

**Ambient Air Quality Standards (NAAQS)** for ozone and in response to Section 182(f) NO<sub>x</sub> RACT requirements of the Clean Air Act (CAA). A detailed discussion of the background for the rules and nonattainment areas is provided in the NPRMs cited above.

EPA has evaluated the rules for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRMs cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rules' provisions and evaluations has been provided in the NPRMs and in the technical support documents (TSDs), dated March 3, 1994 (Rule 74.15.1), November 28, 1994 (Rule 250), and December 5, 1994 (Rule 74.9), which are available at EPA's Region IX office.

**Response to Public Comments**

A 30-day public comment period was provided in the NPRMs. EPA received no comments on PCAPCD's Rule 250 and VCAPCD's Rules 74.9 and 74.15.1.

**EPA Action**

EPA is finalizing this action to approve the above rules for inclusion into the California SIP. EPA is approving the submittals under section 110(k)(3) as meeting the requirements of section 110(a) and Part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of NO<sub>x</sub> in accordance with the requirements of the CAA.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

**Unfunded Mandates**

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

**Regulatory Process**

The OMB has exempted this action from review under Executive Order 12866.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Note:** Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: July 21, 1995.

**John Wise,**  
*Acting Regional Administrator.*

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401-7671q.

**Subpart F—California**

2. Section 52.220 is amended by adding paragraphs (c)(194)(i)(A)(3), (c)(196)(i)(B), and (c)(202)(i)(E) to read as follows:

**§ 52.220 Identification of plan.**

- \* \* \* \* \*
- (c) \* \* \*
- (194) \* \* \*
- (i) \* \* \*
- (A) \* \* \*
- (3) Rule 74.15.1, adopted on May 11, 1993.
- \* \* \* \* \*

- (196) \* \* \*
- (i) \* \* \*
- (B) Ventura County Air Pollution Control District.
- (1) Rule 74.9, adopted on December 21, 1993.
- \* \* \* \* \*

- (202) \* \* \*
- (i) \* \* \*
- (E) Placer County Air Pollution Control District.
- (1) Rule 250, adopted on October 17, 1994.
- \* \* \* \* \*

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**40 CFR Part 52**

[VA12-1-6863a, VA28-1-5997a; FRL-5262-8]

**Approval and Promulgation of Air Quality Implementation Plans; Virginia (Approval of Miscellaneous Revisions)**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions incorporate changes adopted by Virginia in 1989 and 1993 into the federally enforceable Virginia SIP. The intended effect of this action is to revise the federally-approved SIP to reflect the current State requirements. This action is being taken under section 110 of the Clean Air Act.

**DATES:** This final rule is effective October 23, 1995 unless adverse or critical comments are submitted before September 22, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

**ADDRESSES:** Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.  
**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 597-1325.

**SUPPLEMENTARY INFORMATION:** In 1989 and in 1993, the Commonwealth of Virginia submitted a series of amendments to its Regulations for the Control and Abatement of Air Pollution as a formal revision to its State Implementation Plan (SIP). These SIP revision submittals are described below.

#### I. SIP Revision Submittal—April 12, 1989

On April 12, 1989, the Commonwealth of Virginia submitted a series of administrative revisions to its Regulations to the Control and Abatement of Air Pollution and requested that they be reviewed and approved as revisions of the Virginia State Implementation Plan (SIP). Virginia has amended the provisions of Parts I, IV, and VIII by 1) revising the format of terms and definitions; and 2) incorporating by reference certain governmental, scientific, and technical documents. Virginia has also added an Appendix M (Documents Incorporated by Reference) to its air pollution control regulations.

Virginia has certified that public hearings were held on May 5, 1986 for all of the above revisions in accordance with 40 CFR Section 51.102. The public hearing locations were Abingdon, Roanoke, Lynchburg, Richmond, Virginia Beach, and Springfield.

#### Description of Revisions

The revised Virginia regulations are described below:

##### All Parts

For Specific terms being defined—

1. The general format is changed from all capital letters to the first letter of the term being capitalized.

2. Quotation marks (“”) are used at the beginning and end of the term defined.

3. The word “means” is added after the term.

4. The definition has been revised to cite an updated or revised reference document listed in Appendix M.

Unless stated otherwise, all definitions and terms listed below are revised in accordance with the revised format stated above.

##### Part I—Definitions

Reference Method, Reid Vapor Pressure, Stationary Source, True Vapor Pressure, Vapor Pressure.

##### Part IV—Emission Standards and Existing Sources

Rule 4–5 (Synthesized Pharmaceutical Products Manufacturing Operations)

Section 120–08–0502C.—Definitions of: condenser, production equipment

exhaust system, reactor, synthesized pharmaceutical products manufacturing.

Section 120–04–0504C.3.b. (Control Technology Guidelines)—Change in reference method from “state or local fire codes, or the National Fire Prevention Association guidelines” to National Fire Prevention Association (NFPA) Standards 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, NFPA 30, Flammable and Combustible Liquids Code; NFPA 30A, Automotive and Marine Service Station Code; cross-reference to Appendix M.

Rule 4–21 (Sulfuric Acid Production Units)

Section 120–04–2102C.—Definitions of “sulfuric acid mist” and “sulfuric acid production unit”.

Section 120–04–2110E. (Monitoring)—Virginia has revised the citation of the technical document used to establish conversion factors for the purpose of converting monitoring data into the units of the applicable sulfur dioxide (SO<sub>2</sub>) standard. For Publication 999–AP–13, the words “National Air Pollution Control Administration” has been replaced with “Atmospheric Emissions form Sulfuric Acid Manufacturing Processes, Public Health Service.” The conversion factor itself remains unchanged.

Rule 4–34 (Miscellaneous Metal Parts and Products Coating Application Systems)

Section 120–04–3402C.—Definitions of: Application area, Carbon adsorption system, Coating applicator, Extreme environmental conditions, Flashoff area, Miscellaneous metal parts and products, Major groups.

Rule 4–37 (Emission Standards for Petroleum Liquid Storage and Transfer Operations)

Section 120–04–3702C.—Definitions of: Bulk gasoline plant, Bulk gasoline terminal, Condensate, External floating roof, Gasoline, Gasoline dispensing facility, Internal Floating Roof, Liquid-mounted, Petroleum liquids, Petroleum refinery, Submerged fill pipe, vapor-mounted, Vapor tight, Waxy, heavy pour crude oil.

Section 120–04–3704C.2.b. (Control Technology Guidelines)—Change in reference method from “state or local fire codes, or the National Fire Prevention Association guidelines” to National Fire Prevention Association (NFPA) Standards 385, Standard for Tank Vehicles for Flammable and Combustible Liquids, NFPA 30, Flammable and Combustible Liquids

Code; NFPA 30A, Automotive and Marine Service Station Code; cross-reference to Appendix M.

Rule 4–41 (Emission Standards for Mobile Sources)

Section 120–04–4102C.—Definitions of: Mobile source, Motor vehicle.

Section 120–04–4105B.2. (Export/Import of Motor Vehicles) Addition of citations of Federal requirements (e.g., 19 CFR Part 12, 40 CFR Part 86).

**Note:** Virginia had also submitted revisions to other definitions as part of their April 12, 1989 submittal. However, these definitions were further revised by Virginia and submitted as a SIP revision request on May 10, 1991. EPA approved these revised terms as revisions to the Virginia SIP, and incorporated them by reference in their entirety into the Virginia SIP at 40 CFR Section 52.2420(c)(99). Therefore, EPA will not review the revisions to these definitions as part of this submittal action. The affected definitions are:

Section 120–04–3402C.—Definitions of “Clear Coating,” “Coating application system,” “Extreme performance coatings,” and “Oven.”

Section 120–04–3702C.—Definitions of “Crude oil” and “Custody transfer.”

##### Part VIII—Permits

Section 120–08–01 (Permits—New and Modified Stationary Sources)—

Section 120–08–01B3.—Terms defined: Allowable emissions, Begin actual construction, Commence, Construction, Emissions units, Federally enforceable, Fixed capital cost, Major modification, Major stationary source, Modification, Modified source, Necessary preconstruction approvals or permits, New source, Potential to emit, Public comment period, Reactivation, Reconstruction, Secondary emissions, State enforceable, Stationary source, Uncontrolled emission rate.

Section 120–08–01C.4.d. (General)—reference to good engineering practice (GEP) stack height definitions.

Section 120–08–03 (Permits—Major Stationary Sources and Major Modification Locating in Nonattainment Areas)

Section 120–08–03B.3. Terms defined:

1. All terms—the word “means” is added after the term.

2. Definition of “Building, structure, or facility”—Reference to publications which help define the expression “Major Group” are moved from the paragraph defining this term to Appendix M.

Section 120–08–03N.7. (Offsets) The reference to Section IV.D of Appendix S in 40 CFR Part 51 is reworded. This revision is considered to be a format change and not a substantive change.

## Appendix M (Added)

Appendix M lists all State and Federal requirements (both statutory and regulatory), as well as specific technical and scientific reference documents which Virginia incorporates by reference into its air pollution control regulations. The scientific and technical document consists of the following:

1. Standard Industrial Classification Manual, 1972, as amended by the 1977 supplement (U.S. Government Printing Office stock numbers 4101-006 and 003-005-00176-0, respectively).
2. The following documents issued by the American Society for Testing and Materials (ASTM): "1985 Annual Book of ASTM Standards," Section 5, Volume 05.01, Test Methods D323-82, D97-66.
3. American Petroleum Institute (API) Document 2517, (February 1980).
4. National Fire Prevention Association (NFPA) Documents 385 (1985 Edition), 30 and 30A (1984 Edition).
5. Publication 999-AP-13, the words "National Air Pollution Control Administration" has been replaced with "Atmospheric Emissions from Sulfuric Acid Manufacturing Processes," Public Health Service."

## II. SIP Revision Submittal—February 12, 1993

On February 12, 1993, The Commonwealth of Virginia submitted administrative amendments to its Regulations to the Control and Abatement of Air Pollution and requested that they be reviewed and approved as revisions of the Virginia State Implementation Plan (SIP). Virginia has revised Appendix M (Documents Incorporated by Reference), Sections II.A. through II.E. and II.G. to reflect all changes made in the documents referenced therein through July 1, 1991. Virginia certified that public hearings were held on July 1, 1992 in Abingdon, Roanoke, Lynchburg, Fredericksburg, Richmond, Chesapeake, and Springfield, in accordance with 40 C.F.R. Section 51.102.

### Evaluation of State Submittals

The amendments submitted by Virginia in its April 12, 1989 SIP revision request are administrative in nature and do not revise any emission standards or exemption levels. Therefore, these SIP revisions will have no adverse impact on the NAAQS. The documents listed above are widely circulated and almost universally endorsed within the regulatory and regulated community. Therefore, EPA finds the references to these documents

acceptable as a SIP revision. EPA's evaluation of the revisions to Part VIII (Permits) are limited to the administrative revisions described above. Since April 1989, the Commonwealth of Virginia has submitted numerous substantive revisions to the provisions of Part VIII. EPA's review and evaluation of these substantive revisions will be addressed in a separate rulemaking action.

The documents submitted by Virginia on April 12, 1989 and February 12, 1993, and listed in Appendix M, consist of Federal regulations codified in the Code of Federal Regulations (CFR), widely circulated government documents, and widely circulated scientific and technical documents. Any requirement contained in the CFR is already federally enforceable.

Cross-references to Appendix M are found in various sections of Part V (New and Modified Sources) of Virginia's air pollution control regulations. In turn, Part V is cross-referenced in provisions of Part VIII which are part of the SIP, and therefore federally enforceable. EPA's approval of Appendix M would allow the Agency to ensure that New Source Performance Standards requirements codified at 40 CFR part 60 are being applied to the applicable new and modified sources.

Because 40 CFR part 60 is already a Federal regulation, EPA cannot approve the text found in Appendix M through the incorporation by reference (IBR) procedures established at 1 C.F.R. Part 51, (the mechanism used for incorporating State regulations into federally enforceable regulations). Where conflicts exist between the most current provisions of 40 CFR part 60 and those which existed as of July 1, 1991, EPA will apply the most current provisions of 40 CFR part 60.

Virginia did not submit, as part of the SIP revision request, actual copies of the scientific and technical documents cross-referenced in Parts I, IV and VIII. Therefore, EPA considers the IBR process to be inappropriate for incorporating the text of Appendix M into the SIP. However, these documents listed in Appendix M are widely available, and can be easily obtained from libraries, professional societies such as ASTM, the National Technical Information Service (NTIS), and the Government Printing Office (GPO). Therefore, EPA has determined that the documents listed in Appendix M are to be considered as part of the federally-enforceable SIP. EPA's approval action is confined to Sections II.A. through II.E. and Section II.G. of Appendix M, which lists the specific documents to be cited in the federally enforceable

Virginia SIP. The remainder of Appendix M contains text which pertains to internal State administrative processes and control of hazardous materials, neither of which is governed by the SIP.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document published elsewhere in this **Federal Register**, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 23, 1995 unless, within 30 days of publication, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on October 23, 1995.

### Final Action

EPA is approving the revisions to Parts I, IV and VIII, and the addition of Appendix M submitted by Virginia on April 12, 1989 as a revision to the Virginia SIP. EPA is also approving the additional revisions to Appendix M submitted on February 12, 1993 as a revision to the Virginia SIP. Accordingly, 40 CFR 52.2420 (Identification of Plan) is revised to reflect EPA's approval of the revisions to Parts I, IV, and VIII, and 40 CFR 52.2423 (Approval status) is revised by adding subsections (m) and (n) to reflect EPA's approval of Virginia's Appendix M, Sections II.A. through II.E. and II.G. into the SIP regulations.

The Agency has reviewed Virginia's April 12, 1989 submittal for revision of the Federally-approved State implementation plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990. The Agency has determined that this action conforms with those requirements irrespective of the fact that the submittal preceded the date of enactment.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for

revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

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 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 proposed/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.

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 23, 1995. 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 to approve miscellaneous administrative revisions to the Virginia SIP 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur Oxides.

Dated: July 6, 1995.  
 W.T. Wisniewski,  
 Acting Regional Administrator, Region III.

40 CFR part 52, is amended as follows:

**PART 52—[AMENDED]**

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

Authority: 42 U.S.C. 7401-7671q.

**Subpart VV—Virginia**

2. Section 52.2420 is amended by adding paragraph (c)(105) to read as follows:

**§ 52.2420 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(105) Revisions to the Virginia Regulations For the Control and Abatement of Air Pollution submitted on April 12, 1989 by the Virginia Department of Air Pollution Control:

(i) Incorporation by reference.

(A) Letter from the Virginia Department of Air Pollution Control dated April 12, 1989 submitting a revision to the Virginia State Implementation Plan.

(B) The following provisions of the Virginia regulations, effective October 1, 1986.

(1) Part I Definitions. Section 1.02 (Definitions of "Reference method," "Reid vapor pressure," "Stationary

source," "True vapor pressure" and "Vapor pressure").

(2) Part IV Emission Standards from Existing Sources.

Rule 4-5, Sections 120-08-0502C. (Definitions of "Condenser," "Production equipment exhaust system," "Reactor" and "Synthesized pharmaceutical products manufacturing") and 120-04-0504C.3.b. (Control Technology Guidelines)

Rule 4-21, Sections 120-04-2102C. (Definitions of "Sulfuric acid mist" and "Sulfuric acid production unit") and 120-04-2110E. (Monitoring)

Rule 4-34, Section 120-04-3402C. (Definitions of "Application area," "Carbon adsorption system," "Coating applicator," "Extreme environmental conditions," "Flashoff area," "Miscellaneous metal parts and products" and "Major groups")

Rule 4-37, Sections 120-04-3702C. (Definitions of "Bulk gasoline plant," "Bulk gasoline terminal," "Condensate," "External floating roof," "Gasoline," "Gasoline dispensing facility," "Internal floating roof," "Liquid-mounted," "Petroleum liquids," "Petroleum refinery," "Submerged fill pipe," "vapor-mounted," "Vapor tight" and "Waxy, heavy pour crude oil") and 120-04-3704C.2.b (Control Technology Guidelines)

Rule 4-41, Sections 120-04-4102C. (Definitions of "Mobile source" and "Motor vehicle") and 120-04-4105B.2. (Export/Import of Motor Vehicles)

(3) Part VIII Permits.

Section 120-08-01 (Permits—New and Modified Stationary Sources), subsections 120-08-01B3. (definitions of "Allowable emissions," "Begin actual construction," "Commence," "Construction," "Emissions units," "Federally enforceable," "Fixed capital cost," "Major modification," "Major stationary source," "Modification," "Modified source," "Necessary preconstruction approvals or permits," "New source," "Potential to emit," "Public comment period," "Reactivation," "Reconstruction," "Secondary emissions," "State enforceable," "Stationary source" and "Uncontrolled emission rate") and 120-08-01C.4.d. (General)

Section 120-08-03 (Permits—Major Stationary Sources and Major Modifications Locating in Nonattainment Areas), subsections 120-08-03B.3. (all terms) and 120-08-03N.7. (Offsets)

(ii) Additional material.

(A) Remainder of February 12, 1989 State submittal pertaining to the revised provisions of Parts I, IV and VIII.

3. Section 52.2423 is amended by adding paragraphs (m) and (n) to read as follows:

**§ 52.2423 Approval status.**

\* \* \* \* \*

(m) EPA approves as part of the Virginia State Implementation Plan the documents listed in Appendix M, Sections II.A. through II.E and Section II.G. of the Virginia Regulations for the Control and Abatement of Air Pollution

submitted by the Virginia Department of Air Pollution Control on April 12, 1989.

(n) EPA approves as part of the Virginia State Implementation Plan the revised references to the documents listed in Appendix M, Sections II.A. and II.B. of the Virginia Regulations for the Control and Abatement of Air Pollution submitted by the Virginia Department of Air Pollution Control on February 12, 1993.

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#### 40 CFR Part 180

[PP-8F3662/R1176; FRL-4178-2]

RIN 2070-AB78

### Urea; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** This document establishes a permanent exemption from the requirement of a tolerance for residues of the frost protectant urea in or on various agricultural commodities. Unocal Corp. requested this regulation pursuant to the Federal Food, Drug and Cosmetic Act.

**EFFECTIVE DATE:** This regulation becomes effective August 23, 1995.

**ADDRESSES:** Written objections and hearing requests, identified by the document control number, [PP 8F3662/R1176], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of

objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 8F3662/R1176]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

**FOR FURTHER INFORMATION CONTACT:** By mail: Cynthia Giles-Parker, Product Manager (PM) 22, Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 229, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-308-8323; e-mail: giles-parker.cynthia@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** EPA issued a notice, published in the *Federal Register* of October 12, 1988 (53 FR 39784), which announced that the Unocal Corp., 3960 Industrial Blvd., Suite 600-B, West Sacramento, CA 95691, had submitted pesticide petition (PP) 8F3662 to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), establish an exemption from the requirement of a tolerance for the frost protectant urea in or on all raw agricultural products. The proposed exemption was subsequently editorially amended to specify the following crops on the label of the product proposed for registration under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended: alfalfa, almonds, apples, apricots, artichokes, asparagus, avocados, beans, bell peppers, blackberries, blueberries, broccoli, brussels sprouts, boysenberries, caneberries, canola, cantaloupe, carrots, cauliflower, casaba, celery, cherries, chili peppers, chinese cabbage (bok choy, napa), cooking peppers, corn, cotton, crenshaw, cucumbers, figs, grapefruit, grapes, honeydew melon, hops, kiwifruit, kohlrabi, lemons, lentils, lettuce, limes, macadamia nuts, musk melon, nectarines, olives, onions, oranges, peaches, pears, peanuts, peas, persian melon, pistachios, plums, potatoes, pumpkin, prunes, radish, raspberries, rice, safflower, sorghum, spinach, spinach (New Zealand), squash (winter and summer), strawberries,

sugar beets, sunflower, sweet pepper, table beets, tangerines, tomatoes, walnuts, watermelon, and zucchini.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The toxicological data considered in support of the exemption from the requirement of a tolerance include an acute oral toxicity study in the rat, an acute dermal toxicity study in the rabbit, an acute inhalation toxicity study in the rat, a primary eye irritation study in the rabbit, a primary dermal irritation study in rabbits, and a dermal sensitization study in the guinea pig. These studies were performed on the end-use product, "Enfrost," with 42.9-percent urea. A review of these studies indicates that the frost protectant has a low toxicity to animals when administered via the oral, dermal, or inhalation routes of exposure (Toxicity Categories III and IV). The active ingredient, urea, has GRAS (Generally Recognized as Safe) status as a direct food additive under title 21 of the Code of Federal Regulations (CFR) under 40 CFR 184.1923. Urea is exempt from the requirement of a tolerance under 40 CFR 180.1001(c) as an inert ingredient in formulations applied to growing crops or crops after harvest. The amount to be used is similar to that permitted for the inert ingredient use. Urea is a normal constituent of animal tissues and body fluid. Humans excrete about 25 grams per day in the urine. Urea is a naturally occurring crop/plant constituent.

Acceptable daily intake (ADI) and maximum permissible intake (MPI) considerations are not relevant to this petition. No enforcement actions are expected. Therefore, the requirement for an analytical method for enforcement purposes is not applicable to this exemption request.

Urea is considered useful for the purpose for which the exemption from the requirement of a tolerance is sought. There are no regulatory actions pending against the registration of urea. Based on the information considered, the Agency concludes that establishment of a tolerance is not necessary to protect the public health, and therefore, the exemption from the requirement of a tolerance is established as set forth below.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

