

finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

Executive Order

The Office of Management and Budget has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Note: Incorporation by reference of the SIP for the State of Texas was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 17, 1996.

Allyn M. Davis,

Acting Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(94) to read as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(94) Revisions to the Texas SIP addressing visible emissions requirements were submitted by the Governor of Texas by letters dated August 21, 1989, January 29, 1991, October 15, 1992 and August 4, 1993.

(i) Incorporation by reference.

(A) Revisions to Texas Air Control Board (TACB), Regulation I, Section 111.111, “Requirements for Specified Sources;” Subsection 111.111(a) (first paragraph) under “Visible Emissions;” Subsections 111.111(a)(1) (first paragraph), 111.111(a)(1)(A), 111.111(a)(1)(B) and 111.111(a)(1)(E) under “Stationary Vents;” Subsection 111.111(b) (first paragraph) under “Compliance Determination Exclusions;” and Subsections 111.113 (first paragraph), 111.113(1), 111.113(2), and 111.113(3) under “Alternate Opacity Limitations,” as adopted by the TACB on June 16, 1989.

(B) TACB Board Order No. 89–03, as adopted by the TACB on June 16, 1989.

(C) Revisions to Texas Air Control Board (TACB), Regulation I, Section 111.111, “Requirements for Specified Sources;” Subsections 111.111(a)(4)(A) and 111.111(a)(4)(B)(i) under “Railroad Locomotives or Ships;” Subsections 111.111(a)(5)(A) and 111.111(a)(5)(B)(i) under “Structures;” and Subsections 111.111(a)(6)(A) and 111.111(a)(6)(B)(i) under “Other Sources,” as adopted by the TACB on October 12, 1990.

(D) TACB Board Order No. 90–12, as adopted by the TACB on October 12, 1990.

(E) Revisions to Texas Air Control Board (TACB), Regulation I, Section 111.111, “Requirements for Specified Sources;” Subsections 111.111(a)(1)(C), 111.111(a)(1)(D), 111.111(a)(1)(F) (first paragraph), 111.111(a)(1)(F)(i), 111.111(a)(1)(F)(ii), 111.111(a)(1)(F)(iii), 111.111(a)(1)(F)(iv), and 111.111(a)(1)(G) under “Stationary Vents;” Subsections 111.111(a)(2) (first paragraph), 111.111(a)(2)(A), 111.111(a)(2)(B), and 111.111(a)(2)(C) under “Sources Requiring Continuous Emissions Monitoring;” Subsection 111.111(a)(3) (first paragraph) under “Exemptions from Continuous Emissions Monitoring Requirements;” Subsection 111.111(a)(4), “Gas Flares,” title only; Subsection 111.111(a)(5) (first paragraph) under “Motor Vehicles;” Subsections 111.111(a)(6)(A), 111.111(a)(6)(B) (first paragraph), 111.111(a)(6)(B)(i) and 111.111(a)(6)(B)(ii) under “Railroad Locomotives or Ships” (Important note, the language for 111.111(a)(6)(A) and 111.111(a)(6)(B)(i) was formerly adopted as 111.111(a)(4)(A) and 111.111(a)(4)(B)(i) on October 12, 1990); Subsections 111.111(a)(7)(A), 111.111(a)(7)(B) (first paragraph), 111.111(a)(7)(B)(i) and 111.111(a)(7)(B)(ii) under “Structures” (Important note, the language for 111.111(a)(7)(A) and 111.111(a)(7)(B)(i) was formerly adopted as 111.111(a)(5)(A) and 111.111(a)(5)(B)(i) on October 12, 1990); and Subsections 111.111(a)(8)(A), 111.111(a)(8)(B) (first paragraph), 111.111(a)(8)(B)(i) and 111.111(a)(8)(B)(ii) under “Other Sources” (Important note, the language for 111.111(a)(8)(A) and 111.111(a)(8)(B)(i) was formerly adopted as 111.111(a)(6)(A) and 111.111(a)(6)(B)(i) on October 12, 1990), as adopted by the TACB on September 18, 1992.

(F) TACB Board Order No. 92–19, as adopted by the TACB on September 18, 1992.

(G) Revisions to Texas Air Control Board (TACB), Regulation I, Section

111.111, “Requirements for Specified Sources;” Subsections 111.111(a)(4)(A) (first paragraph), 111.111(a)(4)(A)(i), 111.111(a)(4)(A)(ii), and 111.111(a)(4)(B) under “Gas Flares,” as adopted by the TACB on June 18, 1993.

(H) TACB Board Order No. 93–06, as adopted by the TACB on June 18, 1993.

(ii) Additional material.

(A) TACB certification letter dated July 27, 1989, and signed by Allen Eli Bell, Executive Director, TACB.

(B) TACB certification letter dated January 9, 1991, and signed by Steve Spaw, Executive Director, TACB.

(C) TACB certification letter dated October 1, 1992, and signed by William Campbell, Executive Director, TACB.

(D) TACB certification letter dated July 13, 1993, and signed by William Campbell, Executive Director, TACB.

[FR Doc. 96–11399 Filed 5–7–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 60

[FRL–5467–8]

Amendment to Standards of Performance for New Stationary Sources; Small Industrial-Commercial-Institutional Steam Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: Today’s action promulgates revisions to the new source performance standards (NSPS) for new, modified, and reconstructed small industrial-commercial-institutional steam generating units (40 CFR part 60, Subpart Dc) that were proposed on November 15, 1995. The revisions exclude certain small steam generating units, when conducting combustion research, from the category of small steam generating units subject to NSPS control requirements for sulfur dioxide (SO₂) and particulate matter (PM). The NSPS are issued under the authority of section 111 of the Clean Air Act (CAA).

Following promulgation of the NSPS, litigation was filed by Babcock and Wilcox, who repeated a concern they had expressed during the public comment period following proposal of the NSPS. That is, they had requested an exemption from the NSPS for steam generating units of 14.6 MW (50 million Btu/hr) heat input capacity or less used for combustion research based on intermittent and infrequent operation.

Discussions with Babcock and Wilcox made it clear that there is a legitimate concern regarding the ability of experimental, and sometimes

unpredictable, air pollution control technology to consistently meet the NSPS. This, coupled with the fact that these steam generating units provide valuable data on both the combustion process and methods of air pollution control which result in improved fuel efficiency, improved air pollution control efficiency, and less expensive air pollution control, led the EPA to provide the exemption in an effort to encourage combustion research.

EFFECTIVE DATE: May 8, 1996.

ADDRESSES: *Docket.* Docket No. A-86-02, containing information used in developing the original NSPS and the revisions, and the comments received during the public comment period, is available for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday, at the U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street, S.W., Washington, D.C. 20460. The docket is located at the above address in room M-1500, Waterside Mall (ground floor). The materials are available for review in the docket center or copies may be mailed on request from the Air and Radiation Docket and Information Center by calling (202) 260-7548 or -7549. The FAX number for the Center is (202) 260-4000. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For information concerning specific aspects of this action, contact Mr. Rick Copland, (919) 541-5265, or Mr. Fred Porter (919) 541-5251 Combustion Group, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: Today's rule resolves litigation in the case of *Babcock and Wilcox Company v. U.S. EPA*, No. 90-1509 (D.C. Cir.) (See 60 FR 57373, November 15, 1995). The rule applies to any small steam generating unit used for combustion research as long as the heat generated during the conduct of such combustion research is not used for any purpose other than preheating the combustion air for the steam generating unit (i.e., the heat generated is released to the atmosphere without being used for space heating, process heating, driving pumps, preheating combustion air for other units, generating electricity, or any other purpose).

Five comment letters were received during the public comment period on the November 15, 1995 proposal. All five commentors supported the proposal. One commentor suggested that the EPA extend today's rule to large

steam generating units regulated under 40 CFR Part 60, Subpart Db and that the EPA allow the heat generated during the research activity to be used productively. One commentor suggested that all natural gas-fired steam generating units be exempt from the provisions of Subpart Dc, including notification requirements. The comments did not reveal any facilities that conduct combustion research with small steam generating units and that also use the heat generated during periods of combustion research for purposes other than preheating the combustion air for the steam generating unit.

The EPA believes that today's rule already represents a significant exercise of regulatory flexibility which does not warrant further expansion at this time. Accordingly, the EPA believes that the prohibition on the use of the heat generated during the conduct of combustion research is appropriate in that it allows for the conduct of such research without compromising the EPA's ability to enforce the NSPS for small steam generating units (See 60 FR at 57374). Indeed, this limitation merely reflects the existing operating practice of the Babcock and Wilcox steam generating unit at issue (described below). The EPA believes that this provision is also appropriate for any other steam generating unit that conducts combustion research.

As discussed in the November 15, 1995 proposal, the EPA agreed to revise the applicability of the SO₂ and PM emission control requirements of 40 CFR Part 60, Subpart Dc because of the limited potential impact of combustion research on the environment: Babcock & Wilcox Company, the petitioner which requested the revision of the applicability of the standards of performance, operates a single small steam generating unit occasionally (less than five percent of the unit's operating time) to evaluate the performance of, and to develop, unproven combustion technologies. Significantly, Babcock and Wilcox Company also does not use the heat that the steam generating unit produces during periods of combustion research for any purpose (such as space heating, process heating, electric generation, etc.) other than preheating the combustion air for the steam generating unit. Accordingly, in order to minimize the potential for inappropriate claims of combustion research (potentially undermining EPA's ability to enforce the standards of performance for small steam generating units), the EPA has conditioned the exclusion of certain limited combustion research activities from the standards of

performance on the requirement that a steam generating unit not use the heat produced during combustion research for purposes other than preheating the combustion air for the steam generating unit.

The comments that recommend expanding today's rule to include large steam generating units regulated under Subpart Db or all natural gas-fired units are not appropriate for consideration within the scope of this limited action. The EPA will consider these comments as well as the comment concerning the definition of combustion research as a part of the ongoing activity to develop and/or revise standards of performance for industrial steam generating units under CAA sections 111 and 112.

Economic and Regulatory Impacts

Today's rule will impose no additional costs on the regulated community or the national economy. It would reduce the costs of compliance for some small steam generating units when conducting combustion research by not requiring them to comply with the NSPS for new, modified, and reconstructed small industrial-commercial-institutional steam generating units. Accordingly, the EPA has determined that today's rule: (1) does not constitute a "significant rule" under Executive Order 12286 (the promulgation would not result in any increase in costs or prices and would not disrupt market competition), (2) does not constitute a substantial revision that would require an economic impact assessment pursuant to CAA section 317, (3) does not constitute a Federal mandate under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104-4, for State, local, or tribal governments or the private sector, (4) does not contain regulatory requirements that might significantly or uniquely affect small governments under Title II of UMRA, and (5) would not affect the public reporting burden for the collection of information required, in compliance with the Paperwork Reduction Act of 1980, under the NSPS for small steam generating units.

Pursuant to 5 U.S.C. 605(b), the Administrator certifies that these revisions would not have a significant impact on a substantial number of small entities. Not only would today's rule reduce the regulatory burden on the small steam generating units source category, but it has previously been determined that, even without today's promulgated revisions, the standards would not affect a substantial number of small entities (See 55 FR 37682, September 12, 1990).

List of Subjects in 40 CFR Part 60

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

Dated: April 30, 1996.

Carol M. Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as set forth below.

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. 7401, 7411, 7414, 7416, 7429, and 7601.

2. Section 60.40c is amended by revising paragraph (a) and adding paragraphs (c) and (d) to read as follows:

§ 60.40c Applicability and delegation of authority.

* * * * *

(a) Except as provided in paragraph (d) of this section, the affected facility to which this subpart applies is each steam generating unit for which construction, modification, or reconstruction is commenced after June 9, 1989 and that has a maximum design heat input capacity of 29 megawatts (MW) (100 million Btu per hour (Btu/hr)) or less, but greater than or equal to 2.9 MW (10 million Btu/hr).

* * * * *

(c) Steam generating units which meet the applicability requirements in paragraph (a) of this section are not subject to the sulfur dioxide (SO₂) or particulate matter (PM) emission limits, performance testing requirements, or monitoring requirements under this subpart (§§ 60.42c, 60.43c, 60.44c, 60.45c, 60.46c, or 60.47c) during periods of combustion research, as defined in § 60.41c.

(d) Any temporary change to an existing steam generating unit for the purpose of conducting combustion research is not considered a modification under § 60.14.

3. Section 60.41c is amended by adding a new definition for "Combustion research" in alphabetical order to read as follows:

§ 60.41c Definitions.

* * * * *

Combustion research means the experimental firing of any fuel or combination of fuels in a steam generating unit for the purpose of conducting research and development

of more efficient combustion or more effective prevention or control of air pollutant emissions from combustion, provided that, during these periods of research and development, the heat generated is not used for any purpose other than preheating combustion air for use by that steam generating unit (i.e., the heat generated is released to the atmosphere without being used for space heating, process heating, driving pumps, preheating combustion air for other units, generating electricity, or any other purpose).

* * * * *

[FR Doc. 96-11329 Filed 5-7-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 80

[FRL-5501-3]

Adjustment of Reid Vapor Pressure Lower Limit for Reformulated Gasoline Sold in the State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending the lower limit of the valid range for Reid Vapor Pressure (RVP) for reformulated gasoline certified under the simple model and sold in the State of California. The lower limit is being changed from 6.6 pounds per square inch (psi) to 6.4 psi. EPA is taking this action because the Agency believes that it will result in no negative environmental impact and, for reasons discussed below, the Agency believes it is proper in the limited case of California gasoline.

In the proposed rules section of today's Federal Register, EPA is proposing the same action covered by this direct final rule (i.e., to amend the lower limit of the valid range for RVP for reformulated gasoline certified under the simple model and sold in the State of California from 6.6 to 6.4 psi). If adverse comment or a request for a public hearing is received on this direct final rule, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule on the related proposed rule. No additional opportunity for public comment on this change to the lower limit of the simple model's valid range for RVP will be provided.

DATES: This action will become effective on July 8, 1996, unless notice is received by June 7, 1996 from someone who wishes to submit adverse comment or requests an opportunity for a public hearing. If such notice is received, EPA will withdraw this direct final rule, and

a timely notice will be published in the Federal Register to indicate the withdrawal.

ADDRESSES: All documents relevant to this direct final rulemaking have been placed in public docket number A-96-14. The public docket may be inspected at U.S. Environmental Protection Agency, Air Docket Section, 401 M Street, SW, Room M-1500, Washington, D.C. 20460. Documents may be inspected between the hours of 8:00 a.m. and 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT:

Anne-Marie C. Pastorkovich, U.S. Environmental Protection Agency, Office of Air and Radiation, (202) 233-9013.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

Regulated categories and entities potentially affected by this action include:

Category	Examples of regulated entities
Industry	Refiners of California gasoline.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine section 80.42 (c)(1), note (1), of today's regulatory action. You should also carefully examine the existing provisions at 40 CFR section 80.81, dealing specifically with California gasoline.

II. Introduction

A. Reformulated Gasoline Standards and California Covered Areas

Section 211(k) of the Clean Air Act (the Act) requires EPA to establish standards for reformulated gasoline to be used in specified ozone nonattainment areas (covered areas), as well as standards for non-reformulated, or conventional, gasoline used in the rest of the country, beginning in January, 1995. The reformulated gasoline covered areas in California are Los Angeles and San Diego, and, beginning June 1, 1996, Sacramento, as a result of its redesignation as a Severe ozone nonattainment area. The Act requires that reformulated gasoline reduce VOC and toxics emissions from motor vehicles, not increase NO_x