

Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 24, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: August 9, 2016.

**Robert A. Kaplan,**

*Acting Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

■ 2. Section 52.776 is amended by adding paragraph (y) to read as follows:

#### § 52.776 Control strategy: Particulate matter.

\* \* \* \* \*

(y) Approval-By submittal dated July 3, 2008, Indiana demonstrated satisfaction of the requirements for reasonably available control measures for its portion of the Cincinnati-Hamilton OH-KY-IN area.

[FR Doc. 2016–20312 Filed 8–24–16; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 62

[EPA–R02–OAR–2016–0088; FRL–9951–24–Region 2]

#### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Virgin Islands; Sewage Sludge Incinerators

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve the Clean Air Act (CAA) section 111(d)/129 negative declaration for the Government of the United States Virgin Islands, for existing sewage sludge incinerator (SSI) units. This negative declaration certifies that existing SSI units subject to sections 111(d) and 129 of the CAA do not exist within the jurisdiction of United States Virgin Islands. The EPA is accepting the negative declaration in accordance with the requirements of the CAA.

**DATES:** This direct final rule will be effective October 24, 2016, without further notice, unless the EPA receives adverse comment by September 26, 2016. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R02–OAR–016–0088), to <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be

edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system).

For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Edward J. Linky, Environmental Protection Agency, Air Programs Branch, 290 Broadway, New York, New York 10007–1866 at 212–637–3764 or by email at [Linky.Edward@epa.gov](mailto:Linky.Edward@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document "we," "us," or "our" refer to the EPA. This section provides additional information by addressing the following:

- I. Background
- II. Analysis of State Submittal
- III. Statutory and Executive Order Reviews

#### I. Background

The Clean Air Act (CAA) requires that state<sup>1</sup> regulatory agencies implement the emission guidelines and compliance times using a state plan developed under sections 111(d) and 129 of the CAA.

The general provisions for the submittal and approval of state plans are codified in 40 CFR part 60, subpart B and 40 CFR part 62, subpart A. Section 111(d) establishes general requirements and procedures on state plan submittals for the control of designated pollutants.

Section 129 requires emission guidelines to be promulgated for all categories of solid waste incineration units, including SSI units. Section 129 mandates that all plan requirements be at least as protective and restrictive as the promulgated emission guidelines. This includes fixed final compliance dates, fixed compliance schedules, and Title V permitting requirements for all affected sources. Section 129 also requires that state plans be submitted to

<sup>1</sup> Section 302(d) of the CAA includes the Virgin Islands in the definition of the term "State."

the EPA within one year after the EPA's promulgation of the emission guidelines and compliance times.

States have options other than submitting a state plan in order to fulfill their obligations under CAA sections 111(d) and 129. If a State does not have any existing Sewage Sludge Incineration (SSI) units for the relevant emissions guidelines, a letter can be submitted certifying that no such units exist within the State (*i.e.*, negative declaration) in lieu of a state plan.

The negative declaration exempts the State from the requirements of subpart B that would otherwise require the submittal of a CAA section 111(d)/129 plan.

On March 21, 2011 (76 FR 15372), the EPA established emission guidelines and compliance times for existing SSI units. The emission guidelines and compliance times are codified at 40 CFR 60, subpart Mmmm.

In order to fulfill obligations under CAA sections 111(d) and 129, the Government of the United States Virgin Islands (USVI) Department of Planning and Natural Resources (DPNR) submitted a negative declaration letter to the EPA on December 1, 2015. As the USVI-DPNR has certified by letter that no SSI units exist, the submittal of this declaration exempts the Territory from the requirement to submit a state plan for existing SSI units.

## II. Analysis of State Submittal

In this Direct Final action, the EPA is amending part 62 to reflect receipt of the negative declaration letter from the USVI-DPNR, certifying that there are no existing SSI units subject to 40 CFR part 60, subpart Mmmm, in accordance with section 111(d) of the CAA.

If a designated facility (*i.e.*, existing SSI unit) is later found within USVI-DPNR's jurisdiction after publication of this **Federal Register** action, then the overlooked facility will become subject to the requirements of the Federal plan for that designated facility, including the compliance schedule. The Federal plan will no longer apply, if we subsequently receive and approve the section 111(d)/129 plan from the jurisdiction with the overlooked facility.

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the negative declaration if adverse comments are received on this direct final rule. We will not institute a second comment

period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document. If the EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

## III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a 111(d)/129 plan submission that complies with the provisions of the Act and applicable Federal regulations. 40 CFR 62.04.

Thus, in reviewing 111(d)/129 plan submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. § 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. § 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. § 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This action does not have tribal implications as specified by Executive

Order 13175. The section 111(d)/129 plan is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Thus, Executive Order 13175 does not apply to this section.

The Congressional Review Act, 5 U.S.C. § 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. § 804(2).

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 October 24, 2016.

Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 62

Environmental protection, Air pollution control, Administrative practice and procedure, Intergovernmental relations, Reporting and recordkeeping requirements, Sewage sludge incinerators.

Dated: August 8, 2016.

**Judith A. Enck,**  
Regional Administrator, Region 2.

For the reasons stated in the preamble, EPA amends 40 CFR part 62 as set forth below:

## PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

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

**Subpart CCC—Virgin Islands**

■ 2. Add an undesignated center heading and § 62.13357 to subpart CCC to read as follows:

**Air Emissions From Existing Sewage Sludge Incineration Units Constructed on or Before October 14, 2010****§ 62.13357 Identification of plan—negative declaration.**

Letter from the Virgin Islands Department of Planning and Natural Resources, submitted December 1, 2015 to EPA Regional Administrator Judith A. Enck, certifying that there are no existing Sewage Sludge Incinerator units in the Territory of the United States Virgin Islands subject to 40 CFR part 60, subpart Mmmm.

[FR Doc. 2016–20307 Filed 8–24–16; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[EPA–HQ–OPP–2015–0811; FRL–9949–03]

**Natamycin; Exemption From the Requirement of a Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of the biochemical pesticide natamycin [6,11,28-Trioxatricyclo [22.3.1.0<sup>5,7</sup>] octacos-8,14,16,18,20-pentaene-25-carboxylic acid, 22-[(3-amino-3,6-dideoxy-p-Dmannopyranosyl)oxy]-1,3,26-trihydroxy-12-methyl-10-oxo-, (1R,3S,5R,7R,8E,12R,14E,16E,18E,20E,22R,24S,25R,26S)-] in or on citrus, pome, stone fruit crop groups, avocado, kiwi, mango and pomegranates when used in accordance with label directions and good agricultural practices. DSM Food Specialties, B.V., P.O. Box 1, 2600 MA Delft, The Netherlands (c/o Keller and Heckman, LLP, 1001 G St. NW., Washington, DC 20001) submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of natamycin in or on citrus, pome, stone fruit crop groups, avocado, kiwi, mango and pomegranate when used in accordance with label directions and good agricultural practices.

**DATES:** This regulation is effective August 25, 2016. Objections and requests for hearings must be received on or before October 24, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0811, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: [BPPDFRNotices@epa.gov](mailto:BPPDFRNotices@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information****A. Does this action apply to me?**

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

**B. How can I get electronic access to other related information?**

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at <http://www.ecfr.gov/cgi-bin/text->

[idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

**C. How can I file an objection or hearing request?**

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2015–0811 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before October 24, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2015–0811 by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

**II. Background and Statutory Findings**

In the **Federal Register** of April 25, 2016 (81 FR 24044) (FRL–9944–86), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP 5F8407) by Keller and Heckman, LLP, 1001 G St. NW., Washington, DC 20001 on behalf of