragraphs (f)(1)(i) through (viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 1 milligram per dry standard cubic meter (0.00044 grains per actual cubic foot) or less.

(ii) The bag leak detection system sensor must provide output of relative PM loadings. The owner or operator shall continuously record the output

from the bag leak detection system using electronic or other means (e.g., using a strip chart recorder or a data logger).

(iii) The bag leak detection system must be equipped with an alarm system that will sound when the system detects an increase in relative particulate loading over the alarm set point established according to paragraph (f)(2) of this section, and the alarm must be located such that it can be heard or otherwise observed by the appropriate plant personnel.

(iv) In the initial adjustment of the bag leak detection system, you must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(v) Following initial adjustment, you shall not adjust the averaging period, alarm set point, or alarm delay time without approval from the Administrator or delegated authority except as provided in paragraph (f)(2) of this section.

(vi) Once per quarter, you may adjust the sensitivity of the bag leak detection system to account for seasonal effects, including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required by paragraph (f)(2) of this section.

(vii) You must install the bag leak detection sensor downstream of the fabric filter.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(2) You must develop and submit to the Administrator or delegated authority for approval a site-specific monitoring plan for each bag leak detection system. You must operate and maintain the bag leak detection system according to the site-specific monitoring plan at all times. Each monitoring plan must describe the items in paragraphs (f)(2)(i) through (vi) of this section.

(i) Installation of the bag leak detection system;

(ii) Initial and periodic adjustment of the bag leak detection system, including how the alarm set-point will be established;

(iii) Operation of the bag leak detection system, including quality assurance procedures;

(iv) How the bag leak detection system will be maintained, including a routine maintenance schedule and spare parts inventory list;

(v) How the bag leak detection system output will be recorded and stored; and

(vi) Corrective action procedures as specified in paragraph (f)(3) of this

section. In approving the site-specific monitoring plan, the Administrator or delegated authority may allow owners and operators more than 3 hours to alleviate a specific condition that causes an alarm if the owner or operator identifies in the monitoring plan this specific condition as one that could lead to an alarm, adequately explains why it is not feasible to alleviate this condition within 3 hours of the time the alarm occurs, and demonstrates that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(3) For each bag leak detection system, you must initiate procedures to determine the cause of every alarm within 1 hour of the alarm. Except as provided in paragraph (f)(2)(vi) of this section, you must address the cause of the alarm within 3 hours of the alarm by taking whatever corrective action(s) are necessary. Corrective actions may include, but are not limited to the following:

(i) Inspecting the fabric filter for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in PM emissions;

(ii) Sealing off defective bags or filter media;

(iii) Replacing defective bags or filter media or otherwise repairing the control device;

(iv) Sealing off a defective fabric filter compartment;

(v) Cleaning the bag leak detection system probe or otherwise repairing the bag leak detection system; or

(vi) Shutting down the process producing the PM emissions.

(g) An owner or operator of a coal processing and conveying equipment, coal storage systems, or transfer and loading system with an applicable opacity limit that commenced construction, reconstruction, or modification after April 28, 2008 must comply with the requirements in paragraphs (g)(1) and (2) of this section.

(1) Monitor visible emissions from each affected facility according to the requirements in either paragraph (g)(1)(i) or (ii) of this section.

(i) Conduct a series of three 1-hour observations (during normal operation) at least once per calendar month that the coal preparation plant operates using Method 22 of Appendix A-7 of this part at the affected facility and demonstrate that the sum of the occurrences of any visible emissions at each affected facility is not in excess of 5 percent of the observation period (i.e., 9 minutes per 3-hour period); or

(ii) Prepare and implement a written site-specific monitoring plan based on the application of a digital opacity

compliance system that has been approved by the Administrator. The observations should include at least one digital image every 15 seconds for three separate 1-hour periods (during normal operation) every calendar month that the coal preparation plant operates. An approvable monitoring plan should include a demonstration that the occurrences of visible emissions are not in excess of 5 percent of the observation period (i.e., 36 observations per 3-hour period). For reference purposes in preparing the monitoring plan, see OAQPS "Determination of Visible Emission Opacity from Stationary Sources Using Computer-Based Photographic Analysis Systems." This document is available from the U.S. Environmental Protection Agency (U.S. EPA); Office of Air Quality and Planning Standards; Sector Policies and Programs Division; Measurement Group (D243-02), Research Triangle Park, NC 27711. This document is also available on the Technology Transfer Network (TTN) under Emission Measurement Center Preliminary Methods (<http://www.epa.gov/ttn/emc/prelim/pre-008.pdf>).

(2) For each observation period resulting in cumulative visible emissions periods in excess of 5 percent of the observation period, the owner or operator must conduct an opacity performance test with Method 9 of Appendix A-4 of this part to verify compliance within 24 hours from the day on which the observations were made.

#### **§ 60.254 Test methods and procedures.**

(a) In conducting the performance tests required in § 60.8 for affected facilities constructed, reconstructed, or modified on or before April 28, 2008, the owner or operator shall use as reference methods and procedures the test methods in appendices A-1 through A-8 of this part or other methods and procedures as specified in this section, except as provided in § 60.8(b).

(b) The owner or operator of an affected facility constructed, reconstructed, or modified after April 28, 2008 shall use the following procedures to measure particular matter emissions from that facility:

(1) Method 5 of Appendix A-3 of this part shall be used to determine the particulate matter concentration. The sampling time and sample volume for each run shall be at least 60 minutes and 0.85 dscm (30 dscf). Sampling shall begin no less than 30 minutes after startup and shall terminate before shutdown procedures begin.

(2) Method 9 of Appendix A-4 of this part and the procedures in § 60.11 shall

be used to determine opacity from all affected facilities except those that do not vent PM emissions through a stack.

(3) Method 9 of Appendix A-4 of this part, the procedures in § 60.11, and the additional procedures in paragraphs (b)(3)(i) through (iii) of this section shall be used to determine opacity from affected facilities that do not vent PM emissions through a stack.

(i) The minimum distance between the observer and the emission source shall be 5.0 meters (16 feet), and the sun shall be oriented in the 140-degree sector of the back.

(ii) The observer shall select a position that minimizes interference from other emission sources and make observations such that the line of vision is approximately perpendicular to the plume and wind direction.

(iii) Make opacity observations at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. Water vapor is not considered a visible emission.

(c) For each affected facility subject to a particulate matter emission limit in § 60.252 that is constructed, reconstructed, or modified after April 28, 2008 the owner or operator must conduct each performance test according to § 60.8 using the test methods and procedures in paragraphs (c)(1) through (5) of this section.

(1) Method 1 or 1A (40 CFR part 60, appendix A-1) to select sampling port locations and the number of traverse points in each stack or duct. Sampling sites must be located at the outlet of the control device (or at the outlet of the emissions source if no control device is present) prior to any releases to the atmosphere.

(2) Method 2, 2A, 2C, 2D, 2F (40 CFR part 60, appendix A-1), or 2G (40 CFR part 60, appendix A-2) to determine the volumetric flow rate of the stack gas.

(3) Method 3, 3A, or 3B (40 CFR part 60, appendix A-2) to determine the dry molecular weight of the stack gas. You may use ANSI/ASME PTC 19.10-1981, "Flue and Exhaust Gas Analyses" (incorporated by reference—see § 63.14) as an alternative to Method 3B (40 CFR part 60, appendix A-2).

(4) Method 4 (40 CFR part 60, appendix A-3) to determine the moisture content of the stack gas.

(5) Method 5 (40 CFR part 60, appendix A-3) to determine the PM concentration or Method 5D (40 CFR part 60, appendix A-3) for positive pressure fabric filter. A minimum of three valid test runs comprise a particulate matter performance test.

(d) For each affected facility subject to an opacity limit in § 60.252 that is constructed, reconstructed, or modified

after April 28, 2008, the owner or operator must conduct the performance test as follows:

(1) Method 9 of Appendix A-4 of this part and the procedures in § 60.11 shall be used to determine opacity from all affected facilities except those that do not vent PM emissions through a stack.

(2) Method 9 of Appendix A-4 of this part, the procedures in § 60.11, and the additional procedures in paragraphs (d)(2)(i) through (iii) of this section shall be used to determine opacity from affected facilities that do not vent PM emissions through a stack.

(i) The minimum distance between the observer and the emission source shall be 5.0 meters (16 feet), and the sun shall be oriented in the 140-degree sector of the back.

(ii) The observer shall select a position that minimizes interference from other emission sources and make observations such that the line of vision is approximately perpendicular to the plume and wind direction.

(iii) Make opacity observations at the point of greatest opacity in that portion of the plume where condensed water vapor is not present. Water vapor is not considered a visible emission.

#### § 60.255 Reporting and recordkeeping.

(a) An owner or operator of a coal preparation plant that commenced construction, reconstruction, or modification after April 28, 2008 shall maintain in a logbook (written or electronic) on-site and made available upon request. The logbook shall record the following:

(1) The date and time of periodic coal preparation plant facility opacity observations noting those sources with emissions above the action level along with the results of the corresponding opacity performance test.

(2) The amount and type of coal processed each calendar month.

(3) The amount of chemical stabilizer or water purchased for use in the coal preparation plant.

(4) Monthly certification that the dust suppressant systems were operational when any coal was processed and that manufacturer recommendations were followed for all control systems.

(b) [RESERVED]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Parts 523, 531, 533, 534, 536 and 537

[Docket No. NHTSA-2008-0060]

#### Supplemental Notice of Public Scoping for an Environmental Impact Statement for New Corporate Average Fuel Economy Standards

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Supplemental notice of public scoping; further request for scoping comments.

**SUMMARY:** On March 28, 2008, NHTSA announced plans to prepare an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) to address the potential environmental impacts of the agency's Corporate Average Fuel Economy program for passenger automobiles (referred to herein as "passenger cars") and non-passenger automobiles (referred to herein as "light trucks"). Specifically, NHTSA announced its intent to prepare an EIS to consider the potential environmental impacts of new fuel economy standards for model year 2011-2015 passenger cars and light trucks that NHTSA is proposing pursuant to the Energy Independence and Security Act of 2007. At the same time, NHTSA initiated the NEPA scoping process by inviting Federal, State, and local agencies, Indian tribes, and the public to help identify the environmental issues and reasonable alternatives to be examined in the EIS by providing public comments related to the scope of NHTSA's NEPA analysis. This supplemental notice provides additional guidance for participating in the scoping process and additional information about the proposed standards and the alternatives NHTSA expects to consider in its NEPA analysis.

**DATES:** The scoping process will culminate in the preparation and issuance of a Draft EIS, which will be made available for public comment. Interested persons are requested to submit their scoping comments as soon as possible. To ensure that NHTSA has an opportunity to consider scoping comments and to facilitate NHTSA's prompt preparation of the Draft EIS, scoping comments should be received on or before May 28, 2008, although NHTSA will try to consider comments