

[FR Doc. 00-31727 Filed 12-13-00; 8:45 am]

BILLING CODE 6560-50-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 70**

[VI002; FRL-6916-9]

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

**SUMMARY:** The EPA is promulgating full 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 January 16, 2001.

**ADDRESSES:** Copies of the State's submittal and other supporting information used in developing the final full 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: John Aponte.

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

**FOR FURTHER INFORMATION CONTACT:** Umesh Dholakia, Permitting Section, at the above EPA office in New York or at telephone number (212) 637-4023. John Aponte of the Caribbean Environmental Protection Division can be reached at (787) 729-6951, extension 279.

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

Title V of the Clean Air Act ("the Act"), 42 U.S.C. 7661-7661(f), and its implementing regulations at 40 Code of Federal Regulations (CFR) part 70 required that States develop and submit operating permit 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, 42 U.S.C. 7502 and 40 CFR part 70, which together outline criteria for approval or disapproval. If a state did not have an approved program by two years after the November 15, 1993 date, EPA was required to establish and implement a Federal program.

On January 25, 1996, the EPA proposed full approval of the Operating Permits Program submitted for the Virgin Islands (see 61 FR 2216) requiring that the VIDPNR correct the wording errors in its legislation before full approval could be finalized. No comment was received on the proposed full approval document. Because the wording errors were not corrected, EPA subsequently issued a Final Interim Approval on July 31, 1996, rather than a full approval. EPA also reiterated the requirements for a full final approval (see 61 FR 39882). Since all the defects in the Virgin Island's program have been corrected, the EPA is taking the direct final action in this notice to promulgate full 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 (see 61 FR 2216). The proposed full approval required that the VIDPNR correct the wording errors in its legislation prior to receiving final approval. On July 31, 1996 the Virgin Islands was given interim approval because it had not corrected the wording errors in its legislation (see 61 FR 39882). The Virgin Islands has corrected those errors in legislative changes promulgated on December 22, 1999. These changes were signed by the Governor at Act No. 6338 on January 3, 2000. The program elements discussed in the proposal document are unchanged from the analysis in the Final Full Approval document and continue to fully meet the requirements of 40 CFR part 70.

*B. Options for Approval/Disapproval*

The EPA is promulgating full approval of the Operating Permits Program submitted to the EPA by the VIDPNR on November 18, 1993 with supplemental packages through August 25, 2000. Among other things, the VIDPNR has demonstrated that the program will be adequate to meet the minimum elements of a State operating permits program as specified in 40 CFR part 70.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5), 42 U.S.C. 7412(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 full approval under section 112(l)(5), 42 U.S.C. 7412(1)950, and 40 CFR 63.91 to the 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 full 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 full 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 regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

*C. Executive Order 13132*

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612 (Federalism) and Executive Order 12875 (Enhancing the Intergovernmental Partnership). Under section 6(c) of Executive Order 13132, EPA 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.

EPA has concluded that this final rule may have federal implications. For example, under the authority of section 505 of the Act, 42 U.S.C. 7661(d), EPA may object to a permit issued under the VI's Title V Operating Permits Program. Should the VI fail to revise the permit based upon EPA's objection, EPA has the authority under this section of the Act to issue a federal permit for the facility under 40 CFR part 71. However, it will not impose direct compliance costs on State or local governments, nor will it preempt State law. Thus, the requirements of sections 6(b) and 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(b) 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. Therefore, section 6(c) of the Executive Order does not apply to this rule.

Consistent with EPA policy, EPA nonetheless consulted closely with the Governor of the VI and his staff early and throughout the process of developing the VI's regulations to permit them to have meaningful and timely input in the development of its Title V Operating Permits Program. EPA worked closely with the Governor's legal staff in drafting the legislation and regulations for this program and in enacting legislation to correct the typographical errors in the original legislation.

#### D. 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 an economically significant regulatory action as defined by Executive Order 12866, and it does not establish a further health or risk-based standard because it approves state rules which implement a previously promulgated health or safety-based standard.

#### E. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

#### F. 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 a 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 final rule will not have a significant impact on a substantial number of small entities because part 70 approvals under section 502 of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this approval does not create any new requirements, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute a Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning State Plans on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### G. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, 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 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### H. Submission to Congress and the Comptroller General

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 Congress and to the Comptroller General of the United States. EPA will submit 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 United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *I. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be in the United States Court of Appeals for the appropriate circuit by February 12, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 70**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: December 4, 2000.

**Jeanne M. Fox,**

*Regional Administrator, Region 2.*

Title 40, chapter I, part 70 of the Code of Federal Regulations is to be 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 revising entry (a) for the Virgin Islands 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 August 25, 2000; full approval effective on January 16, 2001.

[FR Doc. 00-31899 Filed 12-13-00; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 180**

[OPP-301081; FRL-6755-7]

**RIN 2070-AB78**

### **Modified Styrene-Acrylic Acid and/or Methacrylic Acid Polymers; Tolerance Exemption**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of a group of polymers, modified styrene-acrylic acid and/or methacrylic acid polymers, when used as inert ingredients in or on growing crops, when applied to raw agricultural commodities (RAC) after harvest, or to animals. Uniqema submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996 requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of modified styrene-acrylic acid and/or methacrylic acid polymers.

**DATES:** This regulation is effective December 14, 2000. Objections and requests for hearings, identified by docket control number OPP-301081, must be received by EPA on or before February 12, 2001.

**ADDRESSES:** Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301081 in the subject line on the first page of your response.

**FOR FURTHER INFORMATION CONTACT:** By mail: Indira Gairola, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308-6379 and e-mail address: gairola.indira@epa.gov.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

##### *A. Does this Action Apply to Me?*

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected

categories and entities may include, but are not limited to:

Categories	NAICS	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### *B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?*

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at <http://www.epa.gov/>. To access this document, on the Home Page select "Laws and Regulations," "Regulations and Proposed Rules," and then look up the entry for this document under the "**Federal Register**—Environmental Documents." You can also go directly to the **Federal Register** listings at <http://www.epa.gov/fedrgstr/>.

2. *In person.* The Agency has established an official record for this action under docket control number OPP-301081. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson