

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. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 2, 1996. 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).)

C. Executive Order 12866

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

D. 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.

E. Unfunded Mandates

Under Sections 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

F. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added 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 the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 70

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

Dated: September 8, 1996.

John P. DeVillars,

Regional Administrator, Region I.

Part 70, title 40 of the Code of Federal Regulations 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 Vermont in alphabetical order to read as follows:

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

* * * * *

Vermont

(a) *Department of Environmental Conservation*: submitted on April 28, 1995; interim approval effective on November 1, 1996; interim approval expires November 2, 1998.

(b) (Reserved)

* * * * *

[FR Doc. 96-25233 Filed 10-1-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 70

[AD-FRL-5619-4]

Clean Air Act Interim Approval of Operating Permits Program; Delegation of Section 112 Standards; State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval.

SUMMARY: The EPA is promulgating interim approval of the Operating Permits Program submitted by the State of New Hampshire for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: November 1, 1996.

ADDRESSES: Copies of the State's submittal and other supporting information used in developing the final interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 1, One Congress Street, 11th floor, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: Ida E. Gagnon, Air Permits Program, CAP, U.S. Environmental Protection Agency, Region 1, JFK Federal Building, Boston, MA 02203-2211, (617) 565-3500.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501-507 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 EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 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. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a Federal program.

On August 14, 1996, EPA proposed interim approval of the operating permits program for the State of New Hampshire. See 61 FR 42222. The

August 14, 1996 document also proposed approval of New Hampshire's mechanism for implementing section 112(g) and for delegation of section 112 standards as promulgated. EPA did not receive any comments on the proposal. In this document EPA is taking final action to promulgate interim approval of the operating permits program, and approving the section 112(g) and section 112(l) mechanisms noted above for the State of New Hampshire.

II. Final Action and Implications

A. Final Action

The EPA is promulgating interim approval of the operating permits program submitted to EPA for the State of New Hampshire on October 26, 1995. Among other things, New Hampshire 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. The State must make the changes specified in the proposed rulemaking, under II.B., Proposed Action, in order to be granted full approval.

This interim approval extends for a period of up to 2 years. During the interim approval period, the State is protected from sanctions for failure to have a program, and EPA is not obligated to promulgate a Federal permits program in the State. Permits issued under a program with interim approval have full standing with respect to Part 70, and the 1-year time period under the Act for submittal of permit applications by subject sources begins upon interim approval, as does the 3-year time period for processing the initial permit applications.

The scope of the New Hampshire Part 70 program applies to all Part 70 sources (as defined in the approved program) within the State of New Hampshire, except any sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815-18 (Nov. 9, 1994). The term "Indian Tribe" is defined under the Act as "any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians." See section 302(r) of the CAA; see also 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

EPA is approving New Hampshire's authority to implement and enforce section 112 standards at Part 70 sources. Requirements for operating permit program 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 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, and an expeditious compliance schedule, which are also requirements under Part 70. Therefore, the EPA has also granted approval under section 112(l)(5) and 40 CFR 63.91 of the State's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the Part 70 program.

III. Administrative Requirements

A. Docket

Copies of the State's submittal and other information relied upon for the final interim approval, are contained in a docket maintained at the EPA Regional Office. 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. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added 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 the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 2, 1996. 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))

D. Executive Order 12866

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

E. 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.

F. 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 action promulgated today 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 preexisting 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.

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: September 23, 1996.

John P. DeVillars,

Regional Administrator, Region I.

Part 70, title 40 of the Code of Federal Regulations 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 New Hampshire in alphabetical order to read as follows:

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

* * * * *

New Hampshire

(a) Department of Environmental Services: submitted on October 26, 1995; interim approval effective on November 1, 1996.

(b) (Reserved)

* * * * *

[FR Doc. 96-25231 Filed 10-1-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 180

[PP 4F4327/R2253A; FRL-5393-8]

RIN 2070-AB78

Fenpropathrin; Pesticide Tolerance, Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule, correction.

SUMMARY: EPA is correcting its rule published on July 31, 1996, which established tolerances for residues of the insecticide/miticide fenpropathrin, a synthetic pyrethroid, in or on the raw agricultural commodities (RACs) peanuts and peanut hay, and increases tolerances in meat, meat byproduct and fat of cattle, goats, hogs, horses and sheep and poultry; eggs; and milkfat.

EFFECTIVE DATE: This regulation becomes effective October 2, 1996.

FOR FURTHER INFORMATION CONTACT: By mail: George T. LaRocca, Product Manager (PM) 13, Registration Division (7505C), Office of Pesticide Programs,

Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Second Floor, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703) 305-6100, e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a rule in the Federal Register of July 31, 1996 (FRL-5385-1) which amended 40 CFR 180.466 by establishing tolerances for residues of the insecticide fenpropathrin (alpha-cyano-3-phenoxybenzyl 2,2,3,3-tetramethylcyclopropanecarboxylate) in or on the raw agricultural commodities (RACs) peanuts, vines and peanuts, hay (dried) at 20 parts per million (ppm); milkfat at 2.0 ppm (reflecting 0.08 ppm in whole milk); fat (cattle, goats, hogs, horses, and sheep) at 1.0 ppm; peanut hulls at 0.3 ppm; meat and meat byproducts (mbyp) (cattle, goats, horses, and sheep) at 0.1 ppm; poultry meat, fat, mbyp and eggs at 0.05 ppm; and peanut nut meat at 0.01 ppm.

In this rule EPA inadvertently left out of the preamble certain information relevant to the conditional registration for fenpropathrin and did not include the expiration date for these new tolerances, which were established as time-limited tolerances that would expire on November 15, 1997.

In addition, EPA inadvertently omitted from the table the new tolerance levels for sheep, fat, sheep, mbyp and sheep, meat. These oversights are corrected below.

Accordingly, FR Doc. 96-19330, published in the Federal Register of July 31, 1996 at page 39887, is corrected as follows:

1. On page 39888, at the bottom of the first column, insert the following two paragraphs.

"The Agency issued a conditional registration for fenpropathrin for use on cotton with an expiration date of

November 15, 1993 (see the Federal Register of April 14, 1993 (58 FR 19357)). The conditional registration was subsequently amended and extended to November 15, 1996 (see the Federal Register dated February 22, 1995 (60 FR 9783)). The registrations were amended and extended to allow time for submission and evaluation of additional environmental effects data. In order to evaluate the effects of the pyrethroids on fish and aquatic organisms and its fate in the environment, additional data were required to be collected and submitted during the period of conditional registration. Such requirements included a sediment bioavailability and toxicity study and a small-plot runoff study that must be submitted to the Agency by July 1, 1996. Due to the conditional status of the registration, tolerances have been established for fenpropathrin on a temporary basis, (until November 15, 1997) on cottonseed, meat, fat and meat-byproducts of hogs, horses, cattle, goats, sheep, poultry, eggs and milk to cover residues expected to be present from use during the period of conditional registration. To be consistent with the conditional registration status of fenpropathrin on cotton the Agency is establishing these tolerances with an expiration date of November 15, 1997.

Residues remaining in or on the above commodities after expiration of these tolerances will not be considered actionable if the pesticide is legally applied during the term of and in accordance with provisions of the conditional registration."

2. On page 39889, the table to § 180.466 is corrected by revising the entry for cattle, fat and by adding entries alphabetically for sheep, fat, sheep, mbyp and sheep, meat, to read as follows:

Commodity	Parts per million	Expiration date
Cattle, fat	1.0	Nov. 15, 1997
* * * * *	* * *	
Sheep, fat	1.0	Do.
Sheep, mbyp	0.1	Do.
Sheep, meat	0.1	Do.
* * * * *	* * *	