



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R03-OAR-2016-0054; FRL-9946-67-Region 3]**

### **Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Emissions from Various Processes and Fuel-Burning Equipment from Kraft Pulp Mills**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to conditionally approve a revision to the Maryland state implementation plan (SIP) submitted by the Maryland Department of the Environment (MDE) on October 15, 2014. The SIP revision adds and amends regulations in the SIP which control emissions from various processes and fuel-burning equipment at Kraft pulp mills. The SIP revision includes the following: (1) A new definition for “NO<sub>x</sub> Ozone Season Allowance;” (2) a new regulation with nitrogen oxides (NO<sub>x</sub>) limits for fuel-burning equipment located at Kraft pulp mills; (3) a removal and relocation of existing NO<sub>x</sub> reasonably available control technology (RACT) requirements for Kraft pulp mills into another Maryland regulation; and (4) a revised regulation which clarifies the volatile organic compound (VOC) control system and emission requirements for several process installations at Kraft pulp mills. EPA proposes a conditional approval because the new Maryland definition references the defunct Clean Air Interstate Rule (CAIR) and because MDE provided a commitment to remove all references to CAIR within the definition of “NO<sub>x</sub> Ozone Season Allowance” and submit a

revised definition as a new SIP revision, no later than a year from EPA finalizing this conditional approval. Upon timely meeting of this commitment, EPA will propose to convert the conditional approval of the SIP revision to a final approval. This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments on EPA’s proposed conditional approval must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0054 at <http://www.regulations.gov>, or via email to [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov). For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Gregory Becoat, (215) 814 2036, or by e-

mail at becoat.gregory@epa.gov.

**SUPPLEMENTARY INFORMATION:** On October 15, 2014, EPA received a revision to the State of Maryland’s SIP submitted by MDE. The SIP revision includes Maryland regulations which control emissions from various processes and fuel-burning equipment at Kraft pulp mills and which clarify the VOC control system and requirements for several process installations at Kraft pulp mills.

## **I. Background**

In the October 15, 2014 SIP revision, MDE’s submittal included a definition for “NO<sub>x</sub> Ozone Season Allowance” which references a defunct CAA program, CAIR. EPA discussed with MDE the need to remove all references to CAIR within the definition of “NO<sub>x</sub> Ozone Season Allowance,” for EPA to approve the October 15, 2014 SIP revision.

In May 2005, EPA promulgated CAIR which required certain states to reduce emissions of sulfur dioxide (SO<sub>2</sub>) and NO<sub>x</sub> that significantly contribute to downwind nonattainment of the 1997 national ambient air quality standard (NAAQS) for fine particulate matter (PM<sub>2.5</sub>) and ozone. 70 FR 25162 (May 12, 2005). After litigation in the United States Court of Appeals for the D.C. Circuit (D.C. Circuit) which remanded CAIR to EPA, EPA promulgated the Cross State Air Pollution Rule (CSAPR) to replace CAIR and to help states reduce air pollution and attain CAA standards. 76 FR 48208 (August 8, 2011).<sup>1</sup> In subsequent, additional litigation, CSAPR was initially vacated by the D.C. Circuit but upheld by the U.S. Supreme Court. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). EPA began implementing CSAPR in

---

<sup>1</sup> CSAPR requires substantial reductions of SO<sub>2</sub> and NO<sub>x</sub> emissions in 28 states in the eastern United States that significantly contribute to downwind nonattainment of the 1997 PM<sub>2.5</sub> and ozone NAAQS and 2006 PM<sub>2.5</sub> NAAQS.

January 2015 as CAIR's replacement. *See* 79 FR 71663 (December 3, 2014) (interim final rulemaking issued after D.C. Circuit lifted stay on CSAPR).<sup>2</sup>

On September 29, 2015, EPA received a supplemental letter from MDE committing to remove all references to CAIR within the definition of "NO<sub>x</sub> Ozone Season Allowance," as a SIP revision, no later than a year from EPA finalizing our conditional approval of the SIP submittal. Upon final approval of the revised definition of "NO<sub>x</sub> Ozone Season Allowance" as a SIP revision, EPA will convert the conditional approval of the October 15, 2014 SIP submission with the regulations and requirements for Kraft pulp mills to a full approval.

## **II. Summary of SIP Revision**

MDE's SIP revision includes amended and new regulations in order to control emissions from various processes and fuel-burning equipment at Kraft pulp mills. The SIP revision submittal includes an amendment to the Code of Maryland Regulations (COMAR) 26.11.01.01 – "General Administrative Provisions" in order to add a definition for "NO<sub>x</sub> Ozone Season Allowance." This definition was added to the COMAR by Maryland because the NO<sub>x</sub> emission limitations for the Kraft pulp mills rely on use of NO<sub>x</sub> allowances. Because the definition in COMAR 26.11.01.01 makes references to CAIR which sunset on December 31, 2014 as EPA is now implementing CSAPR, EPA cannot fully approve the definition for "NO<sub>x</sub> Ozone Season Allowance." MDE has committed to remove references to CAIR and submit a revised definition in a separate SIP submittal. The October 15, 2014 SIP revision also seeks to add to the SIP COMAR 26.11.14.07 – "Control of NO<sub>x</sub> Emissions from Fuel Burning Equipment" in order to:

---

<sup>2</sup> Thus, after December 31, 2014, CAIR was replaced by CSAPR and was a defunct, moot CAA program no longer implemented by EPA.

(1) Establish the applicability and NO<sub>x</sub> emission standards to any fuel burning equipment with a maximum design heat input capacity of greater than 250 million British thermal unit (Btu) per hour located at any Kraft pulp mill; (2) establish NO<sub>x</sub> emission limits for Kraft pulp mills including an emission rate of 0.70 pounds of NO<sub>x</sub> per million Btu, an emission limit of 947 tons of NO<sub>x</sub> during the period May 1 through September 30 of each year, and an emission rate of 0.99 pounds of NO<sub>x</sub> per million Btu during the period of October 1 through April 30 of each year; (3) establish the requirements for demonstrating compliance with the NO<sub>x</sub> limits; (4) permit pulp mills to secure up to 95 allowances for each period in which a mill exceeds the 947 ton emission cap from May through September 30 of each year; (5) specify the process of achieving compliance through the use of allowances; and (6) establish monitoring and reporting requirements. The NO<sub>x</sub> emission limitations of 0.70 pounds of NO<sub>x</sub> per million Btu from May 1 through September 30 of each year and 0.99 pounds of NO<sub>x</sub> per million Btu during the period of October 1 through April 30 of each year were previously included in COMAR 26.11.09.08 and are already included in the Maryland SIP. *See* 69 FR 56170 (September 20, 2004). Thus, these provisions are not new to the SIP, but merely relocated. Pursuant to the NO<sub>x</sub> SIP Call at COMAR 26.11.29 and .30, the sole Kraft pulp mill in Maryland was allocated 947 allowances for NO<sub>x</sub> emissions. COMAR 26.11.29 and .30 are in the existing Maryland SIP. With this SIP revision, Maryland seeks to include the 947 ton NO<sub>x</sub> cap in the Maryland SIP at COMAR 26.11.14.07. Thus, the October 15, 2014 SIP revision simply relocates the 947 ton NO<sub>x</sub> cap within the Maryland SIP.

The SIP revision also includes an amended COMAR 26.11.09.08 – “Control of NO<sub>x</sub> Emissions for Major Stationary Sources” in order to remove from this provision subsection (C)(h) which

has NO<sub>x</sub> requirements for the fuel burning equipment at non-electric generating facilities.

Maryland requests removal of this subsection (C)(h) of COMAR 26.11.09.08 from the Maryland SIP because the NO<sub>x</sub> requirements for pulp mills to meet a NO<sub>x</sub> emissions rate of 0.70 pounds per million Btu during the period May 1 to September 30 of each year and 0.99 during the period October 1 through April 30 of each year have been relocated to COMAR 26.11.14.07.

Finally, the SIP revision also includes a revised COMAR 26.11.14.06 – “Control of Volatile Organic Compounds” in order to: (1) Clarify that air emissions from brown stock washers are to be collected and combusted; (2) clarify that evaporators, digester blow tank systems, and brown stock washers shall be controlled by removing 90 percent (90%) or more of the condensate VOC loading by demonstrating a VOC removal or destruction efficiency of the condensate stream stripper of 90% or greater or a system analysis of these units; and (3) specify approvable testing methods to demonstrate the collective VOC removal efficiency of the condensate steam stripper and other control systems as required. This provision will reduce VOC emissions from Kraft pulp mills and will strengthen the Maryland SIP.

A full explanation of the SIP revision and EPA’s analysis of the revision are contained in the technical support document (TSD) prepared in support of this proposed rulemaking. A copy of this TSD is located in the docket of this proposed rulemaking and is available online at [www.regulations.gov](http://www.regulations.gov).

### **III. Proposed Action**

EPA is proposing to conditionally approve the Maryland October 15, 2014 SIP revision

concerning the regulations and requirements to control NO<sub>x</sub> and VOC emissions from various processes and fuel-burning equipment at Kraft pulp mills as it strengthens the SIP with provisions related to controlling emissions of NO<sub>x</sub> and VOC. Pursuant to section 110(k)(4) of the CAA, EPA's proposal is to conditionally approve the October 15, 2014 SIP revision because Maryland committed in a letter dated September 29, 2015 to submit to EPA a SIP revision removing all references to CAIR, a defunct CAA program, within the definition of "NO<sub>x</sub> Ozone Season Allowance" in COMAR 26.11.01.01, no later than a year from EPA finalizing our conditional approval.

When EPA approves the revised definition of "NO<sub>x</sub> Ozone Season Allowance" in COMAR 26.11.01.01, EPA will remove the conditional nature of its approval, and the October 15, 2014 SIP revision will, at that time, receive a full approval status. Should MDE fail to meet the condition specified in this rulemaking action, the final conditional approval of the SIP revision will convert to a disapproval. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

#### **IV. Incorporation by Reference**

In this proposed rulemaking action, EPA is proposing to include in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference revisions to COMAR 26.11.01.01, COMAR 26.11.14.07, COMAR 26.11.09.08, and COMAR 26.11.14.06 as previously discussed. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or may be viewed at the appropriate EPA office (see the ADDRESSES

section of this preamble for more information).

## **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- 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);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to the regulations and requirements for the control of emissions from various processes and fuel-burning equipment from Kraft pulp mills, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 3, 2016.

**Shawn M. Garvin,**  
*Regional Administrator,*  
*Region III.*

**BILLING CODE 6560-50-P**

[FR Doc. 2016-11844 Filed: 5/19/2016 8:45 am; Publication Date: 5/20/2016]