

[FR Doc. 00-5386 Filed 3-10-00; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

[AD-FRL-6549-3]

RIN 2060-AF92

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

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

**ACTION:** Final rule; corrections.

**SUMMARY:** On February 12, 1999 (64 FR 7458), we promulgated final rule amendments to reduce unnecessary reporting and recordkeeping burdens due to regulations implementing the Clean Air Act (CAA). These final rule corrections relating to standards of performance for industrial-commercial-institutional steam generating units serve to correct an error in the final rule amendments as promulgated on February 12, 1999.

**EFFECTIVE DATE:** March 13, 2000.

**FOR FURTHER INFORMATION CONTACT:** Fred L. Porter, Combustion Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-5251, facsimile: (919) 541-5450, electronic mail address: [porter.fred@epa.gov](mailto:porter.fred@epa.gov).

**SUPPLEMENTARY INFORMATION:** Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely redesignating one paragraph and then inserting another paragraph which had been deleted unintentionally. Thus, notice and public procedures are unnecessary, and we find that this constitutes good cause under 5 U.S.C. 553(b)(B).

#### I. What Is the Background for the Correction?

On February 12, 1999 (64 FR 7458), we promulgated a number of amendments to rules under 40 CFR

parts 51, 60, 61, and 63, to reduce unnecessary recordkeeping and reporting burdens due to regulations implementing the CAA. One of these amendments was to add paragraph (s) to § 60.49b, Reporting and Recordkeeping Requirements, Subpart Db—Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units. As a paragraph (s) already existed, the amendment unintentionally replaced the existing paragraph (s) with a new paragraph (s).

The existing paragraph (s) provided a facility specific nitrogen oxides standard for the C.AOG incinerator at the Cytec Industries, Fortier plant in Westwego, Louisiana. By unintentionally replacing the existing paragraph (s) with a new paragraph (s), this facility specific nitrogen oxides standard was mistakenly deleted.

To have avoided this error, we should have designated the new paragraph (s) as a new paragraph (w). Today's corrections accomplish this as follows.

First, we amend the new paragraph (s) by replacing it with the old paragraph (s). This corrects the unintentional deletion of the facility specific nitrogen oxides standard for the C.AOG incinerator at the Cytec Industries Fortier plant in Westwego.

Second, we amend § 60.49b, Reporting and Recordkeeping Requirements, by adding a new paragraph (w). This new paragraph (w) is nothing more than the paragraph (s) which was included in the February 12, 1999 action. By adding it as paragraph (w), we correctly implement the February 12, 1999 action to reduce the reporting and recordkeeping burden.

#### II. What Are the Impacts Associated With the Corrections?

This action consists of a correction of our intent at the time of promulgation of the February 12, 1999 amendments to 40 CFR parts 51, 60, 61, and 63. The correction has no impact.

#### III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, not subject to review by the Office of Management and Budget. Because we have made a "good cause" finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not

significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule 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 Executive Order 13132 (64 FR 43255, August 10, 1999).

This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This action does not involve technical standards; thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the March 29, 1996 **Federal Register** document (61 FR 14029).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause

finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)).

As stated previously, we have made such a good cause finding, including the reasons therefore, and established an effective date of March 13, 2000. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen oxides, Recordkeeping and reporting requirements.

Dated: March 2, 2000.

#### Robert Perciasepe,

Assistant Administrator, Office of Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, part 60, of the Code of Federal Regulations is amended as follows:

#### PART 60—[AMENDED]

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

Authority: 42 U.S.C. 7401–7601.

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

2. Section 60.49b is amended by revising paragraph (s) and adding paragraph (w) to read as follows:

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

\* \* \* \* \*

(s) Facility specific nitrogen oxides standard for Cytec Industries Fortier Plant's C.AOG incinerator located in Westwego, Louisiana:

##### (1) Definitions.

*Oxidation zone* is defined as the portion of the C.AOG incinerator that extends from the inlet of the oxidizing zone combustion air to the outlet gas stack.

*Reducing zone* is defined as the portion of the C.AOG incinerator that extends from the burner section to the inlet of the oxidizing zone combustion air.

*Total inlet air* is defined as the total amount of air introduced into the

C.AOG incinerator for combustion of natural gas and chemical by-product waste and is equal to the sum of the air flow into the reducing zone and the air flow into the oxidation zone.

(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 natural gas and chemical by-product waste are simultaneously combusted, the nitrogen oxides emission limit is 289 ng/J (0.67 lb/million Btu) and a maximum of 81 percent of the total inlet air provided for combustion shall be provided to the reducing zone of the C.AOG incinerator.

(3) *Emission monitoring.* (i) The percent of total inlet air provided to the reducing zone shall be determined at least every 15 minutes by measuring the air flow of all the air entering the reducing zone and the air flow of all the air entering the oxidation zone, and compliance with the percentage of total inlet air that is provided to the reducing zone shall be determined on a 3-hour average basis.

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

(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 the C.AOG incinerator shall submit a report on any excursions from the limits required by paragraph (a)(2) of this section to the Administrator with the quarterly report required by paragraph (i) of this section.

(ii) The owner or operator of the C.AOG incinerator shall keep records of the monitoring required by paragraph (a)(3) of this section for a period of 2 years following the date of such record.

(iii) The owner or operator of the C.AOG incinerator shall perform all the applicable reporting and recordkeeping requirements of this section.

\* \* \* \* \*

(w) The reporting period for the reports required under this subpart is each 6 month period. All reports shall be submitted to the Administrator and shall be postmarked by the 30th day following the end of the reporting period.

[FR Doc. 00–5797 Filed 3–10–00; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 68

[FRL–6550–1]

RIN 2050–AE74

### Amendments to the List of Regulated Substances and Thresholds for Accidental Release Prevention; Flammable Substances Used as Fuel or Held for Sale as Fuel at Retail Facilities

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

**ACTION:** Final rule.

**SUMMARY:** EPA is modifying its chemical accident prevention regulations to conform to the fuels provision of the recently enacted Chemical Safety Information, Site Security and Fuels Regulatory Relief Act (Pub. L. 106–40). In accordance with the new law, today's rule revises the list of regulated flammable substances to exclude those substances when used as a fuel or held for sale as a fuel at a retail facility. EPA is also announcing there will be no further action on a previous proposal concerning flammable substances, since the new law resolves the issue addressed by the proposal.

**DATES:** Effective March 13, 2000.

**ADDRESSES:** Docket. Supporting material used in developing the final rule is contained in Docket No. A–99–36. The docket is available for public inspection and copying between 8:00 am and 5:30 pm, Monday through Friday (except government holidays) at EPA's Air Docket, Room 1500, Waterside Mall, 401 M Street, SW, Washington, DC 20460; phone number: 202–260–7548. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Breda Reilly, Chemical Emergency Preparedness and Prevention Office, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave, NW (5104), Washington, DC 20460, (202) 260–0716.

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