

entitlement or employment you could reasonably have been expected to be granted if the record had not been deficient.

(4) *Other failures to comply with the Act.* You may bring an action for any alleged failure by the Agency to comply with the requirements of the Act or failure to comply with any rule published by the Agency to implement the Act provided it can be shown that:

(i) The action was intentional or willful;

(ii) The Agency's action adversely affected you; and

(iii) The adverse action was caused by the Agency's actions.

(b) *Jurisdiction and time limits.* (1) Action may be brought in the district court for the jurisdiction in which you reside or have a place of residence or business, or in which the Agency records are situated, or in the District of Columbia.

(2) The statute of limitations is two years from the date upon which the cause of action arises, except for cases in which the Agency has materially and willfully misrepresented any information requested to be disclosed and when such misrepresentation is material to the liability of the Agency. In such cases the statute of limitations is two years from the date of discovery of the misrepresentation by you.

(3) A suit may not be brought on the basis of injury, which may have occurred as a result of the Agency's disclosure of a record prior to September 27, 1975.

(c) *Criminal penalties.*—(1) *Unauthorized disclosure.* It is a criminal violation of the provisions of the Act for any officer or employee of the Agency knowingly and willfully to disclose a record in any manner to any person or agency not entitled to receive it, for failure to meet the conditions of disclosure listed in 5 U.S.C. 552a(b), or without the written consent or at the request of the individual to whom the record pertains. Any officer or employee of the Agency found guilty of such misconduct shall be fined not more than \$5,000.

(2) *Failure to publish a public notice.* It is a criminal violation of the Act to willfully maintain a system of records and not to publish the prescribed public notice. Any officer or employee of the Agency found guilty of such misconduct shall be fined not more than \$5,000.

(3) *Obtaining records under false pretenses.* The Act makes it a criminal offense to knowingly and willfully request or gains access to a record about an individual under false pretenses. Any person found guilty of such an

offense may be fined not more than \$5,000.

§ 505.13 General exemptions (Subsection (j)).

(a) General exemptions are available for systems of records which are maintained by the Central Intelligence Agency (Subsection (j)(1)), or maintained by an agency which performs as its principal function any activity pertaining to the enforcement of the criminal laws (Subsection (j)(2)).

(b) The Act does not permit general exemption of records compiled primarily for a non-criminal purpose, even though there are some quasi-criminal aspects to the investigation and even though the records are in a system of records to which the general exemption applies.

§ 505.14 Specific exemptions (Subsection (k)).

The specific exemptions focus more on the nature of the records in the system of records than on the agency. The following categories of records may be exempt from disclosure:

(a) *Subsection (k)(1).* Records which are specifically authorized under criteria established under an Executive Order to be kept secret in the interest of national defense or foreign policy, and which are in fact properly classified according to such Executive Order;

(b) *Subsection (k)(2).* Investigatory records compiled for law enforcement purposes (other than material within the scope of subsection (j)(2) as discussed in § 505.13(a)). If any individual is denied any right, privilege, or benefit for which she/he would otherwise be eligible, as a result of the maintenance of such material, the material shall be provided to the individual, unless disclosure of the material would reveal the identity of a source who has been pledged confidentiality;

(c) *Subsection (k)(3).* Records maintained in connection with protection of the President and other VIPs accorded special protection by statute;

(d) *Subsection (k)(4).* Records required by statute to be maintained and used solely as statistical records.

(e) *Subsection (k)(5).* Records compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only if disclosure of the material would reveal the identity of a confidential source that furnished information to the Government.

(f) *Subsection (k)(6).* Testing or examination records used solely to

determine individual qualifications for appointment or promotion in the Federal service when the disclosure of such would compromise the objectivity or fairness of the testing or examination process.

(g) *Subsection (k)(7).* Evaluation records used to determine potential for promotion in the armed services, but only if disclosure would reveal the identity of a confidential source.

§ 505.15 Exempt systems of records used.

The BBG is authorized to use exemptions (k)(1), (k)(2), (k)(4), (k)(5) and (k)(6).

[FR Doc. 01-7340 Filed 3-26-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-6958-7]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve 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 proposed revisions would apply only to the Weyerhaeuser Company's Flint River Operations in Oglethorpe, Georgia, (Weyerhaeuser). The revisions are proposed as one of the EPA's steps to implement the Final Project Agreement for Weyerhaeuser's XL Project.

The intended effect of proposing these revisions is to 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. Such implementation will result in superior environmental performance, and at the same time, provide Weyerhaeuser with greater operational flexibility.

DATES: All public comments on the proposed rule revision must be received on or before April 26, 2001. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. (Eastern time) before April 26, 2001.

ADDRESSES: Comments should be addressed to "Project XL/

Weyerhaeuser," c/o Mr. Lee Page, United States Environmental Protection Agency, Region 4, Air, Pesticides & Toxics Management Division, Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia, 30303.

Commenters are also requested to submit an original and 3 copies of their written comments as well as an original and 3 copies of any attachments, enclosures, or other documents referenced in the comments.

Commenters who would like EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

EPA will also accept comments electronically. Comments should be addressed to the following Internet address: page.lee@epa.gov. Electronic comments must be submitted as an ASCII, WordPerfect 5.1/6.1/8 format file and avoid the use of special characters or any form of encryption. Electronic comments will be transferred into a paper version for the official record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission.

Supporting information used in developing this proposed rulemaking is available on the world wide web at the following location: <http://www.epa.gov/ProjectXL>. It is also available for 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 Proposing?

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 Proposed Regulatory Requirements for the Weyerhaeuser XL Project?

G. What Is the Project Duration and Completion Date?

III. Rule Description

IV. Request for Public Comments

V. Additional Information

A. Executive Order 12866: Regulatory Planning and Review

B. Regulatory Flexibility

C. Paperwork Reduction Act

D. Unfunded Mandates Reform Act

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

F. Executive Order 13132: Federalism

G. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

H. National Technology Transfer and Advancement Act.

I. Authority

This regulation is being proposed 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 proposed regulation would 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 Proposing?

EPA is proposing 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 proposed rule will facilitate the use of alternative pollution controls and process changes not required by any existing rule that applies to Weyerhaeuser. The proposed rule will provide 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.

Although not subject to public comment at this time, the FPA is among the background documents available for review in the docket for today's action and also 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 soliciting comment on 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 proposed rule and the FPA, nothing

in this proposed 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 proposed rule will allow the source 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.

EPA determined at the time the MACT rule was adopted 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. The proposed 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?

This proposed 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

EPA believes stakeholder involvement and participation in developing the

Weyerhaeuser Pilot XL program is vital to the success of the program. Therefore, as part of the Project XL proposal, a Company must clearly explain its process for involving stakeholders in the design of the pilot program. This process should be based upon the guidance set out in the April 23, 1997 **Federal Register** notice (62 FR 19872). The support of the parties that have a stake in the program is very important. Stakeholders may include communities near the project, local or state governments, businesses, environmental and other public interest groups, or other similar entities. Stakeholders that participated in the development of this 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. Once EPA accepted Weyerhaeuser as a candidate based on its detailed proposal, Weyerhaeuser, EPA, the State and local stakeholders finalized 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. The stakeholder process has been open and the public invited to participate. Weyerhaeuser will continue to work with the stakeholders, who serve as the primary contact with the community.

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 Proposed 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 may be 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 proposed rule, or any other enforceable regulatory mechanism that has a term fixed by applicable law or regulation. Therefore, the terms and requirements of this proposed rule do not expire unless formally amended through notice and comment rulemaking.

III. Rule Description

Today's proposed rule will require 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 than this mill would achieve under the existing rule.

To accomplish this alternative compliance, the EPA is proposing to promulgate a 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. The 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

proposed 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 will allow 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 will be 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. Request for Public Comments

The Agency requests public comments on today's Rule.

V. Additional Information

A. Executive Order 12866: Regulatory Planning and Review

Because this rule affects only one facility, it is not a rule of general applicability and therefore not subject to OMB review and Executive Order 12866. In addition, OMB has agreed that review of site specific rules under Project XL is not necessary.

B. 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. This proposed rule would 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. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

C. 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.*

D. 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.

E. 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.

F. 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 13132, 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.

This proposed 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.

G. 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 proposed 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 proposed rule from tribal officials.

H. 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 proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking, and specifically invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects in 40 CFR Part 63

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

Dated: March 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 proposed to be 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. Add § 63.459 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) of this section 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, 2002.

(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, 2002.

(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 the following Table:

TABLE—ISOTHERMAL COOKING SYSTEM OPERATIONAL VALUES

Parameter	Instrument No.	Limit	Units
Digester Dilution Factor	K1DILFAC	> 0.0	None.
Difference in Digester Vapor Zone Temperature and Digester Extraction Header Temperature	03TI0311 03TI0329	< 10	Degrees F.

(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).

(a) [Reserved]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 140 to 146

[USCG–2001–9173]

Floating Production, Storage, and Offloading Units in the Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; request for comments.

SUMMARY: The Coast Guard's Marine Safety and Environmental Protection Directorate and the Minerals Management Service (MMS), will jointly hold a public listening session. This listening session is in response to the marine industry's concerns regarding the standards and regulations applicable to the operation of Floating Production,

Storage and Offloading (FPSO) units in the Gulf of Mexico. This listening session is being held to collect comments on design, construction, operating and safety standards or regulations for FPSOs and any possible need to clarify standards or enforcement policy regarding these safety standards. We encourage interested parties to attend the meeting and submit comments for discussion during the meeting. We also seek written comments from any party who is unable to attend the meeting.

DATES: *Public Meeting:* We will hold the meeting on Thursday, 3 May 2001, from 2 to 5 p.m.

Written Comments: Comments and related material must reach the Docket Management Facility on or before 25 April, 2001. The Docket Management Facility must receive your comments on or before 25 April 2001.

ADDRESSES: *Public Meeting:* We will hold the meeting at the Sheraton North Houston Hotel's Amphitheater, at George Bush International Airport, 15700 John F. Kennedy Blvd, Houston Texas.

Written Comments: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG–2001–9173), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By Internet to <http://dms.dot.gov>.

(4) By Fax to the Docket Management Facility: 202–493–2251.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice or the public meeting, contact Lieutenant Commander Russell Proctor, Vessel Compliance Division (G–MOC–2), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20590, telephone 202–267–0499. For questions on viewing or submitting material to the