

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[AR-2-2-5972a; FRL-5954-4]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants Arkansas; Revisions of Regulations**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: This action approves a recodification and revisions of the regulations for the Arkansas Plan for Designated Facilities and Pollutants (111(d) Plan) under section 111(d) of the Federal Clean Air Act (the Act). The State has revised its 111(d) Plan for controlling sulfuric acid mist emissions from sulfuric acid plants and for controlling total reduced sulfur (TRS) emissions from kraft pulp mills and has submitted a negative declaration for 111(d) phosphate fertilizer plants. The effect of this action is to make these revisions a part of the Arkansas 111(d) Plan and thus federally enforceable.

DATES: This action is effective on May 11, 1998, unless adverse or critical comments are received by April 9, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Copies of the State submittal are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733.

Arkansas Department of Pollution Control and Ecology, Division of Air Pollution Control, 8001 National Drive, P.O. Box 8913, Little Rock, Arkansas 72219-8913.

FOR FURTHER INFORMATION CONTACT: Bill Deese of the Air Planning Section at (214) 665-7253 at the EPA Region 6 Office and at the **ADDRESS** above.

SUPPLEMENTARY INFORMATION:**I. Federal Requirements for Section 111(d) Plans**

Section 111(d) of the Act establishes procedures whereby States submit plans to control existing sources of designated pollutants. Designated pollutants are defined as pollutants which are not included in a list published under section 108(a) of the Act (i.e., National Ambient Air Quality Standard Pollutants), but to which a standard of performance for new sources applies under section 111. Under section 111(d), emission standards are to be adopted by the States and submitted to EPA for approval. The standards limit the emissions of designated pollutants from existing facilities. Such facilities are called designated facilities. The procedures under which States submit these plans to control existing sources are defined in 40 CFR part 60, subpart B. The status of State 111(d) Plans is given in 40 CFR part 62, Approval and Promulgation of State Plans for Designated Facilities and Pollutants.

II. Background of Arkansas Section 111(d) Plan

The Arkansas 111(d) Plan for sulfuric acid emissions from sulfuric acid plants and for fluoride emissions from phosphate fertilizer plants was approved by EPA on May 12, 1982 (47 FR 20490). The regulatory element of the plan was Section 8.1, "Designated Pollutants," of the "Regulations of the Arkansas Plan of Implementation for Air Pollution Control" (Regulations of the Plan). Subsections 8.1(c)(i) and 8.1(c)(ii) contained the list of sources, emissions limits, compliance testing requirements, and compliance schedules for phosphate fertilizer plants and sulfuric acid plants respectively.

A revision to the Arkansas 111(d) Plan to include TRS emissions from kraft pulp mills was approved by EPA on September 12, 1984 (49 FR 35771). The regulatory element of the Plan for kraft pulp mills was Subsection 8.1(c)(iii). Subsection 8.1(c)(iii) contained the list of sources, emissions limits, and compliance testing requirements for designated kraft pulp mills.

On November 10, 1986 (51 FR 40802), EPA approved compliance schedules for emissions from kraft pulp mills.

The status of the Arkansas 111(d) Plan is given in 40 CFR part 62, subpart E.

III. State Submittals

The State of Arkansas has taken the opportunity to update its 111(d) Plan. The revision to its 111(d) Plan includes an update of the listing of sources subject to the 111(d) Plan requirements.

The State has also clarified the averaging time for continuous emission monitoring at kraft pulp mills and has used the opportunity with these revisions to also recodify the regulation for its 111(d) Plan as Section 19.8, "111(d) Designated Facilities," in its new Regulation #19, "Compilation of Regulation of the Arkansas State Implementation Plan for Air Pollution Control." Regulation #19, including Section 19.8, was adopted by the Arkansas Commission of Pollution and Ecology (Commission) on July 24, 1992, and submitted to EPA by the Governor on September 14, 1992, as a revision to the Arkansas State Implementation Plan (SIP) and the Arkansas 111(d) Plan. A public hearing on Regulation #19 was held on May 28, 1992, in Little Rock, Arkansas. All sections of Regulation #19, except Section 19.8, address revisions to the Arkansas SIP. These are being acted upon by EPA in a separate **Federal Register** action.

This action also approves a revision to Section 19.8 adopted by the Commission on May 30, 1997, effective July 1, 1997, and submitted by the Governor on August 18, 1997. This revision corrects the names of two affected kraft pulp mills and removes explanatory material in Section 19.8(d)(3).

IV. Review of State Submittal**A. Negative Declaration for Phosphate Fertilizer Plants**

The approved Arkansas 111(d) Plan for phosphate fertilizer plants was applicable to one source, a diammonium phosphate facility located in Helena, Arkansas. The State notified EPA in a negative declaration dated September 2, 1992, pursuant to 40 CFR 62.06, that this facility no longer manufactures dominium phosphate and no longer has fluoride emissions and that there are currently no 111(d) phosphate fertilizer plants in the State. The EPA finds that this negative declaration satisfies the requirements for negative declarations found in 40 CFR 62.06.

B. Sulfuric Acid Plants

Subsection 19.8(c) list sources, emission limitations, and compliance testing requirements for designated sulfuric acid plant in Arkansas. The Olin Corporation facility listed in 40 CFR 62.855 has closed. The Monsanto Company in El Dorado is now the El Dorado Chemical Company and is the only designated sulfuric acid plant in Arkansas. The regulation has been revised to delete the reference to the Olin Corporation facility and to reflect

the name change of the El Dorado facility. The other provisions to Subsection 19.8(c) remain the same as in the approved 111(d) Plan. The emission limit remains as 0.5 pounds of sulfuric acid mist per ton of 100 percent acid. This is the same value approved with the original Arkansas 111(d) Plan and is the same as required in 40 CFR part 60, subpart Cb, Emission Guidelines and Compliance Times for Sulfuric Acid Production Units. Subsection 19.8(c) continues to require that compliance testing be performed using EPA Method #8 in 40 CFR part 60 appendix A at intervals specified in the applicable permit.

C. Kraft Pulp Mills

Subsection 19.8(d) list sources, emission limitations, and compliance testing requirements for designated kraft pulp mills in Arkansas. The State of Arkansas has seven designated kraft pulp mills. These are: International Paper Company in Camden; International Paper Company in Pine Bluff; Green Bay Packaging, Arkansas Kraft Division in Morrilton; Gaylord Container Corporation in Pine Bluff; Georgia-Pacific Corporation in Crossett; Georgia Pacific Corporation of Ashdown; and Potlatch Corporation of McGehee. In the list in 40 CFR 62.865, the Arkansas Kraft Corporation in Morrilton is now the Green Bay Packaging, Arkansas Kraft Division in Morrilton; the Weyerhaeuser Company in Pine Bluff is now the Gaylord Container Corporation; and the Wekoosa Paper Company facility in Ashdown is now the Georgia-Pacific Corporation.

Emission limits for kraft pulp mills are listed in Table 19.8.1, Kraft Pulp Mill TRS Emissions Limits, in Section 19.8. Emission limits are listed for recovery furnaces, lime kilns, and smelt dissolving tanks for each source. Except for smelt dissolving tanks, all TRS emission limits in Table 19.8.1 are the same or lower than those approved by EPA in the September 12, 1984, approval of the original Arkansas 111(d) Plan for kraft pulp mills. The TRS emission limits for TRS from smelt dissolving tanks have been changed from 0.0084 grams per kilogram (g/kg) to 0.0168 g/kg which is the current New Source Performance Standard (NSPS) for TRS from smelt dissolving tanks.

Note: The EPA revised this NSPS from 0.0084 g/kg to 0.0168 g/kg on May 20, 1986 at 51 FR 18544.

The State of Arkansas followed EPA's March 1979 guidance document, "Kraft Pulping: Control of TRS Emissions from Existing Mills" (EPA-450/2-78-003b), in developing the original regulations

for its 111(d) Plan for kraft pulp mills codified in Section 8.1 of the Regulations of the Plan and approved by EPA on September 12, 1984. The guidance did not specify that the 12-hour averaging time is for continuous emission monitoring rather than for Test Methods 16, 16A, or 16B in 40 CFR part 60 appendix A. The EPA asked the State to clarify the regulation to correct this error. The State corrected this error in Subsection 19.8(d)(3) of Section 19.8. Subsection 19.8(d)(3) requires designated facilities to conduct TRS continuous monitoring in accordance with the requirements of 40 CFR 60.284, Monitoring of Emissions and Operations, in the NSPS for kraft pulp mills.

This action also approves a revision to Section 19.8(d)(3) which removes explanatory materials in brackets. This non-regulatory material was a clarification only. Regulation #19, as adopted by the Commission on May 30, 1997, removed explanatory materials in brackets that had been put in the Regulation #19 adopted by the Commission July 24, 1992.

V. Removal of 40 CFR 62.852

The EPA is removing 40 CFR 62.852 from the Arkansas 111(d) Plan. Section 62.852 cites 40 CFR 52.178(b) which was removed in a **Federal Register** action published August 4, 1986 (51 FR 27840).

Section 52.178 was added to the Arkansas SIP on September 26, 1974 (39 FR 34536), because the State could, in some circumstances, prohibit the disclosure of emission data to the public. The EPA removed 40 CFR 52.178 on August 4, 1986 (51 FR 27840), when EPA approved Section 32-1937 of the Arkansas Water and Air Pollution Control Act (AWAPCA) as a revision to the Arkansas SIP. Section 32-1937 of the AWAPCA requires the State to make available to the public all emission data submitted to the State, local agencies, or EPA, which is otherwise obtained by any of those agencies pursuant to the Act.

Section 62.852 citing § 52.178(b) was added to 40 CFR part 62 in the May 12, 1982, **Federal Register** approving the Arkansas 111(d) Plan for sulfuric acid plants and phosphate fertilizer plants because of the deficiency in the Arkansas SIP. The EPA is removing 40 CFR 62.852 in this action since the deficiency in the Arkansas SIP has been corrected and 40 CFR 52.178 no longer exists.

VI. Final Action

The EPA is approving Arkansas Department of Pollution Control and

Ecology Section 19.8, "111(d) Designated Facilities," as adopted by the Commission on July 24, 1992, and May 30, 1997, as a part of the Arkansas 111(d) Plan for sulfuric acid plants and kraft pulp mills. Section 19.8 replaces Section 8.1, "Designated Facilities" of the old Regulations of the Plan, as the regulatory element of the Arkansas 111(d) Plan. The EPA is also approving a negative declaration dated September 2, 1992, which says that the State no longer has any 111(d) phosphate fertilizer plants.

The EPA is publishing this action without prior proposal because the Agency views this as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the 111(d) Plan revision should adverse or critical comments be filed. This action will be effective May 11, 1998, unless, by April 9, 1998, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent action that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The 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 no such comments are received, the public is advised that this action will be effective May 11, 1998.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any 111(d) Plans. Each request for revision to 111(d) Plans shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

VII. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget has exempted this regulatory action from E.O. 12866 review.

B. 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. See 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.

Approvals under section 111(d) of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal 111(d) Plan approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning 111(d) Plans on such grounds. See *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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 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.

The EPA has determined that the approval action promulgated 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 approves preexisting 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.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added 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 this rule in

today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 11, 1998. Filing a petition for reconsideration by the Regional 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).

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Fertilizers, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfuric acid plants, Sulfuric oxides.

Dated: January 15, 1998.

Lynda F. Carroll,

Acting Regional Administrator, Region 6.

40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart E—Arkansas

2. Section 62.850 is amended by adding paragraphs (b)(3) and (b)(4) and revising paragraph (c) to read as follows:

§ 62.850 Identification of plan.

* * * * *

(b) * * *

(3) Revisions to the Plan adopted by the Arkansas Commission on Pollution Control and Ecology on July 24, 1992, effective August 30, 1992, and a negative declaration for phosphate fertilizer plants dated September 2, 1992, submitted by the Governor on September 14, 1992.

(4) Revisions to the Plan adopted by the Arkansas Commission on Pollution Control and Ecology on May 30, 1997, effective July 1, 1997, and submitted by the Governor on August 18, 1997.

(c) Designated facilities: The plan applies to existing facilities in the following categories of sources:

- (1) Sulfuric acid plants.
- (2) Kraft pulp mills.

§ 62.852 [Removed and reserved]

3. Section 62.852 is removed and reserved.

4. Section 62.854 is revised to read as follows:

§ 62.854 Identification of plan—negative declaration.

On September 24, 1992, the Arkansas Department of Pollution Control and Ecology submitted a negative declaration, signed by the Chief of the Air Division on September 2, 1992, certifying that there are no existing phosphate fertilizer plants in the State of Arkansas subject to part 60, subpart B, of this chapter.

5. Section 62.855 is revised to read as follows:

§ 62.855 Identification of sources.

The plan applies to existing facilities at the following existing sulfuric acid plant:

(a) El Dorado Chemical Company in El Dorado, Arkansas.

(b) [Reserved]

6. Sections 62.865 is amended by revising paragraphs (a)(3), (a)(4), and (a)(6) to read as follows:

§ 62.865 Identification of sources.

(a) * * *

(3) Green Bay Packaging, Arkansas Kraft Division in Morrilton, Arkansas.

(4) Gaylord Container Corporation in Pine Bluff, Arkansas.

* * * * *

(6) Georgia-Pacific Corporation in Ashdown, Arkansas.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS-506011; FRL-5775-2]

RIN 2070-AB27

Ethane, 1,1,1,2,2-pentafluoro-; Revocation of Significant New Use Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for ethane, 1,1,1,2,2-pentafluoro- based on the receipt of new data. Based on the data, the Agency no longer finds that activities not described in the