



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R06-OAR-2022-0984; FRL-11401-01-R6]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Arkansas; Negative Declaration for Existing Sulfuric Acid Plants; Plan Revision for Existing Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve the CAA section 111(d) state plan revision submitted by the State of Arkansas for existing kraft pulp mills subject to the Kraft Pulp Mills Emission Guidelines (EG). The Arkansas section 111(d) plan revision for kraft pulp mills contains administrative changes to the state regulations and also aligns compliance testing requirements to be consistent with EPA's kraft pulp mills new source performance standards. EPA is also notifying the public that we have received a CAA section 111(d) negative declaration from Arkansas for existing sulfuric acid plants subject to the Sulfuric Acid Plants EG. This negative declaration certifies that existing sulfuric acid plants subject to the Sulfuric Acid Plants EG and the requirements of sections 111(d) of the CAA do not exist within Arkansas. The EPA is proposing to approve the state plan revision for existing kraft pulp mills, accept the negative declaration for existing sulfuric acid plants and withdraw approval of the Arkansas state plan for existing sulfuric acid plants, and amend the agency regulations in accordance with the requirements of the CAA.

DATES: Written comments 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 No. EPA-R06-OAR-2022-0984, at <https://www.regulations.gov> or via email to ruan-lei.karolina@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. 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. The 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 Karolina Ruan Lei, (214) 665-7346, ruan-lei.karolina@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Karolina Ruan Lei, EPA Region 6 Office, Air and Radiation Division - State Planning and Implementation Branch, (214) 665-7346, ruan-lei.karolina@epa.gov. We encourage the public to submit comments via <https://www.regulations.gov>. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

A. Clean Air Act Section 111(d) Requirements

Section 111 of the CAA, “Standards of Performance for New Stationary Sources,” directs the EPA to establish emission standards for stationary sources of air pollution that could potentially endanger public health or welfare. These standards are referred to as New Source Performance Standards (NSPS). Section 111(d) addresses the process by which the EPA and states regulate standards of performance for existing¹ sources. When NSPS are promulgated for new sources, section 111(d) and EPA regulations require that the EPA publish an Emission Guideline (EG) to regulate the same pollutants from existing facilities. While NSPS are directly applicable to new sources, EG for existing sources (designated facilities) are intended for states to use to develop a state plan to submit to the EPA.

State plan submittals and revisions under CAA section 111(d) must be consistent with the applicable EG and the requirements of 40 CFR part 60, subpart B, and part 62, subpart A. The regulations at 40 CFR part 60, subpart B, contain general provisions applicable to the adoption and submittal of state plans and plan revisions under CAA section 111(d). Additionally, 40 CFR part 62, subpart A, provides the procedural framework by which the EPA will approve or disapprove such plans and plan revisions submitted by a state. Once approved by the EPA, the state plan or plan revision becomes federally enforceable. If a state does not submit an approvable state plan to the EPA, the EPA is responsible for developing, implementing, and enforcing a Federal plan. However, 40 CFR 60.23(b) and 62.06 provide that if there are no existing sources of the designated pollutant in the state, the state may submit a letter of certification to that effect (i.e., negative declaration) in lieu of a plan. The negative declaration exempts the state

¹ In this context and for purposes under CAA section 111(d), the term “existing” source is synonymous with designated facility. These are sources that were constructed, reconstructed, or modified on or before the date specified in the emission guideline the source applies to.

from the requirements of subpart B that require the submittal of a CAA section 111(d) plan.

B. Emission Guidelines for Kraft Pulp Mills and Sulfuric Acid Plants

Under CAA section 111(d), EPA has issued EGs regulating specific pollutants from specified source categories that remain in effect, including EGs for the control of total reduced sulfur (TRS) emissions from kraft pulp mills and the control of sulfuric acid mist emissions from sulfuric acid plants. TRS emissions² are considered a welfare-related pollutant, while sulfuric acid mist emissions are considered a health-related pollutant under section 111(d) and 40 CFR part 60, subpart B. The Kraft Pulp Mills EG applies to kraft pulp mills³ that commenced construction, reconstruction, or modification on or before September 24, 1976, while the Sulfuric Acid Plants EG applies to sulfuric acid plants⁴ that commenced construction or modification on or before August 17, 1971. The EGs for kraft pulp mills and sulfuric acid plants have not been revised since their issuance.

New kraft pulp mills and sulfuric acid plants that commenced construction, reconstruction, or modification after the specified dates are subject to stricter standards under their respective NSPS at 40 CFR part 60, subpart BB or BBa, and subpart H. For more information, see “Kraft Pulp Mills, Notice of Availability of Final Guideline Document,” 44 FR 29828 (May 22, 1979)⁵, and “Standards of Performance for New

² As defined under 40 CFR 60.281(c): “*Total reduced sulfur (TRS)* means the sum of the sulfur compounds hydrogen sulfide, methyl mercaptan, dimethyl sulfide, and dimethyl disulfide, that are released during the kraft pulping operation and measured by Method 16.”

³ As defined under 40 CFR 60.281(a): “*Kraft pulp mill* means any stationary source which produces pulp from wood by cooking (digesting) wood chips in a water solution of sodium hydroxide and sodium sulfide (white liquor) at high temperature and pressure. Regeneration of the cooking chemicals through a recovery process is also considered part of the kraft pulp mill.”

⁴ As defined under 40 CFR 60.81(a): “*Sulfuric acid production unit* means any facility producing sulfuric acid by the contact process by burning elemental sulfur, alkylation acid, hydrogen sulfide, organic sulfides and mercaptans, or acid sludge, but does not include facilities where conversion to sulfuric acid is utilized primarily as a means of preventing emissions to the atmosphere of sulfur dioxide or other sulfur compounds.”

⁵ See also “Kraft Pulping, Control of TRS Emissions from Existing Mills”, US EPA, Office of Air Quality Planning and Standards (OAQPS), EPA-45012-78-003b, March 1979 (“Kraft Pulp Mills Emission Guidelines (EG)”).

Stationary Sources; Emission Guideline for Sulfuric Acid Mist,” 42 FR 55796 (October 18, 1977)⁶.

C. Arkansas CAA Section 111(d) Plan Approval History

Arkansas followed EPA’s EGs and guidance documents when developing its CAA section 111(d) plans. Arkansas’s section 111(d) plan for the control of sulfuric acid mist emissions from sulfuric acid plants was approved by EPA on May 12, 1982 (47 FR 20490). Arkansas’s section 111(d) plan for control of TRS emissions from kraft pulp mills was approved by EPA on September 12, 1984 (49 FR 35771); the compliance schedule for the kraft pulp mills plan was separately approved on November 10, 1986 (51 FR 40802). Revisions to Arkansas’s section 111(d) plans for sulfuric acid plants and kraft pulp mills were approved on March 10, 1998 (63 FR 11608).

D. Arkansas CAA Section 111(d) Submittals for this Rulemaking

Arkansas Department of Energy and Environment’s Division of Environmental Quality (ADEQ) submitted revisions to Arkansas’s CAA section 111(d) plan on June 20, 2022, and supplemented its submittal on August 24, 2022, and August 31, 2022.⁷ In its section 111(d) submittal, Arkansas provided for EPA’s review (1) Arkansas’s state plan for existing municipal solid waste (MSW) landfills, which addressed the 2016 MSW landfills EG requirements; (2) revisions to Arkansas’s plan for existing sulfuric acid plants, which include a request for EPA to withdraw approval of that plan and accept the State’s negative declaration for those types of facilities; and (3) revisions to Arkansas’s plan for existing kraft pulp mills. EPA took separate action to approve Arkansas’s section 111(d) plan for existing MSW landfills on December 29, 2022 (87 FR 80076). This proposed rulemaking is acting on the portion of the June 20, 2022 submittal pertaining to

⁶ See also “Final Guideline Document: Control of Sulfuric Acid Mist Emission From Existing Sulfuric Acid Production Units”, EPA-450/2-77-019, OAQPS No. 1.2-078, September 1977 (“Sulfuric Acid Plants Emission Guidelines (EG)”). The Sulfuric Acid Plants EG are also codified at 40 CFR part 60, subpart Cd, “Emissions Guidelines and Compliance Times for Sulfuric Acid Production Units”.

⁷ The Arkansas plans submitted by ADEQ does not cover sources located in Indian country.

revisions to Arkansas's section 111(d) plans for existing kraft pulp mills and sulfuric acid plants, as well as the associated negative declaration for existing sulfuric acid plants.

II. The EPA's Evaluation

A. Sulfuric Acid Plants Negative Declaration and Withdrawal of Approval of Sulfuric Acid Plan

Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 19: "Rules of the Arkansas Plan of Implementation for Air Pollution Control", Chapter 8: "111(d) Designated Facilities" originally contained Arkansas's provisions for implementing certain CAA section 111(d) EGs, including the Sulfuric Acid Plants EG. In its June 20, 2022 submittal, Arkansas removed the provisions in Rule 19.803, which were specific to the Sulfuric Acid Plants EG, and provided a negative declaration for existing sulfuric acid plants.

The Arkansas plan for existing sulfuric acid plants, as approved by the EPA on May 12, 1982 had two designated facilities subject to that plan at the time, the Olin Corporation and the Monsanto Company (now El Dorado Chemical Company). A 1998 plan revision was approved to remove the Olin Corporation, which had closed, and reflect a name change for the El Dorado Chemical Company. The El Dorado facility later underwent reconstruction and is now subject to the NSPS for sulfuric acid plants at 40 CFR part 60, subpart H. Since the El Dorado Chemical Company is no longer subject to the EG for existing sulfuric acid plants, and because there are no longer any subject facilities in Arkansas, Arkansas requests that EPA withdraw approval of the Arkansas section 111(d) plan for sulfuric acid plants and accept the negative declaration for existing sulfuric acid plants.

EPA proposes to agree with Arkansas's determination that due to the reconstruction of the El Dorado Chemical Company, this facility is no longer considered a designated facility subject to the Sulfuric Acid Plants EG. EPA also proposes that

approval of the Arkansas section 111(d) plan for sulfuric acid plants can be withdrawn as there are no longer any existing sulfuric acid plants in the State of Arkansas.

B. Kraft Pulp Mills Plan Revision

The Arkansas regulations implementing the requirements of the Kraft Pulp Mills EG are codified in APC&EC Rule 19, Chapter 8, with specific requirements for existing kraft pulp mills outlined in Rule 19.804. Since the Arkansas plan and plan revision for existing kraft pulp mills were approved by EPA on September 12, 1984, and March 10, 1998, Arkansas made additional changes to the state regulations implementing the Kraft Pulp Mills EG requirements at APC&EC Rule 19, Chapter 8. Changes to APC&EC Rule 19, Chapter 8, as adopted through January 28, 2022 by APC&EC, were submitted to EPA for review in Arkansas's June 20, 2022 submittal.

The amendments to APC&EC Rule 19, Chapter 8 include name changes and removal of the International Paper Company, Camden Facility (permit voided March 1, 2001), from the list of sources subject to the requirements as the facility is permanently closed. The amendments also realign the frequency of TRS compliance testing from annually to every five years, consistent with the requirements for new kraft pulp mills under 40 CFR, part 60, subpart BBa. EPA notes that the kraft pulp mills provisions in Arkansas's revised plan provide that compliance testing is not required for units with a continuous TRS emissions monitor, and that these facilities are required by the plan to have equipment installed for continuous emissions monitoring (CEM) for TRS. This provision to require CEM for existing kraft pulp mills and waiving of compliance testing requirements for units with CEM has not changed from the previously EPA-approved plan for existing kraft pulp mills. The amendments adopted into Rule 19 also include additional non-substantive stylistic and formatting changes.

EPA's detailed discussion and rationale of the Arkansas kraft pulp mill plan revision can be found in in the EPA Technical Support Document (TSD) for this

proposed rule, which is available in the docket. The TSD also contains a comparison of the 1998 EPA-approved Arkansas kraft pulp mills plan provisions and the June 20, 2022 plan provisions. EPA proposes to approve the revisions to the Arkansas kraft pulp mills plan submitted on June 20, 2022 as meeting applicable Federal requirements under the Kraft Pulp Mills EG and the implementing regulations at 40 CFR part 60, subpart B.

III. Proposed Action

We are proposing to approve the state plan revision for existing kraft pulp mills, accept the negative declaration for existing sulfuric acid plants and withdraw approval of the Arkansas state plan for existing sulfuric acid plants, and amend the agency regulations at 40 CFR part 62, subpart E, in accordance with the requirements of the CAA. EPA proposes that this action meets CAA section 111(d) requirements for plan revisions, negative declarations, and plan approval withdrawals in accordance with 40 CFR part 60, subpart B, 40 CFR part 62, subpart A, and the applicable guidance and EG requirements.

IV. Environmental Justice Considerations

Information on Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) and how EPA defines environmental justice can be found in the section titled “Statutory and Executive Order Reviews” in this proposed rule. EPA is providing additional analysis of environmental justice associated with this action. The results of this analysis are being provided for informational and transparency purposes, not as a basis of our proposed action.

EPA conducted screening analyses using EJSCREEN, an environmental justice mapping and screening tool that provides EPA with a nationally consistent dataset and approach for combining various environmental and demographic indicators.⁸ The

⁸ The EJSCREEN tool is available at <https://www.epa.gov/ejscreen>.

EJSCREEN tool presents these indicators at a Census block group (CBG) level or a larger user-specified “buffer” area that covers multiple CBGs.⁹ An individual CBG is a cluster of contiguous blocks within the same census tract and generally contains between 600 and 3,000 people. EJSCREEN is not a tool for performing in-depth risk analysis, but is instead a screening tool that provides an initial representation of indicators related to environmental justice and is subject to uncertainty in some underlying data (*e.g.*, some environmental indicators are based on monitoring data which are not uniformly available; others are based on self-reported data).¹⁰ To help mitigate this uncertainty, we have summarized EJSCREEN data within larger “buffer” areas covering multiple block groups and representing the average resident within the buffer areas surrounding the sources. We present EJSCREEN environmental indicators to help screen for locations where residents may experience a higher overall pollution burden than would be expected for a block group with the same total population. These indicators of overall pollution burden include estimates of ambient particulate matter (PM_{2.5}) and ozone concentration, a score for traffic proximity and volume, percentage of pre-1960 housing units (lead paint indicator), and scores for proximity to Superfund sites, risk management plan (RMP) sites, and hazardous waste facilities.¹¹ EJSCREEN also provides information on demographic indicators, including percent low-income, communities of color, linguistic isolation, and education.

The EPA prepared EJSCREEN reports covering a buffer area of approximately 3-mile radii and 6-mile radii for areas with insufficient population data around each of the

⁹ See <https://www.census.gov/programs-surveys/geography/about/glossary.html>.

¹⁰ In addition, EJSCREEN relies on the five-year block group estimates from the U.S. Census American Community Survey. The advantage of using five-year over single-year estimates is increased statistical reliability of the data (*i.e.*, lower sampling error), particularly for small geographic areas and population groups. For more information, see https://www.census.gov/content/dam/Census/library/publications/2020/acs/acs_general_handbook_2020.pdf.

¹¹ For additional information on environmental indicators and proximity scores in EJSCREEN, see “EJSCREEN Environmental Justice Mapping and Screening Tool: EJSCREEN Technical Documentation,” Chapter 3 (October 2022) at https://www.epa.gov/sites/default/files/2021-04/documents/ejscreen_technical_document.pdf.

existing kraft pulp mills identified by ADEQ as subject to the CAA section 111(d) plan for kraft pulp mills. Table 1 presents a summary of results from the EPA's screening-level analysis for the areas surrounding each existing kraft pulp mill in Arkansas compared to the U.S. as a whole, where the kraft pulp mill was located in an area where more than one of the EJ indices were greater than the 80th percentiles. The full, detailed EJSCREEN report is provided in the docket for this rulemaking.

Table 1—EJSCREEN Analysis Summary for Existing Arkansas Kraft Pulp Mills With EJ Indices Above 80%tile

Variables	Values for buffer areas (radius) for each kraft pulp mill and the U.S. (percentile within U.S. where indicated)				
	Evergreen Packing (Jefferson, 3 miles)	Twin Rivers Pine Bluff (Jefferson, 3 miles)	Georgia-Pacific Corporation (Ashley, 3 miles)	Domtar A.W. (Little River, 3 miles)	U.S.
<i>Pollution Burden Indicators</i>					
Particulate matter (PM _{2.5}), annual average	9.33 µg/m ³ (72nd %ile)	9.36 µg/m ³ (72nd %ile)	9.21 µg/m ³ (68th %ile)	9.72 µg/m ³ (80th %ile)	8.67 µg/m ³ (—)
Ozone, summer seasonal average of daily 8-hour max	40.1 ppb (32nd %ile)	40.3 ppb (33rd %ile)	38.3 ppb (22nd %ile)	40.8 ppb (36th %ile)	42.5 ppb (—)
Traffic proximity and volume score*	180 (44th %ile)	210 (47th %ile)	48 (23rd %ile)	75 (29th %ile)	760 (—)
Lead paint (percentage pre-1960 housing)	0.21% (49th %ile)	0.27% (55th %ile)	0.38% (64th %ile)	0.17% (44th %ile)	0.27% (—)
Superfund proximity score*	0.013 (8th %ile)	0.014 (9th %ile)	0.027 (26th %ile)	0.035 (33rd %ile)	0.13 (—)
RMP proximity score*	0.14 (25th %ile)	0.29 (48th %ile)	0.88 (72nd %ile)	0.65 (65th %ile)	0.77 (—)
Hazardous waste	0.23 (34th %ile)	1.1 (58th %ile)	1.7 (67th %ile)	0.041 (7th %ile)	2.2 (—)

proximity score*					
<i>Demographic Indicators</i>					
People of color population	79% (83rd %ile)	82% (84th %ile)	40% (59th %ile)	40% (59th %ile)	40% (—)
Low-income population	52% (82nd %ile)	57% (86th %ile)	49% (79th %ile)	47% (77th %ile)	30% (—)
Linguistically isolated population	0% (0th %ile)	0% (0th %ile)	0% (0th %ile)	0% (0th %ile)	5% (—)
Population with less than high school education	9% (51st %ile)	16% (73rd %ile)	14% (68th %ile)	10% (57th %ile)	12% (—)
Population under 5 years of age	4% (39th %ile)	7% (66th %ile)	4% (39th %ile)	8% (76th %ile)	6%
Population over 64 years of age	16% (53rd %ile)	10% (27th %ile)	22% (72nd %ile)	21% (70h %ile)	16% (—)

* The traffic proximity and volume indicator is a score calculated by daily traffic count divided by distance in meters to the road. The Superfund proximity, RMP proximity, and hazardous waste proximity indicators are all scores calculated by site or facility counts divided by distance in kilometers.

This proposed action is proposing to approve Arkansas’s June 20, 2022 CAA section 111(d) plan revision¹² for kraft pulp mills and accept Arkansas’s negative declaration for existing sulfuric acid plants; changes from the previously approved Arkansas plan for kraft pulp mills are discussed under the section titled “The EPA’s Evaluation” in this proposed rule. As mentioned previously in this rulemaking, total reduced sulfur (TRS) is considered a welfare-related pollutant. Information on TRS and its relationship to negative health impacts can be found at the *Federal Register* document titled “Kraft Pulp Mills, Notice of Availability of Final Guideline Document” (44 FR 29828, May 22, 1979).¹³ We expect that this action will generally have neutral environmental and health impacts on all populations, including people of color and low-

¹² As supplemented on August 24, 2022, and August 31, 2022.

¹³ See also, the Kraft Pulp Mills EG.

income populations, in Arkansas that are located near an existing kraft pulp mill. At a minimum, this action would not worsen any existing air quality and is expected to ensure the area is meeting requirements to attain air quality standards. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

V. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Arkansas regulations as described in the section titled “Proposed Action” in this proposed rule. The Arkansas regulations at APC&EC Rule 19, Chapter 8, 111(d) Designated Facilities, contain Arkansas’s CAA section 111(d) plan provisions for existing kraft pulp mills. We have made, and will continue to make, these documents generally available electronically through *www.regulations.gov* (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a CAA section 111(d) submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7411(d); 42 U.S.C. 7429; 40 CFR part 60, subparts B and Cf; and 40 CFR part 62, subpart A. Thus, in reviewing CAA section 111(d) state plan submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act and implementing regulations. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason:

A. Executive Order 12866: Regulatory Planning and Review and Executive

Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023), and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA (44 U.S.C. 3501 *et seq.*) because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

This action is certified to not have a significant economic impact on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This action will approve plan revisions and accept negative declarations pursuant to CAA section 111(d) and will therefore have no net regulatory burden for all directly regulated small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any State, local, or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). It 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.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal

Governments

This action will not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rulemaking does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definitions of “covered regulatory action” in section 2–202 of the Executive order. Therefore, this action is not subject to Executive Order 13045 because it approves a state program.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution and Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards. This action 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 Clean Air Act.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse

human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The air agency did not evaluate environmental justice considerations as part of its submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA performed an environmental justice analysis, as described in the section titled “Environmental Justice Considerations” in this proposed rule. The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. Due to the nature of the action being taken here, this action is expected to have a neutral impact on the air quality of the affected area. In addition, there is no information in the record upon which this action is based inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements.

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

Dated: October 16, 2023.

Earthea Nance,

Regional Administrator, Region 6.

