

**40 CFR Part 70**

[VI001; FRL-5544-8]

**Clean Air Act Final Interim Approval Of Operating Permits Program: The U.S. Virgin Islands****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final interim approval.

**SUMMARY:** The EPA is promulgating interim approval of the operating permits program submitted by the U.S. Virgin Islands for the purpose of complying with Federal requirements which mandate that States develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

**EFFECTIVE DATE:** This program will be effective August 30, 1996.

**ADDRESSES:** Copies of the State's submittal and other supporting information used in developing the final interim approval as well as the Technical Support Document are available for inspection during normal business hours at the following locations:

EPA Region II, 290 Broadway, 25th Floor, New York, New York 10007-1866, Attention: Steven C. Riva.

EPA Region II, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce de Leon Avenue, Stop 22, San Juan, Puerto Rico 00907-4127, Attention: Jose Ivan Guzman.

The U.S. Virgin Islands Department of Planning and Natural Resources (VIDPNR), Division of Environmental Protection, Building 111, Apartment 14A, Water Gut Homes, Christainsted, St. Croix, U.S. Virgin Islands 00820, Attention: Leonard Reed.

**FOR FURTHER INFORMATION CONTACT:** Umesh Dholakia, Permitting and Toxics Support Section, at the above EPA office in New York or at telephone number (212) 637-4023. Jose Ivan Guzman of the Caribbean Field Office can be reached at (809) 729-6951, extension 223.

**SUPPLEMENTARY INFORMATION:****I. Background and Purpose**

Title V of the Clean Air Act ("the Act"), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that States develop and submit operating permits programs to the EPA by November 15, 1993, and that the EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline

criteria for approval or disapproval. If a state does not have an approved program by two years after the November 15, 1993 date, EPA must establish and implement a Federal program.

On January 25, 1996, the EPA proposed approval of the Operating Permits Program submitted for the Virgin Islands. (See 61 FR 2216). No comment was received on the Proposed Approval Notice. In this notice, the EPA is taking final action to promulgate interim approval of the Operating Permits Program for the Virgin Islands.

**II. Final Action and Implications****A. Analysis of State Submission**

On January 25, 1996, the EPA proposed full approval of VIDPNR's Title V Operating Permits Program. The proposed approval required that the VIDPNR correct the wording errors in its legislation prior to receiving final full approval. The Virgin Islands has not corrected those errors. However, EPA believes that these wording errors were accidental and do not reflect the intent of the legislation. The Virgin Islands' Rules and Regulations, Air Pollution Control, Title 12, Chapter 9, Subchapters 204 and 206, are based on the intent reflected in the legislation and in accordance with part 70. In addition, the program elements discussed in the proposal notice are unchanged from the analysis in the Final Interim Approval Notice and continue to fully meet the requirements of 40 CFR part 70.

**B. Options for Approval/Disapproval****1. Title V Operating Permit Program**

The EPA is promulgating interim approval of the Operating Permits Program submitted to the EPA by the VIDPNR on November 18, 1993 with supplemental packages through June 9, 1995. Among other things, the VIDPNR has demonstrated that the program substantially meets the minimum requirements for a state operating permit program as specified in 40 CFR part 70. This interim approval extends until August 31, 1998. Under the approved interim operating permit program, VIDPNR is allowed to issue federally enforceable operating permits to all major stationary sources and to certain other sources for the duration of this approval. During this interim approval period, the Virgin Islands is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a federal operating permit program in Virgin Islands. Permits issued under a program with interim approval have full standing with respect

to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications. In order to ensure that a fully approved program will be in place by the expiration date of the interim approval, Virgin Islands must submit a modified program to EPA by February 27, 1998 that addresses the following wording errors in the Virgin Islands' legislation (Act No. 6011 signed into law September 2, 1994):

(1) Section 212(a) states that "No rule or regulation and no amendment \* \* \* shall take effect AFTER public comment and/or hearing on due notice as provided herein". The word "after" should be replaced by the word "without".

(2) Section 205 (a), (b)(1) and (2)—replace "chapter" with "with respect to Part 70 permit program".

(3) Section 215 (a)—delete "compliance order" and replace with "notice of violation" after "Commissioner is authorized to issue.."

(4) Section 215 (b)(3)—There should be an additional sentence following "\$250,000". "The assessment of any administrative fine in excess of \$250,000 may be enforced by the commencement of a civil action by the Attorney General pursuant to the Virgin Islands Law".

If Virgin Islands (VI) fails to submit a complete corrective program for full approval by February 27, 1998, EPA will start an 18-month clock for mandatory sanctions. If VI then fails to submit a complete corrective program before the expiration of that 18-month period, EPA will apply sanctions as required by Section 502(d)(2) of the Act, which will remain in effect until EPA determines that VI has corrected the deficiencies by submitting a complete corrective program.

If EPA disapproves VI's complete corrected program, EPA will apply sanctions as required by Section 502(d)(2) on the date 18 months after the effective date of the disapproval, unless prior to that date, VI has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if VI has not timely submitted a complete corrective program or EPA has disapproved its submitted corrective program. Moreover, if EPA has not granted full approval to the VI program by the

expiration of this interim approval, EPA must promulgate, administer and enforce a federal operating permit program for the Virgin Islands upon interim approval expiration.

2. Program for Delegation of Section 112 Standards as Promulgated

The requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by the EPA as they apply to part 70 sources. Section 112(l)(5) requires that the State's program contain adequate authorities, adequate resources for implementation, an expeditious compliance schedule, and adequate enforcement ability, which are also requirements under part 70. In a letter dated May 30, 1995, VIDPNR requested delegation through 112(l) of all existing 112 standards and all future 112 standards for both part 70 and non-part 70 sources and infrastructure programs. In the letter, VIDPNR demonstrated that they have sufficient legal authorities, adequate resources, the capability for automatic delegation of future standards, and adequate enforcement ability for implementation of section 112 of the Act for both part 70 sources and non-part 70 sources. Therefore, the EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 to Virgin Islands for its program mechanism for receiving delegation of all existing and future section 112(d) standards for both part 70 and non-part 70 sources, and section 112 infrastructure programs that are unchanged from Federal rules as promulgated.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final interim approval are contained in the docket maintained at the EPA Regional Offices in New York and Puerto Rico and at VIDPNR. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this final interim approval. The docket is available for public inspection at the location listed under the ADDRESSES section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in annual estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under Section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 of the Unfunded Mandates Act requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in annual estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental

relations, Operating permits, Reporting and recordkeeping requirements.

Dated: July 16, 1996.

Jeanne M. Fox,

Regional Administrator.

40 CFR part 70 is amended as follows:

**PART 70—[AMENDED]**

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding the entry for Virgin Islands in alphabetical order to read as follows:

*Appendix A to part 70—Approval Status of State and Local Operating Permits Programs*

\* \* \* \* \*

*Virgin Islands*

(a) The Virgin Islands Department of Natural Resources submitted an operating permits program on November 18, 1993 with supplements through June 9, 1995; interim approval effective on August 30, 1996.

(b) (Reserved)

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BILLING CODE 6560-50-P

**40 CFR Part 180**

[PP 2F4137/R2259; FRL-5387-2]

RIN 2070-AB78

**Cyfluthrin; Pesticide Tolerance**

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

**ACTION:** Final Rule.

**SUMMARY:** This document establishes time-limited tolerances with an expiration date of November 15, 1997, for residues of the insecticide cyfluthrin, a synthetic pyrethroid, in or on the raw agricultural commodities (RAC's) sorghum, fodder, forage and grain; aspirated grain fractions; the fat of cattle, goats, horses, hogs, and sheep; and milkfat. The regulation to establish a maximum permissible level for residues of the insecticide cyfluthrin was requested in a petition submitted by Bayer Corporation.

**EFFECTIVE DATE:** This regulation becomes effective July 31, 1996.

**ADDRESSES:** Written objections and hearing requests, identified by the document control number, [PP 2F4137/R2259], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any