

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.

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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](mailto:mayhugh.robert@epa.gov), and Sherri Swihart, Ohio Environmental Protection Agency, 1800 WaterMark Dr., Columbus, Ohio 43215-1099, [sherri.swihart@epa.state.ohio.us](mailto: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](mailto: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](mailto: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;

review and make publicly available risk management plans; and adequately enforce its 112(r) program. Upon delegation, the State's program will be administered by the DAPC of OEPA. DAPC will work closely with OEPA's Division of Emergency Remedial Response (DERR) which is also responsible for implementation of the Federal Emergency Planning and Community Right-To-Know Act (EPCRA) program in the State. The DERR serves as Chair and staff to the State Emergency Response Commission (SERC) and has an established relationship with Ohio's eighty-seven Local Emergency Planning Committees (LEPCs).

Based on Ohio's delegation request and its pertinent laws and regulations, EPA has determined that such a delegation is appropriate in that Ohio has satisfied the criteria of 40 CFR 63.91 and 63.95. The Ohio program has adequate and effective authorities, resources, and procedures in place for implementation and enforcement of non-major and major sources subject to the section 112(r)(7) requirements. The State has the primary authority and responsibility to carry out all elements of the section 112(r)(7) program for all sources covered in the State, including on-site inspections, record keeping reviews, audits and enforcement. Although the State has primary authority and responsibility to implement and enforce the section 112(r)(7) requirements, nothing shall preclude, limit, or interfere with the authority of EPA to exercise its enforcement, investigatory, and information gathering authorities concerning this part of the Act.

## Administrative Requirements

### A. Executive Order 12866

Under E.O. 12866 (58 FR 51735; October 4, 1993), EPA must determine whether a regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order EPA has determined that the promulgation of risk management program regulations is a "significant regulatory action" under the terms of E.O. 12866 (61 FR 31668, June 20, 1996; 64 FR 963, January 6, 1999). However, the delegation of section 112(r)(7) unchanged from the Federal requirements does not create any new regulatory requirements. Therefore, this regulatory action is exempt from Executive Order 12866 review.

### B. Executive Orders on Federalism

Under Executive Order 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 the mandate is unfunded, EPA must 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, Executive Order 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 State of Ohio has voluntarily requested delegation of this program. The state will be implementing its own pre-existing Accidental Releases Prevention/Risk Management Planning program as described in the Supplemental Information Section of this notice. Accordingly, the requirements of section 1(a) of Executive Order 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 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, 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. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

### D. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, the EPA must consider the paperwork burden imposed by any information collection request in a proposed or final rule. This rule will not impose any new information collection requirements.

### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA, Public Law 96-354, September 19, 1980) requires Federal agencies to give special consideration to the impact of regulation on small businesses. The RFA specifies that a regulatory flexibility analysis must be prepared if a screening analysis indicates a regulation will have significant impact on a substantial number of small entities. (5 U.S.C. 603 and 604.) Alternatively, EPA may certify that the regulatory action will not have a significant impact on a substantial number of small entities. Because the delegation of section 112(r)(7) unchanged from the Federal requirements does not create any new regulatory requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

### F. Unfunded Mandates

Under section 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more

to the private sector, or to state, local, or tribal governments in the aggregate.

EPA has determined that the approval action promulgated today does not constitute 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. The State voluntarily requested this delegation under section 112(l) for the purpose of implementing and enforcing the risk management program requirements of section 112(r)(7). The delegation imposes no new Federal requirements. Because the State was not required by law to seek delegation, this Federal action does not impose a mandate on the State.

#### *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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action 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 (VCS) are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. Today's action does not require the public to perform activities conducive to the use of VCS. Therefore, EPA believes that voluntary consensus standards are inapplicable to this action.

#### *I. 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 is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

#### **List of Subjects**

##### *40 CFR Part 63*

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations.

##### *40 CFR Part 68*

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

Dated: October 21, 1999.

**David A. Ullrich,**

*Acting Regional Administrator, Region 5.*

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 180**

[OPP-300937; FRL-6387-4]

RIN 2070-AB70

### **Buprofezin; Extension of Tolerance for Emergency Exemptions**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation extends a time-limited tolerance for residues of the insecticide buprofezin and its metabolites in or on cucurbits at 0.5 part per million (ppm) for an additional 1-year period. This tolerance will expire

and is revoked on December 31, 2000. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on cucurbits. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA) requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA.

**DATES:** This regulation is effective November 3, 1999. Objections and requests for hearings, identified by docket control number OPP-300937, must be received by EPA on or before January 3, 2000.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the "SUPPLEMENTARY INFORMATION." To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-300937 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Andrea Beard, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 308-9356; and e-mail address: beard.andrea@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. General Information**

##### *A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Cat-egories	NAICS	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American