

EPA-APPROVED DISTRICT OF COLUMBIA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
Section 715 .....	Reasonably Available Control Technology.	09/30/93	10/27/99 .....	[Insert Federal Register cite].
Section 716 .....	Offset Lithography .....	10/02/98	10/27/99 .....	[Insert Federal Register cite].
Section 799 .....	Definitions and Abbreviations	10/02/98	10/27/99 .....	[Insert Federal Register cite].
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Chapter 9—Motor Vehicle Pollutants, Lead, Odors, and Nuisance Pollutants

Section 904 .....	Oxygenated Fuels .....	09/30/93	1/26/95 .....	60 FR 5134.
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Appendices

Appendix 1 .....	Emission Limits for Nitrogen Oxide.	03/15/85	8/28/95 .....	60 FR 44431.
Appendix 2 .....	Table of Allowable Particulate Emissions from Process Sources.	03/15/85	8/28/95 .....	60 FR 44431.
Appendix 3 .....	Allowable VOC Emissions Under Section 710.	03/15/85	8/28/95 .....	60 FR 44431.
Appendix 5 .....	Test Methods for Sources of Volatile Organic Compounds.	10/02/98	10/27/99 .....	[Insert Federal Register cite].
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3. Section 52.478 is added to read as follows:

**§ 52.478 Rules and Regulations.**

(a) On April 8, 1993, the District of Columbia submitted a letter to EPA declaring that there are no sources located in the District belonging to the following VOC categories:

- (1) Automobile and light-duty truck manufacturing;
- (2) Coating of cans, coils, paper, fabric and vinyl, metal furniture, large appliances, magnet wire, miscellaneous metal parts and products, and flatwood paneling;
- (3) Storage of petroleum liquids in fixed-roof tanks and external floating-roof tanks;
- (4) Bulk gasoline plants and terminals;
- (5) Petroleum refinery sources;
- (6) Petroleum refinery equipment leaks;
- (7) Manufacture of synthesized pharmaceutical products, pneumatic rubber tires, vegetable oil, synthetic organic chemicals (fugitive VOCs and air oxidation), and high density polyethylene, polypropylene and polystyrene resins;
- (8) Graphic arts systems;
- (9) Storage, transportation and marketing of VOCs (fugitive VOCs from oil and gas production and natural gas and gasoline processing).

(b) On September 4, 1997, the District of Columbia submitted a letter to EPA declaring that there are no sources located in the District which belong to the following VOC categories:

- (1) Coating of plastic parts (business machines and other);
- (2) Aerospace;
- (3) Shipbuilding and repair;
- (4) Automobile refinishing;
- (5) Industrial wastewater;
- (6) Distillation or reactor or batch processes in the synthetic organic chemical manufacturing industry;
- (7) Volatile organic storage;
- (8) Wood furniture coatings;
- (9) Offset lithography;
- (10) Clean-up solvents.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[PA022-4089a; FRL-6456-4]

**Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Pennsylvania; Control of Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills**

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** This action approves the section 111(d) plan submitted by the Commonwealth of Pennsylvania for the purpose of controlling total reduced sulfur (TRS) emissions from existing kraft pulp mills. The plan was submitted to fulfill requirements of the Clean Air Act (the Act). The Pennsylvania plan establishes emission limits for existing Kraft Pulp Mills, and provides for the implementation and enforcement of those limits.

**DATES:** This final rule is effective December 27, 1999 unless by November 26, 1999 adverse or critical comments are received. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public the rule will not take effect.

**ADDRESSES:** Comments may be mailed to Harold A. Frankford, Office of Air Programs, Mail Code 3AP20, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations: Air Protection Division, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania

Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford at (215) 814-2108, or by e-mail at frankford.harold@epamail.gov.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Throughout this document, wherever "we", "us", or "our" is used, we mean EPA. This portion of this document

poses and provides responses to the following questions:

- What Action is EPA Taking?
- What does the plan consist of?
- What EPA Administrative Requirements was Pennsylvania required to meet?
- What actions did the State take to satisfy these requirements?
- What is EPA's Evaluation?

*What Action Is EPA Taking?*

We are approving Pennsylvania's section 111(d) plan for the control of total reduced sulfur (TRS) emissions from kraft pulp mills.

*What Does the Plan Consist of?*

Pennsylvania's section 111(d) plan consists of the following elements:

1. Emissions Standards for five source points: recovery furnaces, lime kilns, digesters, evaporators, smelt dissolving tanks. Among the recovery furnaces, there are emissions standards for two separate designs. These standards are described in Section 129.17(a) of Pennsylvania's air quality control regulations. The standards are:

Source point	PPM (vol-ume) dry	Condition
Recovery furnace—old construction design (without welded wall or membrane wall construction or emission-control designed air systems).	20	12 hour average—corrected to 8% oxygen by volume
Recovery furnace—new design (with both welded wall or membrane wall construction or emission-control designed air systems).	5	12 hour average—design corrected to 8% oxygen by volume
Lime kiln (a rotary or fluosolid unit used to calcine calcium carbonate into calcium oxide) .....	20	Never to be exceeded—corrected to 10% oxygen by volume
Digester systems (continuous or batch process for cooking wood chips in sodium hydroxide and sodium sulfide to produce cellulosic material).	5	Never to be exceeded
Multiple effect evaporator system (vapor heads, heating elements, hot wells, condensers and associated equipment used to concentrate spent pulp mill cooking liquid).	5	Never to be exceeded
Smelt dissolving tank (the vessel used to produce an aqueous solution from the molten mixture discharged from the floor of a recovery furnace).	20	Never to be exceeded

2. TRS emissions are to be monitored continuously at the recovery furnaces, digester systems, and multiple effect evaporator systems unless emissions are incinerated at 1,200°F.

3. Provisions for compliance testing: provisions are found in Pennsylvania Regulations 129.17(b), 139.13(3) & (4), 139.15, 139.102(3), and 139.108 (except for 1994 amendment—parenthetical expression at end of § 139.108(1)). These provisions cross-reference EPA Methods 16, 16A and 16B found in 40 CFR part 60, Appendix A. (Last revision: May 20, 1986 (51 FR 18545) for emissions monitoring, February 14, 1990 (55 FR 5212) for test methods and procedures.)

4. Compliance schedule: All sources except for new source recovery furnaces were to be in final compliance with Section 129.17(a) by May 7, 1991. All new source recovery furnaces were to be in final compliance with Section 129.17(a) by May 7, 1994.

5. Identification of kraft pulp mills subject to this plan: Pennsylvania has identified three sources which are subject to the plan's provisions:

- Appleton Papers—Blair County
- P.H. Gladfelter—York County
- Penntech Papers—Elk County

6. Expected reduction in TRS Emissions: Pennsylvania estimates that TRS emissions from the three kraft pulp mills totaled about 640 tons per year.

Pennsylvania further states that the requirements of the State TRS regulations would reduce TRS emissions by about 80% (640 tons/year), thus reducing total TRS emissions to about 120 tons per year.

*What EPA Administrative Requirements Was Pennsylvania Required To Meet?*

Public Hearings, as per 40 CFR 60.23(d) Submittal by designated official, as per 40 CFR 60.23(a)(2)

Evidence of legal authority, as per 40 CFR 60.26

*What Actions Did the State Take To Satisfy These Requirements?*

1. Hearing and Submittal Requirements

Original submittal:

- Public Hearings held: 7/24/97
- Submitted by designated official: 7/19/88

Revision No. 1:

- Public Hearings held: 9/21/89, 9/25/89, 9/27/89
- Submitted by designated official: 1/11/91

Revision No. 2:

- Public Hearings held: 7/25/90, 7/30/90, 8/1/90
- Submitted by designated official: 8/15/91

2. Evidence of Legal Authority

Pennsylvania cites Section 5 of the Pennsylvania Air Pollution Control Act (35 P.S. § 4005).

*What Is EPA's Evaluation?*

Prior to Pennsylvania's July 19, 1988 formal submittal, we evaluated a draft submittal dated December 31, 1985 under the parallel processing procedures. In a notice of proposed rulemaking (NPR) published on September 4, 1987 (52 FR 33605), we announced that we would approve Section 129.17 if Pennsylvania's rules establish a 12-hour averaging limit which is consistent with the requirements of 40 CFR part 60. During the public comment period, we had received comments indicating that Pennsylvania's proposed standard for lime kilns had not contained a 10% correction factor for oxygen by volume as allowed by 40 CFR part 60, Appendix B (the new source performance standard for kraft pulp mills).

The 1991 provisions of Section 129.17 and Chapter 139 incorporate the revisions suggested by the commenters of EPA's parallel process NPR. Since Pennsylvania's current version of Section 129.17 and Chapter 139 differs than that on which our proposal action was based, we are evaluating Pennsylvania current TRS requirements

in a direct final rulemaking action and concurrent proposed rulemaking action.

We have determined that Pennsylvania's current limits for the various individual process facilities listed in Section 129.17(a) are in compliance with EPA guidelines except for the smelt dissolving tanks. Pennsylvania's standard for smelt dissolving tanks is 20 ppm, while the NSPS limit is 16 ppm. Nevertheless, EPA considers Pennsylvania's 20 ppm limit to be a reasonable limit for existing sources.

Section 129.17(b)(3) allows Pennsylvania to use data from alternate monitoring systems in order to determine compliance with the applicable emissions standards set forth in Section 129.17(a). According to Pennsylvania's November 7, 1987 proposed rulemaking package, this provision was meant to provide the targeted sources with flexibility to obtain compliance. We do not interpret this provision as giving Pennsylvania the discretion to approve an alternative monitoring system for the targeted sources. Rather, we interpret the State's discretion as being limited to the data obtained from alternative systems prescribed in Chapter 139. Therefore, we have determined that the provision set forth in Section 129.17(b)(3) meets the applicable Agency requirements. However, the use of any alternate monitoring system other than that which is prescribed in Chapter 139 of Pennsylvania's regulations must be approved by both the Pennsylvania Department of Environmental Protection (PADEP) and EPA.

## II. Final Action

Based upon the rationale discussed above and in further detail in the Technical Support Document (TSD) associated with this action, we are approving the Commonwealth of Pennsylvania's Kraft Pulp Mill 111(d) plan for the control of TRS emissions from affected facilities. Copies of the TSD are available, upon request, from the EPA Regional Office listed in the ADDRESSES portion of this document.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to approve Pennsylvania's Section 111(d) plan for controlling TRS emissions from kraft pulp mills if adverse comments are filed. This rule will be effective on December 27, 1999 without further notice unless we receive adverse

comment by November 26, 1999. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

## III. Administrative Requirements

### A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under E.O. 12866, entitled "Regulatory Planning and Review."

### B. Executive Orders on Federalism

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If EPA complies by consulting, E.O. requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule. On August 4, 1999, President Clinton issued a new executive order on federalism, Executive Order 13132 [64 FR 43255 (August 10, 1999)] which will take effect on November 2, 1999. In the interim, the current Executive Order 12612 [52 FR 41685 (October 30, 1987)] on federalism still applies. This rule will not have a substantial direct effect on 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 12612. The rule affects

only one State, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

### C. Executive Order 13045

E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is "economically significant," as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements 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 not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because approvals under section 111(d) of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning section 111(d) plans on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

### F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that

may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

### G. Submission to Congress and the Comptroller General

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. 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 rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 27, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the 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 to approve Pennsylvania's section 111(d) plan controlling TRS emissions from existing

kraft pulp mills may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 62

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

Dated: September 30, 1999.

### Thomas Voltaggio,

Acting Regional Administrator, EPA Region III.

40 CFR Part 62 is amended as follows:

### PART 62—[AMENDED]

#### Subpart NN—Pennsylvania

1. The authority citation for Part 62 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Under the following undesignated centerhead, § 62.9611 is added to read as follows:

#### Total Reduced Sulfur Emissions From Existing Kraft Pulp Mills

\* \* \* \* \*

#### § 62.9611 Identification of plan—Pennsylvania

(a) Title of Plan. Commonwealth of Pennsylvania Plan under section 111(d) for Designated Pollutants from Existing Facilities—Kraft Pulp Mills.

(b) The plan was officially submitted by the Pennsylvania Department of Environmental Resources on July 19, 1988, with revisions submitted on January 11, 1991, and August 15, 1991.

(c) Identification of sources. The Plan includes the following kraft pulp mills:

- (1) Appleton Papers—Roaring Spring, Blair County
- (2) P.H. Gladfelter—Spring Grove, York County
- (3) Penntech Papers—Johnsonburg, Elk County

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