

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[OAR-2004-0068; FRL-]

RIN 2060-AK35

**Standards of Performance for
Industrial-Commercial-Institutional Steam Generating
Units**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: We are proposing a facility-specific NO_x standard for a steam generating unit which simultaneously combusts fossil fuel and chemical by-product waste at the Weyerhaeuser Company facility located in New Bern, North Carolina. 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 British thermal units (Btu) per hour were proposed on June 19, 1984 and were promulgated on November 25, 1986. The 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.

In the Rules and Regulations section of this Federal Register, we are taking direct final action on the proposed amendments because we view the amendments as noncontroversial and we anticipate no significant adverse comments. We have explained our reasons for the proposed amendments in the preamble to the direct final rule.

If we receive no significant adverse comments, we will take no further action on the proposed amendments. If we receive significant adverse comments, we will withdraw only those provisions on which we received significant adverse comments. We will publish a timely withdrawal in the Federal Register indicating which provisions will become effective and which provisions are being withdrawn. If part or all of the direct final rule amendments in the Rules and Regulations section of this Federal Register are withdrawn, all comments pertaining to those provisions will be addressed in a subsequent final action based on the proposed amendments. We will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time.

DATES: Comments. Comments must be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION OF THE PROPOSED RULE IN THE FEDERAL REGISTER], unless a hearing is requested by [INSERT DATE 10 DAYS AFTER DATE OF PUBLICATION OF THE PROPOSED RULE IN THE FEDERAL REGISTER]. If a timely hearing request is submitted, we must receive written comments on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION OF THE PROPOSED RULE IN THE FEDERAL REGISTER].

ADDRESSES: Submit your comments, identified by Docket ID No. OAR-2004-0068, by one of the following methods:

- Federal eRulemaking Portal:
<http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Agency Website: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- E-mail: air-and-r-docket@epa.gov.
- Fax: (202) 566-1741.
- Mail: EPA Docket Center, Environmental Protection Agency, Mailcode: 6102T, 1200

Pennsylvania Avenue, NW, Washington, DC 20460.

Please include a duplicate copy, if possible.

- Hand Delivery: Air and Radiation Docket,
Environmental Protection Agency, 1301
Constitution Avenue, NW, Room B-108, Washington,
DC 20460. Such deliveries are only accepted
during the Docket's normal hours of operation,
and special arrangements should be made for
deliveries of boxed information.

We request that a separate copy also be sent to the contact person listed below (see FOR FURTHER INFORMATION CONTACT).

Instructions: Direct your comments to Docket ID No. OAR-2004-0068. 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.epa.gov/edocket>, 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 EDOCKET, regulations.gov, or e-mail. The EPA EDOCKET and

the federal regulations.gov websites are "anonymous access" systems, 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 EDOCKET or 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 EDOCKET online or see the **Federal Register** of May 31, 2002 (67 FR 38102).

Docket: All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly

available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 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 Docket is (202) 566-1742.

Public Hearing. If a public hearing is held, it will be held at 10:00 a.m. at the EPA's Environmental Research Center Auditorium, Research Triangle Park, North Carolina or at an alternate site nearby.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Eddinger, Combustion Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number (919)541-5426; facsimile number (919) 541-5450; electronic mail address eddinger.jim@epa.gov.

SUPPLEMENTARY INFORMATION: Regulated Entities. The only regulated entity that will be affected by the proposed amendments is the Weyerhaeuser Company facility located in New Bern, North Carolina.

What Should I Consider as I Prepare My Comments for EPA?

Submitting CBI. Do not submit this information to EPA through EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).

- Follow directions - The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Kelly Hayes, Combustion Group,

Emission Standards Division (C439-01), Research Triangle Park, NC 27711, telephone number (919) 541-5578, at least 2 days in advance of the potential date of the public hearing. Persons interested in attending the public hearing must also call Ms. Hayes to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposal will also be available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of this action will be posted on the TTN's policy and guidance page for newly proposed rules at <http://www.epa.gov/ttn/oarpg>. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

Direct Final Rule. A direct final rule identical to the proposal is published in the Rules and Regulations section of this Federal Register. If we receive any adverse comment pertaining to the amendment in the

proposal, we will publish a timely notice in the Federal Register informing the public that the amendments are being withdrawn due to adverse comment. We will address all public comments concerning the withdrawn amendments in a subsequent final rule. If no relevant adverse comments are received, no further action will be taken on the proposal, and the direct final rule will become effective as provided in that action.

The regulatory text for the proposal is identical to that for the direct final rule published in the Rules and Regulations section of this Federal Register. For further supplemental information, the detailed rationale for the proposal, and the regulatory revisions, see the information provided in the direct final rule published in a separate part of this Federal Register.

Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this Federal Register.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of

1996 (SBREFA), 5 U.S.C. 601 et seq., 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 rule amendments on small entities, small entity is defined as: (1) a small business whose parent company has fewer than 100 or 1,000 employees, or fewer than 4 billion kilowatt-hours (kW-hr) per year of electricity usage, depending on the size definition for the affected North American Industry Classification System (NAICS) code; (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. It should be noted that small entities in six NAICS codes may be affected by the

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proposed rule amendments, and the small business definition applied to each industry by NAICS code is that listed in the Small Business Administration (SBA) size standards (13 CFR 121).

After considering the economic impacts of today's proposed rule amendments on small entities, we certify that this action will not have a significant economic impact on a substantial number of small entities. The proposed rule will not impose any requirements on small entities because it does not impose any additional regulatory requirements.

For additional information, see the direct final rule published in the Rules and Regulations section of this Federal Register publication.

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List of Subjects in 40 CFR Part 60

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

Dated:

Jeffrey R. Holmstead,
Assistant Administrator.