

as they apply in the seven-county Pittsburgh-Beaver Valley ozone nonattainment area. EPA has approved all of the case-by-case RACT determinations submitted by PADEP for affected major sources of NO<sub>x</sub> and/or VOC sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties, the seven counties that comprise the Pittsburgh area.

### III. Administrative Requirements

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not

subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### B. 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).

#### C. 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 17, 2001. 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 converting EPA's limited approval of Pennsylvania's generic VOC and NO<sub>x</sub> RACT regulations, 25 Pa Code Chapter 129.91 through 129.95, to full approval as they apply in the seven-county Pittsburgh-

Beaver Valley ozone nonattainment area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Nitrogen dioxide, Ozone.

Dated: October 3, 2001.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region III.*

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 *et seq.*

#### Subpart NN—Pennsylvania

2. Section 52.2027 is amended by adding the following paragraph (a) to read as follows:

#### § 52.2027 Approval Status of Pennsylvania's Generic NO<sub>x</sub> and VOC RACT Rules

(a) Effective November 15, 2001, EPA removes the limited nature of its approval of 25 Pa Code of Regulations, Chapter 129.91 through 129.95 (see § 52.2020 (c)(129)) as those regulations apply to the Pittsburgh-Beaver Valley area. Chapter 129.91 through 129.95 of Pennsylvania's regulations are fully approved as they apply in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties, the seven counties that comprise the Pittsburgh-Beaver Valley area.

(b) [Reserved]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[Docket# VT-020-1223a; FRL-7077-4A]

### Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Vermont; Negative Declaration

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA publishes regulations under sections 111(d) and 129 of the Clean Air Act requiring states to submit plans to EPA. These plans show how states intend to control the emissions of designated pollutants from designated

facilities. On June 5, 2001, the State of Vermont submitted a negative declaration adequately certifying that there are no small municipal waste combustors (small MWCs) located within its boundaries. EPA is approving Vermont's negative declaration.

**DATES:** This direct final rule is effective on December 17, 2001 without further notice unless EPA receives significant, material and adverse comment by November 15, 2001. If EPA receives adverse comment by the above date, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** You should address your written comments to: Mr. Steven Rapp, Chief, Air Permits Program Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, MA 02114-2023.

Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA.

**FOR FURTHER INFORMATION CONTACT:** John J. Courcier, (617) 918-1659.

**SUPPLEMENTARY INFORMATION:**

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**I. What Action Is EPA Taking Today?**

EPA is approving the negative declaration of air emissions from small MWCs submitted by the State of Vermont.

EPA is publishing this negative declaration without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve this negative declaration should relevant adverse comments be filed. If EPA receives no significant, material, or adverse comment by November 15, 2001, this action will be effective December 17, 2001.

If EPA receives significant, material, and adverse comments by the above date, we will withdraw this action before the effective date by publishing a subsequent document in the **Federal**

**Register** that will withdraw this final action. EPA will address all public comments received in a subsequent final rule based on the parallel proposed rule published in today's **Federal Register**. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If EPA receives no comments, this action will be effective December 17, 2001.

**II. What Is the Origin of the Requirements?**

Under section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR part 60, subpart B which require states to submit plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

**III. When Did the Small MWC Requirements First Become Known?**

On August 30, 1999 (64 FR 47233), EPA proposed emission guidelines for small MWC units with an individual unit capacity of 35 to 250 tons per day. This action would enable EPA to list small MWCs as designated facilities. EPA specified particulate matter, opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins/furans as designated pollutants by proposing emission guidelines for existing small MWCs. These guidelines were published in final form on December 6, 2000 (65 FR 76378).

**IV. When Did Vermont Submit Its Negative Declaration?**

On June 5, 2001, the Vermont Agency of Natural Resources (ANR) submitted a letter certifying that there are no existing small MWCs subject to 40 CFR part 60, subpart B. EPA is publishing this negative declaration at 40 CFR 62.11460. Section 62.06 provides that when no such designated facilities exist within a state's boundaries, the affected state may submit a letter of "negative declaration" instead of a control plan.

**V. Administrative Requirements**

*A. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

*B. Executive Order 13132*

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive

Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

*C. Executive Order 13045*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have 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 rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate

environmental health or safety risks that EPA has reason to believe may have a disproportionate effect on children.

#### D. Executive Order 13084

Under Executive Order 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 the mandate is unfunded, EPA must 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 action does not create any new requirements. Thus, the action will not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

#### E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Negative declaration approvals under section 111(d) of the Clean Air Act do not create any new requirements for any entity affected by this rule, including small entities. Furthermore, in developing the small MWC emission guidelines and standards, EPA prepared a written statement pursuant to the Regulatory Flexibility Act which it published in the 1997 promulgation notice (*see* 62 FR 48348). In accordance

with EPA's determination in issuing the 1997 small MWC emission guidelines, this negative declaration approval does not include any new requirements that will have a significant economic impact on a substantial number of small entities.

Therefore, because this approval does not impose any new requirements and pursuant to section 605(b) of the Regulatory Flexibility Act, the Regional Administrator certifies that this rule will not have a significant impact on a substantial number of small entities.

#### 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 costs to State, local, or tribal governments in the aggregate, or to the 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 on by the rule.

EPA has determined that this approval action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Thus, this action is not subject to the requirements of sections 202, 203, 204, and 205 of the Unfunded Mandates Act.

#### G. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

In approving or disapproving negative declarations under section 129 of the Clean Air Act, EPA does not have the authority to revise or rewrite the State's declaration, so the Agency does not have authority to require the use of particular voluntary consensus standards. Accordingly, EPA has not sought to identify or require the State to use voluntary consensus standards. Therefore, the requirements of the NTTAA are not applicable to this final rule.

#### I. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

#### J. 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 17, 2001. 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 may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2), 42 U.S.C. 7607(b)(2)). EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after

the comment period allowed for in the proposal.

#### List of Subjects in 40 CFR Part 62

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

Dated: September 26, 2001.

**Robert W. Varney,**

*Regional Administrator, Region 1.*

40 CFR part 62 of the Code of Federal Regulations is amended as follows:

#### PART 62—[AMENDED]

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

**Authority:** 42 U.S.C. 7401–7642.

#### Subpart UU—Vermont

2. Subpart UU is amended by adding a new § 62.11460 and a new undesignated center heading to read as follows:

\* \* \* \* \*

#### Municipal Waste Combustor Emissions From Existing Small Municipal Waste Combustors With the Capacity To Combust Between 35 and 250 Tons per day of Municipal Solid Waste

##### § 62.11460 Identification of Plan-negative declaration.

On June 5, 2001, the Vermont Agency of Natural Resources submitted a letter certifying that there are no existing small municipal waste combustors in the state subject to the emission guidelines under part 60, subpart B of this chapter.

[FR Doc. 01–25963 Filed 10–15–01; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 63

[FRL–7083–8]

#### Project XL Site-Specific Rulemaking for Weyerhaeuser Company Flint River Operations; Correction

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

**ACTION:** Final rule; technical corrections.

**SUMMARY:** This document contains technical corrections to the final site-specific rule published in the **Federal Register** of Wednesday, June 27, 2001 for the Weyerhaeuser Company's Flint River Operations in Oglethorpe, Georgia

(Weyerhaeuser). The June 27, 2001 final rule approved revisions to the National Emission Standards for Hazardous Air Pollutants (NESHAP) which control hazardous air pollutant (HAP) emissions from the pulp and paper industry for Weyerhaeuser's Flint River Operations as one of EPA's steps to implement Weyerhaeuser's XL Project.

Today's rule corrects typographical errors in two dates that appear in the June 27, 2001, final rule.

**EFFECTIVE DATE:** October 16, 2001.

**ADDRESSES:** A docket containing supporting information used in developing the final Project XL Site-Specific Rule for Weyerhaeuser and this technical correction is available on the world wide web at <http://www.epa.gov/ProjectXL>. It is also available for public inspection and copying at the Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta Georgia, 30303; and at the Environmental Protection Agency Headquarters, 401 M Street, SW., Room 307 A West Tower, Washington, DC 20460. Persons wishing to view the materials at the Georgia location are encouraged to contact Mr. Lee Page in advance at (404) 562–9131. Persons wishing to view the materials at the Washington, DC location are encouraged to contact Ms. Kristina Heinemann in advance at (202) 260–5355. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lee Page, Environmental Protection Agency, Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, Atlanta, GA, 30303, 404–562–9131 and [page.lee@epa.gov](mailto:page.lee@epa.gov).

**SUPPLEMENTARY INFORMATION:** Today's action corrects the final Project XL Site-Specific Rule approving revisions to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) which concern the control of hazardous air pollutant (HAP) emissions from the pulp and paper industry. This action applies only to the Weyerhaeuser Company's Flint River Operations in Oglethorpe, Georgia.

#### I. Description of the Technical Corrections

EPA proposed the site-specific rule for Weyerhaeuser on March 27, 2001. EPA proposed to add a new § 63.459 to 40 CFR part 63, subpart S. The introductory language to proposed § 63.459(a)(2) read: "The owner or operator of the pulping system shall control total HAP emissions from equipment systems listed in paragraphs (a)(2)(i) through (a)(2)(ix) of this section as specified in § 63.443(c) and (d) of this

subpart no later than April 16, 2002." The introductory language to proposed § 63.459(a)(3) read: "The owner or operator of the pulping system shall operate the isothermal Cooking system at the site while pulp is being produced in the continuous digester at any time after April 16, 2002." Inadvertently, when EPA published the final rule on June 27, 2001 (66 FR 34119), the date April 16, 2001 was used in both these sections instead of the date April 16, 2002, that had been used in the proposed rule. April 16, 2002 is the correct date. This action corrects these two typographical errors.

#### II. Administrative Requirements

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), applicable to this rule under section 307(d)(1) of the Clean Air Act, 42 U.S.C. 7607(d)(1), 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. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because the changes to the rule are minor technical corrections, are noncontroversial in nature, and are consistent with the proposed rule and thus do not substantively change what was intended by EPA for the requirements of the June 27, 2001, revision to the Pulp and Paper NESHAP for Weyerhaeuser Company's Flint River Operations in Oglethorpe, Georgia. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B). In addition, under section 112(d)(10) of the Clean Air Act, 42 U.S.C. 7412(d)(10), today's technical correction is effective immediately. (In the preamble to the June 27, 2001, final rule, EPA inadvertently made a good cause finding under 5 U.S.C. 553(d)(3) and 42 U.S.C. 6930(b)(3), making the June 27, 2001, final rule effective upon publication. The June 27, 2001, final rule should have referred to section 112(d)(10) of the Clean Air Act, rather than to 5 U.S.C. 553(d)(3) and 42 U.S.C. 6930(b)(3), as the authority for making the final rule immediately effective.)

EPA's compliance with various statutes and Executive Orders for the underlying rule is discussed in the June 27, 2001 final rule (66 FR 34119).

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