

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 76**

[FRL-6455-5]

**Acid Rain Program—Nitrogen Oxides Emission Reduction Program, Rule Revision in Response to Court Remand****AGENCY:** Environmental Protection Agency.**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to revise the regulations for the Acid Rain Nitrogen Oxides Emission Reduction Program under title IV of the Clean Air Act (Act) in response to a remand by the U.S. Court of Appeals for the District of Columbia Circuit. In December 1996, EPA issued regulations setting nitrogen oxides (NO<sub>x</sub>) emission limits for specified types of existing, coal-fired boilers, including cell burner boilers, that are subject to such limits starting in 2000. In February 1998, the Court upheld the regulations except for one provision addressing what boilers qualify as cell burner boilers. The Court vacated and remanded that provision. EPA is revising the regulations, consistent with the Court's decision, to treat, as a cell burner boiler, any boiler subject to the limits starting in 2000, constructed as a cell burner boiler, and converted to the burner configuration of a wall-fired boiler. Under the regulations, a cell burner boiler must meet an annual average NO<sub>x</sub> emission limit of 0.68 lb/mmBtu. The NO<sub>x</sub> emission limits under title IV will reduce the serious, adverse effects of NO<sub>x</sub> emissions on human health, visibility, ecosystems, and materials.

**DATES:** Written comments on this proposed rule must be received by November 29, 1999.

**Public Hearing:** Anyone requesting a public hearing must submit a request, which must be received by EPA by no later than October 22, 1999.

**ADDRESSES:** Comments: Commenters must identify all written comments with the appropriate docket number (Docket No. A-95-28) and must submit them in duplicate to EPA Air Docket Section (6102), Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington, DC 20460.

**Docket:** Docket No. A-95-28, containing supporting information used in developing the direct final rule, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's

Air Docket Section at the above address. EPA may charge a reasonable fee for copying.

**FOR FURTHER INFORMATION CONTACT:** Dwight C. Alpern, at (202) 564-9151, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; or the Acid Rain Hotline at (202) 564-9089.

**SUPPLEMENTARY INFORMATION:** We are proposing to revise the provision concerning cell burner boilers in the regulations for the Acid Rain Nitrogen Oxides Emission Reduction Program. In the "Rules and Regulations" section of today's **Federal Register**, we are adopting the revision as a direct final rule because we view the revision as noncontroversial and anticipate no adverse comment. We have explained our reasons for the revision in the preamble to the direct final rule. If we receive no timely, adverse comment, we will not take further action on this proposed rule. If we receive timely, adverse comment, we will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**List of Subjects in 40 CFR Part 76**

Environmental protection, Acid rain program, Air pollution control, Electric utilities, Nitrogen oxides.

Dated: October 5, 1999.

**Carol M. Browner,**

*Administrator.*

[FR Doc. 99-26659 Filed 10-14-99; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 261**

[SW-FRL-6455-1]

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion**

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

**ACTION:** Proposed rule and request for comment.

**SUMMARY:** The EPA ("the Agency" or "we" in this preamble) is proposing to grant a petition submitted by Rhodia, Incorporated Houston (Rhodia). Rhodia petitioned the Agency to exclude (or delist) filter-cake sludge generated at its Houston, Harris County, Texas, facility from the lists of hazardous wastes

contained in 40 CFR 261.24, 261.31, and 261.32 (hereinafter all sectional references are to 40 CFR unless otherwise indicated).

Rhodia submitted this petition under §§ 260.20 and 260.22(a). Section 260.20 allows any person to petition the Administrator to modify or revoke any provision of §§ 260 through 266, 268 and 273. Section 260.22(a) specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator specific" basis from the hazardous waste lists.

The Agency bases its proposed decision to grant the petition on an evaluation of waste-specific information provided by the petitioner.

If finalized, we would conclude that Rhodia's petitioned waste is nonhazardous with respect to the original listing criteria and that the waste process Rhodia uses will substantially reduce the likelihood of migration of hazardous constituents from this waste. We would also conclude that their process minimizes short-term and long-term threats from the petitioned waste to human health and the environment.

**DATES:** We will accept comments until November 29, 1999. We will stamp comments postmarked after the close of the comment period as "late." These "late" comments may not be considered in formulating a final decision.

Your requests for a hearing must reach EPA by November 1, 1999. The request must contain the information prescribed in § 260.20(d).

**ADDRESSES:** Please send three copies of your comments. Two copies should be sent to William Gallagher, Delisting Section, Multimedia Planning and Permitting Division (6PD-O), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. A third copy should be sent to the Texas Natural Resources Conservation Commission (TNRCC), P.O. Box 13087, Austin, Texas, 78711-3087. Identify your comments at the top with this regulatory docket number: "F-99-TXDEL-Rhodia."

You should address requests for a hearing to the Acting Director, Robert Hanneschlager, Multimedia Planning and Permitting Division (6PD), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202.

**FOR FURTHER INFORMATION CONTACT:** James Harris at (214) 665-8302.

**SUPPLEMENTARY INFORMATION:**

The information in this section is organized as follows:

## I. Overview Information

## A. What action is EPA proposing?