

Register on February 10, 2003 (68 FR 6679), we proposed to amend the VA adjudication regulations to add cirrhosis of the liver to the list of diseases for which entitlement to service connection is presumed for former POWs under 38 CFR 3.309(c).

We asked interested persons to submit comments on or before April 11, 2003. We received no comments. Based on the rationale set forth in the proposed rule, we are adopting the proposed rule as a final rule without change.

Administrative Procedures Act

Because this rule solely provides for a new benefit it is not subject to the effective date provisions of 5 U.S.C. 553.

Paperwork Reduction Act of 1995

This rule contains no provisions constituting collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that this amendment will not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This rule will have no such effect on State, local, or tribal governments, or the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number is 64.109.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: July 2, 2003.

Anthony J. Principi,
Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, VA amends 38 CFR part 3 as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

- 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

§ 3.309 [Amended]

- 2. Section 3.309(c) is amended by adding “Cirrhosis of the liver.” following “Peripheral neuropathy except where directly related to infectious causes.” and before the explanatory note.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR-2002-0045, FRL-7528-3]

RIN 2060-AK53

National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semicomical Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On February 18, 2003, the EPA promulgated amendments to the national emission standards for hazardous air pollutants (NESHAP) for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semicomical pulp mills, as a direct final rule with a parallel proposal. We indicated in that action that we would withdraw any part of the rule on which we received adverse comment. We received timely adverse comment on certain provisions of the direct final rule, but our withdrawal notice was not printed in the **Federal Register** before the May 19, 2003 effective date of the provisions. This action amends the subpart MM rule by deleting the provisions which were the subject of adverse comment. We are also amending portions of the subpart MM rule added by the February 18, 2003 direct final rule to correct a typographical error and a cross-referencing error.

DATES: These amendments are effective July 18, 2003.

ADDRESSES: Docket number OAR-2002-0045, containing supporting information used in the development of this notice,

is available for public viewing at the EPA Docket Center (Air Docket), EPA West, Room B-108, 1301 Constitution Avenue, NW, Washington, DC 20460. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Telander, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504-05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-5427, facsimile number (919) 541-5600, electronic mail (e-mail) address telander.jeff@epa.gov.

SUPPLEMENTARY INFORMATION: *Docket.* The EPA has established an official public docket for this action under Docket ID No. OAR-2002-0045. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, Room 108, 1301 Constitution Ave., NW, Washington, DC 20460. The EPA Docket Center 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. The telephone number for the Air Docket is (202) 566-1742.

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An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov.edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select “search,” then key in the

appropriate docket identification number.

Background. On February 18, 2003, we published a direct final rule (68 FR 7706) and a parallel proposal (68 FR 7735) amending the NESHAP for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills (40 CFR part 63, subpart MM). The amendments clarified and consolidated the monitoring and testing requirements and added a site-specific alternative standard for one pulp mill. We stated in the preamble to the direct final rule and parallel proposal that if we received significant adverse comment by March 20, 2003 on one or more distinct provisions in the direct final rule, we would withdraw those provisions. We subsequently received timely adverse comments on seven of the amendments:

- 40 CFR 63.864(a) through (c), related to a site-specific monitoring plan;
- 40 CFR 63.864(d)(1) and (2), related to monitoring specifications for continuous opacity monitoring systems;
- 40 CFR 63.864(e)(1) through (9), related to monitoring specifications for continuous parameter monitoring systems;
- 40 CFR 63.864(f), related to flow monitoring provisions;
- 40 CFR 63.864(h) and (i), related to data availability restrictions;
- 40 CFR 63.864(j)(5), related to requirements for establishing the operating range for monitoring parameters; and
- 40 CFR 63.864(j)(6), related to an operation and maintenance log for the period between the compliance date and performance test date.

We prepared an action withdrawing these amendments, but the Office of the Federal Register was unable to publish it before May 19, 2003 (the direct final rule's effective date). The final rule amends the subpart MM rule by deleting the provisions which were the subject of adverse comment, consistent with our originally stated intention. If we again address these issues related to monitoring, we will do so by acting on the proposed rule (68 FR 7735) after considering the comments received. We will not institute a second comment period.

We are also amending portions of the subpart MM rule added by the direct final rule to make two technical corrections to inadvertent errors in rule language. The first is a correction to a typographical error affecting one term in Equation 1 of 40 CFR 63.865(a)(1). The second is a correction to a cross-referencing error in 40 CFR 63.687(a)(3).

The Administrative Procedure Act, in 5 U.S.C. 553(b)(B), 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. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment. With respect to the amendment deleting the provisions related to monitoring, we are amending the rule to carry out our stated intention of not allowing provisions of the direct final rule to take effect if they were the subject of adverse comment. There has already been notice and opportunity for comment on this action, and, under these circumstances, opportunity for further comment is unnecessary. Moreover, failure to amend the rule by deleting the provisions on which EPA received adverse comment would be contrary to public expectation based on EPA's express promise. There may in fact be detrimental reliance on EPA's promise, further supporting EPA's finding that there is good cause for immediate revision of the rule. The other changes to the rule are minor, noncontroversial technical corrections, which do not substantively change the rule's requirements. Thus, notice and opportunity for public comment on these technical corrections is also unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Section 553(d) allows an agency, upon a finding of good cause, to make a rule effective immediately. Because today's amendments delete regulatory language that was the subject of adverse comment, do not add any requirements necessitating additional time for compliance, and otherwise do not substantively change the requirements of the rule, we find good cause to make these amendments effective immediately.

Statutory and Executive Order Review

Under Executive Order 12866 (58 FR 51736, October 4, 1993), this action is not a "significant regulatory action" and is, therefore, not subject to review by the Office of Management and Budget. Because EPA has made a "good cause" finding that this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In

addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action 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 (64 FR 43255, August 10, 1999). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104-113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA is not proposing/adopting any voluntary consensus standards in this action.

This action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing these amendments, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of these amendments in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. These amendments do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. Section 808 allows the issuing agency to make a rule

effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of July 18, 2003. The EPA will submit a report containing the 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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: July 7, 2003.

Jeffrey R. Holmstead,
Assistant Administrator for Air and Radiation.

- For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[Amended]

- 1. The authority citation for part 63 continues to read as follows:

$$EL_{PM} = \frac{[(C_{ref,RF})(Q_{RFtot}) + (C_{ref,LK})(Q_{LKtot})](F1)}{(BLS_{tot})} + ER1_{ref,SDT}$$

Where:

EL_{PM} = Overall PM emission limit for all existing process units in the chemical recovery system at the kraft or soda pulp mill, kg/Mg (lb/ton) of black liquor solids fired;

$C_{ref,RF}$ = Reference concentration of 0.10 g/dscm (0.044 gr/dscf) corrected to 8 percent oxygen for existing kraft or soda recovery furnaces;

Q_{RFtot} = Sum of the average volumetric gas flow rates measured during the performance test and corrected to 8 percent oxygen for all existing recovery furnaces in the chemical recovery system at the kraft or soda pulp mill, dry standard cubic meters per minute (dscm/min) (dry standard cubic feet per minute (dscf/min));

$C_{ref,LK}$ = Reference concentration of 0.15 g/dscm (0.064 gr/dscf) corrected to 10 percent oxygen for existing kraft or soda lime kilns;

QLK_{tot} = Sum of the average volumetric gas flow rates measured during the performance test and corrected to 10 percent oxygen for all existing lime kilns in the chemical recovery system at the kraft or soda pulp mill, dscm/min (dscf/min);

$F1$ = Conversion factor, 1.44 minutes-kilogram/day·gram (min·kg/d·g) (0.206 minutes·pound/day·grain (min·lb/d·gr));

BLS_{tot} = Sum of the average black liquor solids firing rates of all existing recovery furnaces in the chemical recovery system at the kraft or soda pulp mill measured during the performance test, megagrams per

day (Mg/d) (tons per day (ton/d)) of black liquor solids fired; and

$ER1_{ref,SDT}$ = Reference emission rate of 0.10 kg/Mg (0.20 lb/ton) of black liquor solids fired for existing kraft or soda smelt dissolving tanks.

* * * *

- 4. Section 63.867 is amended by revising paragraph (a)(3) to read as follows:

§ 63.867 Reporting requirements.

(a) * * *

(3) In addition to the requirements in subpart A of this part, the owner or operator of the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington, facility (Emission Unit no. HD-14) must include analysis and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems in § 63.864(e)(12) in the Notification of Compliance Status.

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

Subpart MM—[AMENDED]

- 2. Section 63.864 is amended by removing and reserving paragraphs (a) through (c), (d)(1) and (2), (e)(1) through (9), (f), (h), (i), and (j)(5) and (6).
- 3. Section 63.865 is amended by revising paragraph (a)(1) to read as follows:

§ 63.865 Performance test requirements and test methods.

* * * *

(a) * * *

- (1) Determine the overall PM emission limit for the chemical recovery system at the mill using Equation 1 of this section as follows:

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7530-9]

Georgia: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Georgia has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Georgia's changes to their hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.