



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA-R06-OAR-2022-0984; FRL-11401-02-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: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving 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 make it 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 approving the State plan revision for existing kraft pulp mills, accepting the negative declaration for existing sulfuric acid plants, withdrawing its approval of the Arkansas State plan for existing sulfuric acid plants, and amending the agency regulations in accordance with the requirements of the CAA.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. The incorporation by reference of

certain material listed in the rule is approved by the Director of the Federal Register
[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2022-0984. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

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. 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 “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our October 23, 2023 proposal (88 FR 72723). In that document we proposed to approve the Arkansas 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 proposed to find that Arkansas’ submittal, submitted by Arkansas Department of Energy and Environment, Division of Environmental Quality (ADEQ) on June 20, 2022, and supplemented on August 24, 2022, and August 31, 2022, meets the 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 EG requirements.

We did not receive any comments regarding our proposal.

II. Final Action

In this final action, the EPA is amending 40 CFR part 62, subpart E, to reflect EPA's approval of the Arkansas plan revision for existing kraft pulp mills, acceptance of the Arkansas negative declaration for existing sulfuric acid plants, and the withdrawal of EPA's approval of the Arkansas State plan for existing sulfuric acid plants. EPA takes this action in accordance with the requirements under section 111(d) of the CAA.

III. 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 final rule. EPA provided additional analysis of environmental justice associated with this action in our October 23, 2023 proposal (88 FR 72723) for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action.

This final action is approving Arkansas's June 20, 2022, CAA section 111(d) plan revision for kraft pulp mills and accepting 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 the proposed rule for this action (88 FR 72723, October 23, 2023). 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). We expect that this action will generally have neutral environmental and health

impacts on all populations, including people of color and low-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.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of Arkansas Pollution Control and Ecology Commission (APC&EC) Rule 19, Chapter 8, approved January 28, 2022, which is part of the CAA section 111(d) Plan applicable to existing kraft pulp mills subject to the Kraft Pulp Mills Emission Guidelines within ADEQ's jurisdiction in the State of Arkansas. The regulatory provisions of APC&EC Rule 19, Chapter 8, incorporate the Kraft Pulp Mills Emission Guidelines promulgated by the EPA and provide emission standards for the control of existing kraft pulp mills, as defined in 40 CFR 60.281(a) and under the Kraft Pulp Mills Emission Guidelines, that commenced construction, modification, or reconstruction on or before September 24, 1976. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). This incorporation by reference has been approved by the Office of the *Federal Register* and the plan is federally enforceable under the CAA as of the effective date of this final rulemaking.

V. 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 and negative declarations, EPA's role is to approve State choices, provided that they meet the criteria of the Act and implementing regulations. 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:

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 rule 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 the proposed rule associated with this action (88 FR 72723, October 23, 2023). 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.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: February 22, 2024.

Earthea Nance,
Regional Administrator, Region 6.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 62 as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

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

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

Subpart E – Arkansas

2. Amend § 62.850 by revising paragraphs (c)(1) and (2) and removing and reserving paragraph (c)(3) to read as follows:

§ 62.850 Identification of plan.

* * * * *

(c) * * *

(1) Kraft pulp mills.

(2) Municipal solid waste landfills.

(3) [Reserved]

3. Revise § 62.855 to read as follows:

§ 62.855 Identification of plan—negative declaration.

Submittal from the Arkansas Department of Energy and Environment, Division of Environmental Quality (ADEQ) dated June 20, 2022, and supplemented on August 24, 2022, and August 31, 2022, certifying that there are no known existing sulfuric acid plants subject to the Sulfuric Acid Plants Emission Guidelines and 40 CFR part 60, subpart Cd, within its jurisdiction.

4. Revise § 62.865 to read as follows:

§ 62.865 Identification of plan.

(a) *Identification of plan.* Control of air emissions from existing kraft pulp mills, as adopted by the State of Arkansas on January 28, 2022, and submitted on June 20,

2022, by the Governor in a letter dated May 12, 2022. The plan includes the regulatory provisions cited in paragraph (d) of this section, which EPA incorporates by reference.

(b) *Identification of sources.* The plan, as adopted by the State of Arkansas on January 28, 2022, and submitted on June 20, 2022, applies to existing kraft pulp mills subject to the Kraft Pulp Mills Emission Guidelines (i.e., kraft pulp mills, as defined in 40 CFR 60.281(a), that commenced construction, reconstruction, or modification on or before September 24, 1976) within its jurisdiction in the State of Arkansas.

(c) *Effective date.* The effective date of the plan is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

(d) *Incorporation by reference.* The material listed in this paragraph (d) is incorporated by reference into this section with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the EPA and at the National Archives and Records Administration (NARA). Contact the EPA Region 6 office at 1201 Elm Street, Suite 500, Dallas, Texas 75270; phone 214-665-2200. For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov. The material may be obtained from the State of Arkansas, Office of the Secretary of State, Arkansas Register, State Capitol, Room 026, Little Rock, AR 72201, arkansasregister@sos.arkansas.gov, <https://www.sos.arkansas.gov/rules-regulations/arkansas-register/>.

(1) Arkansas Pollution Control and Ecology Commission (APC&EC) Rule No. 19, Rules of the Arkansas Plan of Implementation for Air Pollution Control, Chapter 8, 111(d) Designated Facilities, approved January 28, 2022.

(2) [Reserved]