**40 CFR Part 60**

**[AD–FRL–5211–4]**

**RIN 2060–AF92**

## Standards of Performance for New Stationary Sources: Industrial-Commercial-Institutional Steam Generating Units; Kentucky

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

**ACTION:** Final revision of rule.

**SUMMARY:** New source performance standards (NSPS) limiting emissions of nitrogen oxides ($NO_X$) from industrial-commercial-institutional steam generating units capable of combusting more than 100 million Btu per hour were proposed on June 19, 1984 and were promulgated on November 25, 1986. These standards limit $NO_X$ emissions from the combustion of fossil fuels, as well as the combustion of fossil fuels with other fuels or wastes. The standards include provisions for facility-specific $NO_X$ standards for steam generating units which simultaneously combust fossil fuel and chemical by-product waste(s) under certain conditions. This document promulgates a facility-specific $NO_X$ standard for a steam generating unit which simultaneously combusts fossil fuel and chemical by-product waste at the Rohm & Haas Kentucky Plant located in Louisville, Kentucky.

**EFFECTIVE DATE:** May 30, 1995.

**ADDRESSES:** *Docket.* Docket Number A–94–49, containing supporting information used in developing the proposed revision, is available for public inspection and copying between the hours of 8 a.m. and 5:30 p.m., Monday through Friday (except for government holidays), at The Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Smith at (919) 541–1549, Combustion Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The objective of the NSPS, promulgated on November 25, 1986, is to limit $NO_X$ emissions from the combustion of fossil fuel. For steam generating units combusting by-product waste, the requirements of the NSPS vary depending on the operation of the steam generating units.

During periods when only fossil fuel is combusted, the steam generating unit must comply with the $NO_X$ emission limits in the NSPS for fossil fuel. During periods when only by-product waste is combusted, the steam generating unit may be subject to other requirements or regulations which limit $NO_X$ emissions, but it is not subject to $NO_X$ emission limits under the NSPS. In addition, if the steam generating unit is subject to Federally enforceable permit conditions limiting the amount of fossil fuel combusted in the steam generating unit to an annual capacity factor of 10 percent or less, the steam generating unit is not subject to $NO_X$ emission limits under the NSPS when it simultaneously combusts fossil fuel and by-product waste.

With the exception noted above, during periods when fossil fuel and by-product waste are simultaneously combusted in a steam generating unit, the unit must generally comply with $NO_X$ emission limits under § 60.44b(e) of the NSPS. Under § 60.44b(e) the applicable $NO_X$ emission limit depends on the nature of the by-product waste combusted. In some situations, however, ''facility-specific'' $NO_X$ emission limits developed under § 60.44b(f) may apply. The order for determining which $NO_X$ emission limit applies is as follows.

A steam generating unit simultaneously combusting fossil fuel and by-product waste is expected to comply with the $NO_X$ emission limit under § 60.44b(e); only in a few situations may $NO_X$ emission limits developed under § 60.44b(f) apply. Section 60.44b(e) includes an equation to determine the $NO_X$ emission limit applicable to a steam generating unit when it simultaneously combusts fossil fuel and by-product waste.

Only where a steam generating unit which simultaneously combusts fossil fuel and by-product waste is unable to comply with the $NO_X$ emission limit determined under § 60.44b(e), might a facility-specific $NO_X$ emission limit under § 60.44b(f) apply. This section permits a steam generating unit to petition the Administrator for a facility-specific $NO_X$ emission limit. A facility-specific $NO_X$ emission limit will be proposed and promulgated by the Administrator for the steam generating unit, however, only where the petition is judged to be complete.

To be considered complete, a petition for a facility-specific $NO_X$ standard under § 60.44b(f) consists of three components. The first component is a demonstration that the steam generating unit is able to comply with the $NO_X$ emission limit for fossil fuel when combusting fossil fuel alone. The purposes of this provision are to ensure that the steam generating unit has installed best demonstrated $NO_X$ control technology, to identify the $NO_X$ control technology installed, and to identify the manner in which this technology is operated to achieve compliance with the $NO_X$ emission limit for fossil fuel.

The second component of a complete petition is a demonstration that this $NO_X$ control technology does not enable compliance with the $NO_X$ emission limit for fossil fuel when the steam generating unit simultaneously combusts fossil fuel with chemical by-product waste under the same conditions used to demonstrate compliance on fossil fuel alone. In addition, this component of the petition must identify what unique and specific properties of the chemical by-product waste(s) are responsible for preventing the steam generating unit from complying with the $NO_X$ emission limit for fossil fuel.

The third component of a complete petition consists of data and/or analysis to support a facility-specific $NO_X$ standard for the steam generating unit when it simultaneously combusts fossil fuel and chemical by-product waste and operates the $NO_X$ control technology in the same manner in which it would be operated to demonstrate and maintain compliance with the $NO_X$ emission limit for fossil fuel, if only fossil fuel were combusted. This component of the petition must identify the $NO_X$ emission limit(s) and/or operating parameter limits, and appropriate testing, monitoring, reporting and recordkeeping requirements which will ensure operation of the $NO_X$ control technology and minimize $NO_X$ emissions at all times.

Upon receipt of a complete petition, the Administrator will propose a facility-specific $NO_X$ standard for the steam generating unit when it simultaneously combusts chemical by-product waste with fossil fuel. The $NO_X$ standard will include the $NO_X$ emission limit(s) and/or operating parameter limit(s) to ensure operation of the $NO_X$ control technology at all times, as well as appropriate testing, monitoring, reporting and recordkeeping requirements.

### II. Comments on the Proposed Standards

Two comment letters were received on the proposed standards. In general, most of the comments in these letters were not within the scope of this rulemaking. Today's action in the **Federal Register**, as was pointed out in the proposal that preceded it (59 FR

66852, [December 28, 1994]), is simply implementing provisions in the 1984 NSPS. The 1984 NSPS contains provisions for approval of facility-specific $NO_X$ standards. The proposal preceding today's action was not intended to reconsider the 1984 NSPS; it was only intended to implement the provisions in the NSPS that allows for facility-specific $NO_X$ standards.

Comments were received on employing the best $NO_X$ control, the effects these $NO_X$ levels would have on local ozone attainment, evaluation of dioxin formation as a result of the allowed $NO_X$ levels, what level of $NO_X$ under what conditions would be appropriate, and revisions to other parts of the 1984 NSPS. It appears the commenters misunderstood the narrow focus of this rulemaking.

The focus of this rulemaking is to adopt a facility-specific $NO_X$ standard for the steam generating unit when it simultaneously combusts fossil fuel and chemical by-product waste which effectively requires that the $NO_X$ control technology be operated in the same manner in which it would be operated to demonstrate and maintain compliance with the $NO_X$ emission limit for fossil fuel, if only fossil fuel were combusted.

One commenter expressed concern that the facility-specific standard be strictly limited to those instances in which the high nitrogen waste is being combusted. The standard does this. Section 60.49b(t)(2)(i) states that when fossil fuel alone is combusted, the lower $NO_X$ emission limit of 0.2 pounds per million Btu for fossil fuel in section 60.44b(a) applies. Only, when the high nitrogen waste is being combusted with the fossil fuel does the facility-specific standard apply.

Another commenter believed that a measurement of the position of the air ratio control damper would be more appropriate inside the boiler, rather than outside of the boiler by the position of the tee handle. While the Administrator would agree with the commenter that a measurement inside the boiler, rather than outside, would provide a more direct indication of compliance with the intent of the standard, it would be much more burdensome to check, particularly given the requirement to check this parameter during each 8-hour operating shift. If a change is made to the boiler tee handle, the change must be reported to the EPA or the delegated local agency, and an appropriate alternative compliance method will need to be determined. Consequently, this aspect of the proposed standard has not been revised.

## III. Administrative Requirements

### *A. Executive Order 12866*

Under Executive Order 12866 (58 FR 51735, [October 4, 1993]), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a ''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, or 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 land 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.

This rule was classified ''non-significant'' under Executive Order 12866 and therefore was not reviewed by the Office of Management and Budget.

### *B. Paperwork Reduction Act*

The information collection requirements of the previously promulgated NSPS under 40 CFR Part 60, Subpart Db were submitted to and approved by the Office of Management and Budget. A copy of this Information Collection Request (ICR) document (OMB control number 2060–0135) may be obtained from Sandy Farmer, Information Policy Branch (PM–223Y); U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC 20460 or by calling (202) 260–2740. Today's changes to the NSPS do not affect the information collection burden estimates made previously. The information that is required to be collected for this facility-specific $NO_X$ standard is the same as for all other affected facilities subject to these NSPS. Therefore, the ICR has not been revised.

### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) of 1980 requires the identification of potentially adverse impacts of federal regulations upon small business entities. The RFA specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because this rulemaking imposes no adverse economic impacts, a Regulatory Flexibility Analysis has not been prepared.

### *D. Judicial Review*

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

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

Dated: May 22, 1995.

**Craol M. Browner,**

*Administrator.*

### List of Subjects in 40 CFR 60

Environmental protection, Administrative practice and procedure, Air pollution control, Electric power plants, Gasoline, Heaters, Intergovernmental relations, Nitrogen dioxide, Petroleum, Reporting and recordkeeping requirements.

Title 40, chapter I, part 60, of the Code of Federal Regulations 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. 7411, 7414, and 7601(a).

## Subpart Db—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units

2. Section 60.49b is amended by reserving paragraph (s) and adding paragraph (t) as follows:

**§ 60.49b Reporting and recordkeeping requirements.**

* * * * *

(s) [Reserved]

(t) Facility-specific nitrogen oxides standard for Rohm and Haas Kentucky Incorporated's Boiler No. 100 located in Louisville, Kentucky:

*(1) Definitions.*

*Air ratio control damper* is defined as the part of the low nitrogen oxides burner that is adjusted to control the split of total combustion air delivered to

the reducing and oxidation portions of the combustion flame.

*Flue gas recirculation line* is defined as the part of Boiler No. 100 that recirculates a portion of the boiler flue gas back into the combustion air.

*(2) Standard for nitrogen oxides.* (i) When fossil fuel alone is combusted, the nitrogen oxides emission limit for fossil fuel in § 60.44b(a) applies.

(ii) When fossil fuel and chemical by-product waste are simultaneously combusted, the nitrogen oxides emission limit is 473 ng/J (1.1 lb/million Btu), and the air ratio control damper tee handle shall be at a minimum of 5 inches (12.7 centimeters) out of the boiler, and the flue gas recirculation line shall be operated at a minimum of 10 percent open as indicated by its valve opening position indicator.

*(3) Emission monitoring for nitrogen oxides.* (i) The air ratio control damper tee handle setting and the flue gas recirculation line valve opening position indicator setting shall be recorded during each 8-hour operating shift.

(ii) The nitrogen oxides emission limit shall be determined by the compliance and performance test methods and procedures for nitrogen oxides in § 60.46b.

(iii) The monitoring of the nitrogen oxides emission limit shall be performed in accordance with § 60.48b.

*(4) Reporting and recordkeeping requirements.* (i) The owner or operator of Boiler No. 100 shall submit a report on any excursions from the limits required by paragraph (b)(2) of this section to the Administrator with the quarterly report required by § 60.49b(i).

(ii) The owner or operator of Boiler No. 100 shall keep records of the monitoring required by paragraph (b)(3) of this section for a period of 2 years following the date of such record.

(iii) The owner of operator of Boiler No. 100 shall perform all the applicable reporting and recordkeeping requirements of § 60.49b.

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## 40 CFR Part 721

**[OPPTS–50601E; FRL–4919–7]**

## Pentaerythritol, Mixed Esters With Carboxylic Acids; Revocation of a Significant New Use Rule

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

**ACTION:** Final rule.

**SUMMARY:** EPA is revoking the significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for pentaerythritol, mixed esters with carboxylic acids, based on receipt of toxicity data. The data indicate that, for purposes of TSCA section 5, the substance will not present an unreasonable risk to health.

**EFFECTIVE DATE:** The effective date of this rule is June 29, 1995.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of September 23, 1992 (57 FR 44050), EPA issued a SNUR establishing significant new uses for pentaerythritol, mixed esters with carboxylic acids (P–91–1250). Because of additional data EPA has received for this substance, EPA is revoking this SNUR.

### I. Background

The Agency proposed the revocation of the SNUR for this substance in the **Federal Register** of August 2, 1994 (59 FR 40001). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comments concerning the proposed revocation. As a result, EPA is revoking the SNUR.

### II. Rationale for Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under section 5(e) of TSCA pending the development of information sufficient to make a reasoned evaluation of the health effects of the substance, and that the substance is expected to be produced in substantial quantities and there may be significant or substantial environmental exposure. EPA identified the tests necessary to make a reasoned evaluation of the risks posed by the substance to human health. Based on these findings, a section 5(e) consent order was negotiated with the PMN submitter and a SNUR was promulgated.

EPA reviewed testing conducted by the PMN submitter pursuant to the section 5(e) consent order for the substance and determined that the information available was sufficient to make a reasoned evaluation of the health effects of the substance. EPA concluded that, for the purposes of TSCA section 5, the substance will not present an unreasonable risk and consequently revoked the section 5(e) consent order. The revocation of SNUR provisions for the substance designated herein is consistent with the revocation of the section 5(e) order.

In light of the above, EPA is revoking the SNUR provisions for this chemical substance. EPA will no longer require notice of any company's intent to manufacture, import, or process this substance. In addition, export notification under section 12(b) of TSCA will no longer be required.

### III. Rulemaking Record

The record for the rule which EPA is revoking was established at OPPTS–50601 (P–91–1250). This record includes information considered by the Agency in developing this rule and includes the test data that formed the basis for this revocation.

### IV. Regulatory Assessment Requirements

EPA is revoking the requirements of this rule. Any costs or burdens associated with this rule will also be eliminated when the rule is revoked. Therefore, EPA finds that no costs or burdens must be assessed under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 605(b)), or the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: May 16, 1995.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended as follows:

### PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

**Authority**: 15 U.S.C. 2604, 2607, and 2625(c).

### § 721.5660 [Removed]

2. By removing § 721.5660.

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