EPA APPROVED NORTH CAROLINA REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Comments
* *	* * *	*		*
Sect. .0909	Compliance Schedules for Sources in New Nonattainment Areas	07/01/00	8/27/01	
* *	* * *	*		*
Sect. .0948	VOC Emissions From Transfer Operations	07/01/00	8/27/01	
Sect. .0949	Storage of Miscellaneous Volatile Organic Compounds	07/01/00	8/27/01	
Sect. .0951	Miscellaneous Volatile Organic Compound Emissions	07/01/00	8/27/01	
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Sect. .0958	Work Practices for Sources of Volatile Organic Compounds	07/01/00	8/27/01	
* *	* * *	*		*
Subchapter 2Q Air Quality Permits				
* *	* * *	*		*
Section .0100 General Provisions				
* *	* * *	*		*
Sect. .0102	Activities Exempted From Permit Requirements	07/01/00	8/27/01	
* *	* * *	*		*
Section .0300 Construction and Operating Permits				
* *	* * *	*		*
Sect. .0306	Permits Requiring Public Participation	07/01/00	8/27/01	
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7003–2]

RIN 2090–AA20

Project XL Site-Specific Rulemaking for Weyerhaeuser Company Flint River Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today EPA is publishing a final rule, approving revisions to the National Emission Standards for Hazardous Air Pollutants (NESHAP), which concern the control of hazardous air pollutant (HAP) emissions from the pulp and paper industry. The revisions apply only to the Weyerhaeuser Company's Flint River Operations in Oglethorpe, Georgia (Weyerhaeuser). The revisions are one of the EPA's steps to implement the Final Project Agreement for Weyerhaeuser's XL Project.

These revisions regulate emissions of HAPs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act) and to facilitate implementation of the Project eXcellence and Leadership (Project XL) at Weyerhaeuser. EPA also expects implementation to result in superior environmental performance while providing Weyerhaeuser with greater operational flexibility.

DATES: This final rule is effective on June 27, 2001.

ADDRESSES: A docket containing supporting information used in developing this final rule is available on the world wide web at http://www.epa.gov/ProjectXL. It is also available for public inspection and copying at Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta, Georgia, 30303; and at Environmental Protection Agency, Headquarters, 401 M Street, SW., Room 3802–M, Washington, DC 20460. Persons wishing to view the materials at the Georgia location are encouraged to contact Mr. Lee Page in advance by telephoning (404) 562–9131. Persons wishing to view the materials at the Washington DC location are encouraged to contact Ms. Janet Murray in advance by telephoning (202) 260–2570. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Lee Page, Environmental Protection Agency, Region 4, Air, Pesticides & Toxics Management Division, 61 Forsyth Street, Atlanta, GA, 30303, (404) 562–9131.

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Authority
II. Background
A. What Is Project XL?
B. What Is EPA Publishing?
C. What Are the Environmental Benefits Anticipated Through Project XL?
D. Stakeholder Involvement in the XL Process
E. What Are the National Emission Standards for Hazardous Air Pollutants?
F. What Are the Regulatory Requirements for the Weyerhaeuser XL Project?
G. What Is the Project Duration and Completion Date?

III. Rule Description
IV. Summary of Response to Public Comments
V. Additional Information
A. Immediate Effective Date
B. Executive Order 12866: Regulatory Planning and Review
C. Regulatory Flexibility
D. Paperwork Reduction Act
E. Unfunded Mandates Reform Act
F. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
G. Executive Order 13132: Federalism
H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
I. National Technology Transfer and Advancement Act.
J. Congressional Review Act

I. Authority

This regulation is being published under the authority of sections 101(b)(1), 112, and 301(a)(1) of the CAA. EPA has determined that this rulemaking is subject to the provisions of section 307(d) of the CAA.

II. Background

A. What Is Project XL?

Project XL, which stands for ''eXcellence and Leadership,'' is a national pilot program that tests innovative ways of achieving better and more cost-effective public health and environmental protection through site-specific agreements with project sponsors. Project XL was announced on March 16, 1995, as a central part of the National Performance Review and EPA's effort to reinvent environmental protection. See 60 FR 2782 (May 23, 1995) and 60 FR 55569 (November 1, 1995). The intent of Project XL is to allow EPA and regulated entities to experiment with pragmatic, potentially promising regulatory approaches, both to assess whether they provide superior environmental performance and other benefits at the specific source affected, and whether they should be considered for wider application. Such pilot projects are intended to allow EPA to collect more data on a more focused basis prior to national rulemaking. Today's regulation will enable implementation of a specific XL project. These efforts are crucial to EPA's ability to test new strategies that reduce the regulatory burden and promote economic growth while achieving better environmental public health protection. EPA intends to evaluate the results of this and other XL projects to determine which specific elements of the project, if any, should be more broadly applied to other regulated entities for the benefit of both the economy and the environment.

B. What Is EPA Publishing?

Today EPA is publishing a site-specific rule that supports the Clean Air Act portion of the Project XL Final Project Agreement (FPA) for the Weyerhaeuser Company Flint River Operations in Oglethorpe, Georgia. The site-specific rule facilitates the use of alternative pollution controls and process changes not required by any existing rule that applies to Weyerhaeuser. The rule provides for greater reductions in hazardous air pollutants emissions, measured as methanol, than would otherwise be required for this mill under the maximum available control technology (MACT) determination specific to the pulp and paper industry. The principles for accounting for HAP emission controls, including controls to implement MACT are outlined in the Weyerhaeuser Project XL FPA.

The FPA is among the background documents available for review in the docket and also available on the world wide web at http://www.epa.gov/ProjectXL. **Federal Register** documents were published on October 11, 1996 at 61 FR 53373 and January 31, 1997 at 62 FR 4760 to notify the public of the details of this XL project and to solicit comments on the specific provisions of the FPA, which embodies the Agency's intent to implement this project. The FPA addresses the eight Project XL criteria, the expectation of the Agency that this XL project will meet those criteria, and the manner in which the project is expected to produce, measure, monitor, report and demonstrate superior environmental benefits.

In today's action, the Agency is publishing the site-specific regulatory changes necessary to implement the Clean Air Act, MACT portion of the project.

Weyerhaeuser is an international forest products company whose principal businesses are the growing and harvesting of trees; the manufacture, distribution and sale of forest products, including logs, wood chips, building products, pulp, paper and packaging products; and real estate construction and development. The Weyerhaeuser Flint River Operations is a Kraft pulp manufacturing source, which produces absorbent fluff pulp. The source is located in Oglethorpe, Georgia and was initially constructed in 1980.

Except as specifically described in this site-specific rule and the FPA, nothing in today's rule will waive, modify, or otherwise affect any obligations Weyerhaeuser may have under local, State, and Federal law with respect to the operation of its Flint River Operations mill.

The goal of the Weyerhaeuser Flint River Operations XL project is to develop a regulatory structure that both facilitates flexible manufacturing operations and achieves superior environmental performance. The flexibility provided by this rule allows Weyerhaeuser's Flint River Operations to provide greater reductions in HAP emissions, measured as methanol, than are controlled by the MACT rule from specified equipment used in kraft pulp manufacturing, and to obtain credit for process improvements that reduced HAP emissions.

At the time the MACT rule was adopted, EPA determined that the majority of all non-chlorinated HAP emissions from Kraft mill pulping process equipment is methanol. See, 63 FR 18511 (April 15, 1998). EPA's Final Environmental Impact Statement for the MACT rule accepted that methanol was an appropriate measure for HAP emissions from Kraft mill pulping systems. EPA addressed this point in response to comments calling for monitoring of speciated HAP emissions. ''Methanol is an appropriate indicator of total HAP since it is the dominant HAP present in pulping vents and condensates and since the control technologies identified in the rule do not remove HAPs preferentially.'' Final EIS (EPA document EPA–453/R–93–050b) pp. 8–9 through 8–11. Today's site specific rule does not provide flexibility by counting reductions of the less dangerous HAPs to balance increases in emissions of the more toxic HAPs. Besides measuring HAP emissions as methanol, as required by the MACT rule for pulping process vents, the source's MACT compliance plan does not claim any credit related to HAP emissions from bleaching systems. All the ''extra'' HAP emission reductions provided by the source, and all the flexibility proposed for the source to control alternate process vents, occur in the pulping process area.

Since 1992, Weyerhaeuser has focused on a ''Minimum Impact Manufacturing'' (MIM) model as a holistic strategy for continuous environmental improvement. MIM is an aggressive plan that seeks to harmonize Weyerhaeuser's pulp and paper manufacturing facilities with their surrounding physical environments. Weyerhaeuser is committed to managing its raw material and resources such that its manufacturing processes, and their outputs, achieve continuous improvement of air, water, and solid-waste discharges. MIM contains the elements of a comprehensive pollution

prevention program designed to obtain the greatest use of raw materials and to stop waste generation rather than rely on ''end-of-pipe'' remedies. MIM involves multi-disciplinary teams employing a systems engineering approach, waste reduction and a commitment to continuous improvement rather than the more traditional ''project'' focus. Weyerhaeuser is committed to optimizing raw materials used at the mill level, reducing water usage, minimizing fossil fuel for energy in manufacturing, reducing/eliminating hazardous waste, generating less solid waste, reducing emissions to all media, eliminating spills, reusing and recycling from mills the materials and residuals that previously went to landfills, and collecting and recycling used waste paper for use as a raw material.

The FPA provides that HAP reductions at Flint River Operations shall be guided by a MACT Compliance Plan. The FPA sets out seven principles to guide the MACT Compliance Plan. The principles include the following points: (1) HAP emission reductions from the total source occurring after January 1, 1996 are eligible to be counted; (2) HAP emission reductions occurring after January 1, 1996 that were obtained voluntarily (from the source's weak gas collection system) are eligible to be counted; (3) HAP emission reductions at the source are to be counted on a total pound HAP for total pound HAP, as measured by methanol, basis; (4) HAP measurements were documented using EPA-approved test methods and as provided in the MACT Standard; (5) HAP emission reductions are required as of the due date for compliance provided in the MACT Standard; (6) HAP emission reductions from all HAP emitting units currently regulated under applicable state or Federal rules (e.g., 40 CFR Part 60, Subpart BB) are not eligible to be counted against the HAP emissions reductions required by the MACT Standard; and (7) compliance is required with all requirements (other than the emission limitations) of the MACT Standard as promulgated. In addition, Weyerhaeuser will comply with all other present or future Clean Air Act Section 112 standards that are applicable to the source.

Specific details of the MACT Compliance Plan were agreed upon through negotiations between Weyerhaeuser Company, EPA Region 4 and the Georgia EPD after the MACT rule for the kraft pulp manufacturing industry was published on April 15, 1998. See, 63 FR 18503. The MACT Compliance Plan is consistent with the principles set out in the FPA. The MACT Compliance Plan includes the HAP emitting units that must be controlled to comply with the MACT Standard, the amount of HAPs allowed to be emitted for each HAP emitting unit at the source under the MACT Standard; the HAP emitting units and the amount of HAP emission reductions eligible to be counted, the HAP emitting units that the source plans to use to obtain additional HAP emission reductions, the units that present a potential to obtain HAP emission reductions, and the amount eligible to be counted against HAP emission reductions required by the MACT Standard. For more information about the specific equipment subject to the MACT Compliance Plan, status of emissions, the HAP emitting unit that will be controlled and the accounting of HAP emissions and emission reductions refer to the information referenced in the section entitled **ADDRESSES.**

C. What Are the Environmental Benefits Anticipated Through Project XL?

Today's site-specific rule supports the goals of the Clean Air Act to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population.

Specifically, this project not only meets, but exceeds the HAP emission reductions required by the current MACT standard. For example, reductions in HAP emissions are expected from the digesting, brownstock washing, oxygen delignification and bleaching system processes due to improved digester woodchip delignification and pulp washing; from the collection and incineration of Weak Gas system sources and the collection and biological treatment of methanol containing process condensates; from bleach plan process reductions; and from various pollution prevention projects. Decreased emissions of volatile organic compounds, total reduced sulfur, and carbon monoxide are also expected. A more detailed discussion of the environmental benefits associated with the Weyerhaeuser project is located in the FPA, EPA's response to comments on the proposed FPA, and other information referenced in the section entitled **ADDRESSES.**

D. Stakeholder Involvement in the XL Process

Stakeholder involvement and participation in developing the Weyerhaeuser Pilot XL program was vital to the success of the program. The process for involving stakeholders in the design of this pilot program was based upon the guidance set out in the April 23, 1997 **Federal Register** notice (62 FR 19872). The stakeholder process has been open and the public invited to participate. Stakeholders that participated in the development of the Weyerhaeuser Company Flint River Operations site-specific rule included the Lake Blackshear Watershed Association, non-management employees at Flint River Operations, City of Montezuma, City of Oglethorpe, Macon Correctional Institution, Macon County Local Emergency Planning Committee, other leaders from Macon County, and other interested Parties. Together these groups served as the primary contact with the community throughout the process. Weyerhaeuser will continue to work with the stakeholders. Once EPA accepted Weyerhaeuser as a candidate based on its detailed proposal, Weyerhaeuser, EPA, the State, and local stakeholders developed a Final Project Agreement (FPA). The FPA is a nonbinding agreement that describes the intentions and commitments of the implementing parties. Stakeholders participated in the negotiation of the FPA. **Federal Register** documents were published on October 11, 1996 at 61 FR 53373 and January 31, 1997 at 62 FR 4760 to notify the public of the details of this XL project and to solicit comments on the specific provisions of the FPA No public comments were received. A **Federal Register** document was also published on March 27, 2001 at 59 FR 16637 to notify the public of the details of the site-specific revisions to the MACT rule finalized herein in today's rule. No comments from the public were received.

E. What Are the National Emission Standards for Hazardous Air Pollutants?

The main purposes of the Clean Air Act (''CAA'' or ''the Act'') are to protect and enhance the quality of our Nation's air resources, and to promote the public health and welfare and the productive capacity of the population. See CAA, section 101(b)(1). Section 112 of the Act provides a list of 189 hazardous air pollutants (''HAP's'') and directs EPA to develop rules to control HAP emissions from both new and existing major sources. The Act requires that the rules be established by categories of emission sources considering all HAPs emitted rather than establishing rules based on the emission of a single pollutant from a source category. The statute also requires that the standards reflect the maximum degree of reduction in emissions of HAPs that is achievable, taking into consideration the cost of

achieving such emission reduction and any non-air quality health and environmental impacts and energy requirements. This level of control is commonly referred to as Maximum Achievable Control Technology (''MACT'').

In addition, the Act sets out specific criteria to be considered for establishing a minimum level of control and criteria (incremental cost, energy impacts, etc.). For evaluating control options more stringent than the minimum level of control. This minimum level of control is commonly referred to as the MACT ''floor.'' The MACT floor for new sources, as specified by the Act, is ''the emission control that is achieved in practice by the best controlled similar source.'' The MACT floor for existing sources, as specified by the Act, is the average emission limitation achieved by the best performing 12 percent of existing sources in each category or subcategory of 30 or more sources (CAA section 112(d)(3)). For smaller categories or subcategories, the Act specifies that standards shall not be less stringent than the average emission limitation achieved by the best performing five sources in the category or subcategory. These floor determinations are based on data available to the Administrator at the time the standards are developed. The statutory provisions do not limit how the standard is set, beyond requiring that it be applicable to all sources in a category or subcategory and at least as stringent as the MACT floor. The emission standards are to be reviewed and revised as necessary no less often than every 8 years. Also, EPA may later promulgate more stringent standards to address any unacceptable health or environmental risk that remains after the imposition of controls resulting from the standards.

To this end, section 112(d) of the CAA directs EPA to set standards for stationary sources emitting greater than ten tons of any one HAP or 25 tons of total HAPs annually (one ton is equal to 0.908 megagrams). EPA promulgated the NESHAP for the pulp and paper production source category at 40 CFR Subpart S, because pulp and paper mills have the potential to emit ten tons per year of any one HAP or 25 tons per year of all HAPs. Potential to emit is based on the total of all HAP emissions from all activities at the mill. Individual mills are capable of emitting as much as several hundred tons per year (TPY) of HAPs, which may adversely affect air quality and public health. The emission standards for pulping and bleaching processes provide several options for compliance, including an alternative pollution prevention option for the kraft pulping process. The standards specify compliance dates for new and existing sources and require control devices to be properly operated and maintained at all times.

F. What Are the Regulatory Requirements for the Weyerhaeuser XL Project?

Implementation of the Weyerhaeuser XL project requires only limited regulatory changes. Weyerhaeuser will achieve HAP emission reductions for this mill that at least equal the HAP emission reductions required to be provided by this mill under the applicable portions of the pulp and paper MACT standard, 40 CFR Part 63, Subpart S (MACT standard). Weyerhaeuser will achieve the reductions in hazardous air pollutant emissions required by the pulp and paper MACT standard by using a combination of equipment regulated by MACT, equipment not regulated by the MACT, and process changes.

G. What Is the Project Duration and Completion Date?

Under Project XL, the Weyerhaeuser Flint River Operations project is approved to operate for the term expressed in the FPA. The FPA was signed on December 13, 1996 and will be in effect for a period of 15 years, unless it is terminated earlier. As outlined in the FPA, the duration of the project does not affect the term of any permit, the duration of this rule, or any other enforceable regulatory mechanism that has a term fixed by applicable law or regulation. Therefore, the terms and requirements of this rule do not expire unless formally amended through notice and comment rulemaking.

III. Rule Description

Today's final rule requires Weyerhaeuser to control HAP emissions from alternative process vents and to maintain process changes at its Flint River Operations that are currently not required by the existing rule. In implementing this change, this mill will achieve a greater amount of HAP reductions that this mill would achieve under the existing rule.

To accomplish this alternative compliance, the EPA is today promulgating this site-specific rule to amend 40 CFR Subpart S, which provides the National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry. This Federal site-specific rule, amending 40 CFR 63.459, will allow the source to provide greater reductions in HAP emissions, measured as methanol, than are controlled by the MACT rule from alternative process vents and through process changes during the kraft pulping process. The rule does not provide flexibility by counting reductions of the less dangerous HAPs to balance increases in emissions of the more toxic HAPs. For example, instead of controlling HAP emissions from the brownstock diffusion washer vent, first stage brownstock diffusion washer filtrate tank vent, and oxygen delignification system, the site-specific rule allows the Weyerhaeuser Flint River Operations to control HAP emission from the weak liquor storage tank; boilout tank; utility tank; 50 percent solids black liquor storage tank; south 67 percent solids black liquor storage tank; north 67 percent solids black liquor storage tank; precipitator make down tanks numbers 1, 2 and 3; salt cake mix tank; and NaSH storage tank. (These terms are defined in the proposed rule.) Weyerhaeuser is required by the generally applicable MACT rule (40 CFR Subpart S) to provide for record-keeping, monitoring and reporting to demonstrate continuous compliance for these operations. HAP emission reductions achieved from process changes involving the cylinder mould decker and the cylinder mould filtrate tank will be counted against the total HAP emission reductions Weyerhaeuser would have to provide to meet the MACT standard.

IV. Summary of Response to Public Comments

The EPA received one public comment on the March 27, 2001 proposed rule for the Weyerhaeuser Flint River Operations site-specific rule. The comment was a positive comment from Weyerhaeuser Company, supporting the XL project initiative and the regulatory implementing mechanism.

V. Additional Information

A. Immediate Effective Date

Pursuant to 5 U.S.C. 553(d)(3) and 42 U.S.C. 6930(b)(3), EPA finds that good cause exists to make today's site-specific rule effective immediately. The Weyerhaeuser Flint River Operations is the only regulated entity that is subject to this rule. The Weyerhaeuser Flint River Operations has had very extensive notice of this final rule for site-specific MACT revisions, and is prepared to comply immediately. As described in section II.D of today's preamble, the public and the project stakeholder group have had several opportunities to review today's action, provide public comment, and participate in the

rulemaking process. An immediate effective date will allow this XL project to proceed without delay.

B. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993) the Agency must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs of the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because the annualized cost of this final rule will be significantly less than $100 million and will not meet any of the other criteria specified in the Executive Order, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866, and is therefore not subject to OMB review.

Executive Order 12866 also encourages agencies to provide a meaningful public comment period, and suggests that in most cases the comment period should be 60 days. In consideration of the very limited scope of today's rulemaking the considerable public involvement in development of the proposed Final Project Agreements subject to today's rule, EPA considers 30 days to be sufficient in providing a meaningful public comment period for today's action.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. Today's rule does not have a significant impact on a substantial number of small entities because it only affects one source, the Weyerhaeuser Flint River Operations, which is not a small entity.

D. Paperwork Reduction Act

This action applies only to one company, and therefore requires no information collection activities subject to the Paperwork Reduction Act, and therefore no information collection request (ICR) will be submitted to OMB for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why the alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, because this rule contains no regulatory requirements that might significantly or uniquely affect small governments, it is not subject to UMRA section 203.

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

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 economically significant as defined in Executive Order 12866, because it is based on technology performance and implements previously promulgated health or safety-based National Emission Standards for Hazardous Air Pollutants for Source Categories (NESHAPS). The effects of hazardous air pollutants from the pulp and paper industry on children's health was addressed in detail in EPA's rulemaking to establish Subpart S, the NESHAP for the pulp and paper industry, and EPA is not revisiting those issues here.

G. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Section 6 of Executive Order 1312, EPA may not issue a regulation that has

federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

Today's rule does not have federalism implications. 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, as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule. Although section 6 of Executive Order 13132 does not apply to this rule, EPA did fully coordinate and consult with the affected State and local officials in developing this rule.

H. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this rule from tribal officials.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (''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 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 standards. This rulemaking does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards. However, EPA invited comments on this aspect of the rulemaking, and specifically invited the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation. No public comments were received.

J. Congressional Review Act

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 UnitedStates. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially effect the rights or obligations of non-agency parties. 5 U.S.C. 804 (3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability affecting just one private sector facility.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous air pollutants, Major source, Monitoring, Reporting and recordkeeping requirements, National emission standards, Pulp and paper.

Dated: June 20, 2001.

Christine Todd-Whitman,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 63—NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR SOURCE CATEGORIES

1. The authority citation for part 63 continues to read as follows:

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

Subpart S—National Emission Standards for Hazardous Air Pollutants from the Pulp and Paper Industry

2. § 63.459 is added to subpart S to read as follows:

§ 63.459 Alternative standards.

(a) *Flint River Mill.* The owner or operator of the pulping system using the kraft process at the manufacturing facility, commonly called Weyerhaeuser Company Flint River Operations, at Old Stagecoach Road, Oglethorpe, Georgia, (hereafter the Site) shall comply with all provisions of this subpart, except as specified in paragraphs (a)(1) through (a)(5) of this section.

(1) The owner or operator of the pulping system is not required to control total HAP emissions from equipment systems specified in paragraphs (a)(1)(i) and (a)(1)(ii) if the owner or operator complies with paragraphs (a)(2) through (a)(5) of this section.

(i) The brownstock diffusion washer vent and first stage brownstock diffusion washer filtrate tank vent in the pulp washing system specified in § 63.443(a)(1)(iii).

(ii) The oxygen delignification system specified in § 63.443(a)(1)(v).

(2) The owner or operator of the pulping system shall control total HAP emissions from equipment systems listed in paragraphs (a)(2)(i) through (a)(2)(ix) of this section as specified in § 63.443(c) and (d) of this subpart no later than April 16, 2001.

(i) The weak liquor storage tank;

(ii) The boilout tank;

(iii) The utility tank;

(iv) The fifty percent solids black liquor storage tank;

(v) The south sixty-seven percent solids black liquor storage tank;

(vi) The north sixty-seven percent solids black liquor storage tank;

(vii) The precipitator make down tanks numbers one, two and three;

(viii) The salt cake mix tank; and

(ix) The NaSH storage tank.

(3) The owner or operator of the pulping system shall operate the Isothermal Cooking system at the site while pulp is being produced in the continuous digester at any time after April 16, 2001.

(i) The owner or operator shall monitor the following parameters to demonstrate that isothermal cooking is in operation:

(A) Continuous digester dilution factor; and

(B) The difference between the continuous digester vapor zone temperature and the continuous digester extraction header temperature.

(ii) The isothermal cooking system shall be in operation when the continuous digester dilution factor and the temperature difference between the continuous digester vapor zone temperature and the continuous digester extraction header temperature are maintained as set forth in Table 2:

TABLE 2 TO SUBPART S—ISOTHERMAL COOKING SYSTEM OPERATIONAL VALUES

Parameter	Instrument number	Limit	Units
Digester Dilution Factor	K1DILFAC	>0.0	None
Difference in Digester Vapor Zone Temperature and Digester.	03TI0311	<10	Degrees F.
Extraction Header Temperature	03TI0329.		

(iii) The owner or operator shall certify annually the operational status of the isothermal cooking system.

(4) [Reserved]

(5) *Definitions.* All descriptions and references to equipment and emission unit ID numbers refer to equipment at the Site. All terms used in this paragraph shall have the meaning given them in this part and this paragraph. For the purposes of this paragraph only the following additional definitions apply:

Boilout tank means the tank that provides tank storage capacity for recovery of black liquor spills and evaporator water washes for return to the evaporators (emission unit ID No. U606);

Brownstock diffusion washer means the equipment used to wash pulp from the surge chests to further reduce lignin carryover in the pulp;

Continuous digester means the digester system used to chemically and thermally remove the lignin binding the wood chips to produce individual pulp fibers (emission unit ID No. P300);

Fifty percent solids black liquor storage tank means the tank used to store intermediate black liquor prior to final evaporation in the 1A, 1B, and 1C Concentrators (emission unit ID No. U605);

First stage brownstock diffusion washer means the equipment that receives and stores filtrate from the first stage of washing for return to the pressure diffusion washer;

Isothermal cooking system means the 1995–1996 modernization of brownstock pulping process including conversion of the Kamyr continuous vapor phase digester to an extended delignification unit and changes in the knotting, screening, and oxygen stage systems:

NaSH storage tank means the tank used to store sodium hydrosulfite solution prior to use as make-up to the liquor system

North sixty-seven percent solids black liquor storage tank means one of two tanks used to store black liquor prior to burning in the Recovery Boiler for chemical recovery (emission unit ID No. U501);

Precipitator make down tank numbers one, two and three mean tanks used to mix collected particulate from electrostatic precipitator chamber number one with 67% black liquor for recycle to chemical recovery in the Recovery Boiler (emission unit ID Nos. U504, U505 and U506);

Salt cake mix tank means the tank used to mix collected particulate from economizer hoppers with black liquor for recycle to chemical recovery in the Recovery Boiler (emission unit ID No. U503);

South sixty-seven percent solids black liquor storage tank means one of two tanks used to store black liquor prior to burning in the Recovery Boiler for chemical recovery (emission unit ID No. U502);

Utility tank means the tank used to store fifty percent liquor and, during black liquor tank inspections and repairs, to serve as a backup liquor storage tank (emission unit ID No. U611);

Weak gas system means high volume, low concentration or HVLC system as defined in § 63.441; and

Weak liquor storage tank means the tank that provide surge capacity for weak black liquor from digesting prior to feed to multiple effect evaporators (emission unit ID No. U610).

(b) [Reserved]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 053101F]

Fisheries of the Exclusive Economic Zone Off Alaska; Bycatch Rate Standards for the Second Half of 2001

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Pacific halibut and red king crab bycatch rate standards; request for comments.

SUMMARY: NMFS announces Pacific halibut and red king crab bycatch rate standards for the second half of 2001. Publication of these bycatch rate standards is required by regulations implementing the vessel incentive program. This action is necessary to implement the bycatch rate standards for trawl vessel operators who participate in the Alaska groundfish trawl fisheries. The intent of this action is to reduce prohibited species bycatch rates and promote conservation of groundfish and other fishery resources.

DATES: Effective 1201 hours, Alaska local time (A.l.t.), July 1, 2001, through 2400 hours, A.l.t., December 31, 2001. Comments on this action must be received no later than 4:30 p.m., A.l.t., July 27, 2001.

ADDRESSES: Comments may be submitted to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel. Comments also may be sent via facsimile (fax) to 907–586–7465. Comments will not be accepted if