

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

Subpart KK—Ohio

2. Section 52.1885 is amended by adding paragraph (a)(13) to read as follows:

§ 52.1885 Control Strategy: Ozone.

(a) * * *

(13) Approval—On August 19, 1999, Ohio submitted a revision to the ozone maintenance plan for the Columbiana County area. The revision consists of allocating a portion of the Columbiana County area's NO_x safety margin to the transportation conformity mobile source emissions budget. The mobile source emissions budgets for transportation conformity purposes for the Columbiana County area are now: 5.65 tons per day of volatile organic compound emissions for the year 2005 and 5.55 tons per day of oxides of nitrogen emissions for the year 2005. This approval only changes the NO_x transportation conformity emission budget for Columbiana County.

[FR Doc. 99-28386 Filed 11-2-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[MD054-3044a; FRL-6456-6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Maryland; Revision to Section 111(d) Plan Controlling 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 revision submitted by the State of Maryland regarding revised monitoring procedures test methods used to determine compliance of total reduced sulfur (TRS) emissions from existing kraft pulp mills. The plan revision was submitted in accordance with the requirements of the Clean Air Act (the Act). EPA is approving this plan revision because Maryland's revised procedures meet current EPA requirements for monitoring and testing TRS emissions.

DATES: This final rule is effective January 3, 2000 unless by December 3, 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 Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

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

SUPPLEMENTARY INFORMATION: Throughout this document, wherever "we", "us", or "our" is used, we mean EPA.

What Action is EPA Taking?

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

What Does the Revision Consist Of?

Maryland has revised COMAR 26.11.14.05 (monitoring and reporting requirements for control of kraft pulp mills TRS emissions) to incorporate Method 16B of Technical Memorandum 91-01 as the method for continuous monitoring of TRS emissions from recovery boilers (COMAR 26.11.14.05A.), and once-a-month grab sampling from smelt dissolving tanks (COMAR 26.11.14.05B). According to documents supplied by Maryland accompanying this revision, Method 16B of Technical Memorandum 91-01 consists of cross-references to the Method 16B provisions found in 40 CFR part 60, Appendix A.

What Actions Did the State Take to Satisfy the Federal Public Hearing Requirements?

Maryland certified that public hearings on the revisions to COMAR 26.11.14.05 were held in Baltimore on November 25, 1991 in accordance with the requirements of 40 CFR 60.23(d).

What is EPA Evaluation?

The April 2, 1992 revisions to COMAR 26.11.14.05 replace provisions found in TM-116, Method 12 [Revised 1980] submitted with the State's original Section 111(d) plan controlling TRS

from kraft pulp mills. We had approved these test methods on May 11, 1982 (47 FR 20127). Since then, we have revised the monitoring and testing provisions of 40 CFR part 60 as they apply to measuring TRS emissions from kraft pulp mills—May 20, 1986 (51 FR 18545) for emissions monitoring, February 14, 1990 (55 FR 5212) for test methods and procedures. We have determined that Maryland's revised provisions found in COMAR 26.11.14.05 reflect our current requirements for monitoring and testing TRS emissions from recovery boilers and smelt dissolving tanks.

Final Action

We are approving the revisions to COMAR 26.11.14.05 regarding monitoring procedures and test methods for measuring TRS emissions from affected facilities. 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 the revision to Maryland's Section 111(d) plan for controlling TRS emissions from kraft pulp mills if adverse comments are filed. This rule will be effective on January 3, 2000 without further notice unless we receive adverse comment by December 3, 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 January 3, 2000. 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 revised test methods for Maryland'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 V—Maryland

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, § 62.5100 is amended by adding paragraph (d) to read as follows:

Plan for Control of Designated Pollutants From Existing Facilities (Section 111(d) Plan)

* * * * *

§ 62.5100 Identification of plan.

* * * * *

(d) *Submittal of plan revisions*—On April 2, 1992, Maryland submitted revisions to COMAR 26.11.14.05A. and .05B. governing the testing, monitoring, and reporting of total reduced sulfur (TRS) emissions from kraft pulp mills.

[FR Doc. 99-26851 Filed 11-2-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 63 and 68

[FRL-6465-7]

Approval of Delegation of the Accidental Release Prevention Requirements: Risk Management Programs Under Clean Air Act Section 112(r)(7): State of Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves delegation of the Clean Air Act (CAA) section 112(r)(7) accidental release prevention requirements to the State of Ohio, Environmental Protection Agency

(OEPA), Division of Air Pollution Control (DAPC), for all applicable Ohio sources. DAPC requested the section 112(r)(7) delegation on July 23, 1999. Section 112(r)(7) requires owners and operators of stationary sources subject to the requirements to submit a risk management plan (RMP) to detect and prevent or minimize accidental releases of regulated substances.

In the proposed rule section of this **Federal Register**, EPA is proposing approval of, and soliciting comments on, the proposed delegation. If adverse comments are received on this action, EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

DATES: This direct final rule will be effective January 3, 2000, unless EPA receives adverse or critical comments by December 3, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written Comments on this action should be sent concurrently to: Bob Mayhugh, U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Blvd., (SC-6J), Chicago, IL 60604-3590, mayhugh.robert@epa.gov, and Sherri Swihart, Ohio Environmental Protection Agency, 1800 WaterMark Dr., Columbus, Ohio 43215-1099, sherri.swihart@epa.state.ohio.us.

Copies of Ohio's section 112(r) delegation request letter and accompanying documents are available for public review during the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, at the addresses listed above. If you would like to review these documents, please make an appointment with the appropriate office at least 24 hours before visiting day.

FOR FURTHER INFORMATION CONTACT: Bob Mayhugh, U.S. Environmental Protection Agency, Region 5, Superfund Division, Office of Chemical Emergency Preparedness and Prevention, 60604-3590, (telephone 312/886-5929), mayhugh.robert@epa.gov, or Sherri Swihart, Ohio Environmental Protection Agency, 1800 WaterMark Dr., Columbus, Ohio 43215-1099 (telephone 614/644-3594), sherri.swihart@epa.state.oh.us.

SUPPLEMENTARY INFORMATION: The 1990 CAA Amendments added section 112(r) to provide for the prevention and mitigation of accidental chemical releases. Section 112(r) (3)-(5) mandates that EPA promulgate a list of "regulated substances," with threshold quantities.

Processes at stationary sources that contain a threshold quantity of a regulated substance are subject to accidental release prevention regulations promulgated under CAA section 112(r)(7). Pursuant to section 112(r)(7), EPA published the risk management program regulations on June 20, 1996 (61 FR 31668), and subsequently amended the regulations on January 6, 1999 (64 FR 963). The risk management program regulations are set forth at 40 CFR part 68. The regulations require, among other things, that owners and operators of stationary sources with more than a threshold quantity of a regulated substance in a process submit a risk management plan (RMP) by June 21, 1999, to a central location specified by EPA. A RMP must include, in general, an offsite consequence analysis, a prevention program, and an emergency response program. The RMPs will be available to state and local governments and to the public. These regulations encourage sources to reduce the probability of accidentally releasing substances that have the potential to cause harm to public health and the environment. Further, the regulations stimulate dialog between industry and the public on ways to improve accident prevention and emergency response practices.

Section 112(l) of the CAA and 40 CFR 63.91 and 63.95, authorize EPA, in part, to delegate the authority to implement 112(r)(7) to any state or local agency which submits an approvable program to implement and enforce the section 112(r)(7) requirements, including the risk management program regulations set forth at 40 CFR part 68. An appropriate plan must contain, among other criteria, the following elements: a demonstration of the state's authority and resources to implement and enforce regulations that are at least as stringent as section 112(r) regulations; procedures for receiving, reviewing, and making publicly available RMPs; procedures to provide technical assistance to subject sources, including small businesses.

On September 28, 1998, the Ohio Accidental Release Prevention and Risk Management Planning Act (Chapter 3753-104 Ohio Revised Code) became effective. This law adopts the federal requirements found in CAA section 112(r) and the corresponding regulations for section 112(r)(7) set forth at 40 CFR part 68 for use with the Ohio section 112(r) program. Ohio's section 112(r) program has the authority and resources to educate the general public and subject sources through outreach programs; provide technical assistance;