

shall be the effective date of 40 CFR part 71, which is July 31, 1996.

[61 FR 58292, Nov. 13, 1996; 61 FR 66077, Dec. 16, 1996]

Subpart D—The U.S. Virgin Islands

§ 69.41 New exemptions.

(a) Pursuant to section 325(a) of the Clean Air Act and a petition submitted by the Governor of the Virgin Islands, an exemption to section 123 of the Clean Air Act is granted to the Hess Oil Virgin Islands Corporation (HOVIC) at the St. Croix refinery. Specifically, the exemption waives the prohibition on the implementation of an Intermittent Control Strategy (ICS) based upon atmospheric conditions in order to set emission limitations. The emission limitations shall depend upon the sulfur content in the residual oil burned at the refinery.

(b) The protocol to be followed for the ICS shall be set forth in a Prevention of Significant Deterioration of Air Quality (PSD) permit issued to HOVIC; and shall include as a minimum, the conditions listed in paragraphs (b)(1), (b)(2), (b)(3), and (b)(4) of this section.

(1) HOVIC shall maintain a meteorological tower on its property for the purpose of the ICS which meets the required EPA QA/QC operating specifications. At a minimum, the wind direction data will be monitored, collected and reported as 1-hour averages, starting on the hour. If the average wind direction for a given hour is from within the designated sector, the wind will be deemed to have flowed from within the sector for that hour. Each "day" or "block period", for these purposes will start at midnight and end the following midnight.

(2) HOVIC shall maintain SO₂ ambient monitors and collect ambient SO₂ concentration data for the purpose of implementing the ICS at nearby locations approved by EPA and specified in the PSD permit. The ambient monitors must follow the required EPA QA/QC operating specifications. At a minimum, the data will be collected according to EPA approved State and Local Ambient Monitoring Stations procedures found at 40 CFR 58.20, but will, for these purposes, be averaged by the hour, starting on the hour.

(3) The switch to a lower sulfur fuel (0.5%) will take place when paragraphs (b)(3)(i) or (b)(3)(ii) of this section are met.

(i) The winds blow from a 45 degree sector defined as 143 to 187 degrees inclusive, where zero degrees is due north, for at least 6 consecutive hours during a 24-hour block period or any 12 non-consecutive hours during a 24 hour block period.

(ii) One of HOVIC's ICS monitors measures an average ambient SO₂ concentration that is 75% of the 24-hour NAAQS during any rolling 24-hour average. (75% of the 24-hour NAAQS = 274 ug/m³ or 0.105 ppm).

(4) The switch back to the higher sulfur fuel (1.0%) may occur if the conditions in paragraphs (b)(4)(i), (b)(4)(ii), and (b)(4)(iii) of this section are met.

(i) If the ICS was triggered by paragraph (b)(3)(i) of this section, the switch back may occur when the winds blow outside the sector listed in paragraph (b)(3)(i) of this section for at least 3 consecutive hours following the period during which the winds were blowing inside the sector.

(ii) If the ICS was triggered by paragraph (b)(3)(ii) of this section, the switch back may occur after all of HOVIC's ICS ambient monitors measure a 24-hour average concentration which is less than 75% of the NAAQS for at least one 24-hour block period following any occurrence when the monitor measured the concentration which was 75% of the NAAQS.

(iii) If the ICS was triggered by both paragraphs (b)(3)(i) and (b)(3)(ii) of this section, the switch back may occur when both of the conditions in paragraphs (b)(4)(i) and (b)(4)(ii) of this section are met.

(c) The protocol may be modified by EPA to protect against exceedances of the sulfur dioxide NAAQS.

(d) In the event that there is an exceedance of the NAAQS, HOVIC will report the exceedance to EPA and recommend corrective action as well as amendments to the protocol to ensure the protection of the NAAQS.

(e) HOVIC must comply with all fuel switching requirements, contained in HOVIC's PSD permit.

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(f) This exemption shall take effect only in the event that a final PSD permit modification becomes effective.

(g) The Administrator may terminate the exemption through rulemaking procedures upon determining that HOVIC's use of the ICS is causing or contributing to an exceedance of the NAAQS.

[62 FR 61205, Nov. 14, 1997]

Subpart E—Alaska

§ 69.51 Motor vehicle diesel fuel.

(a) Diesel fuel that is designated for use only in Alaska and is used only in Alaska, is exempt from the sulfur standard of 40 CFR 80.29(a)(1) and the dye provisions of 40 CFR 80.29(a)(3) and 40 CFR 80.29(b) until the implementation dates of 40 CFR 80.500, provided that:

(1) The fuel is segregated from non-exempt diesel fuel from the point of such designation; and

(2) On each occasion that any person transfers custody or title to the fuel, except when it is dispensed at a retail outlet or wholesale purchaser-consumer facility, the transferor must provide to the transferee a product transfer document stating:

This diesel fuel is for use only in Alaska. It is exempt from the federal low sulfur standards applicable to highway diesel fuel and red dye requirements applicable to non-highway diesel fuel only if it is used in Alaska.

(b) Beginning on the implementation dates in 40 CFR 80.500, diesel fuel that is designated for use in Alaska or is used in Alaska, is subject to the applicable provisions of 40 CFR Part 80, Subpart I, except as provided under paragraph (c) of this section. The Governor of Alaska may submit for EPA approval, by April 1, 2002, a plan for implementing the sulfur standard in Alaska as an alternative to the temporary compliance option provided under §§ 80.530–80.532. If EPA approves an alternative plan, the provisions as approved by EPA under that plan shall apply to the diesel fuel subject to this paragraph (b).

(c) If such diesel fuel is designated as fuel that does not comply with the standards and requirements for motor vehicle diesel fuel under 40 CFR Part

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80, Subpart I, it is exempt from the dye presumption of 40 CFR 80.520(b)(2) provided that:

(1) The fuel is segregated from all motor vehicle diesel fuel.

(2) On each occasion that any person transfers custody or title to the fuel, except when it is dispensed at a retail outlet or wholesale purchaser-consumer facility, the transferor must provide to the transferee a product transfer document complying with the requirements of 40 CFR 80.590(a) through (d) and (g), and stating:

This diesel fuel is for use only in Alaska and is not for use in highway vehicles. It is exempt from the red dye requirement applicable to non-highway diesel fuel only if it is used in Alaska.

(3) Any pump dispensing the fuel must comply with the labeling requirements in 40 CFR 80.570(c).

[66 FR 5134, Jan. 18, 2001]

PART 70—STATE OPERATING PERMIT PROGRAMS

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APPENDIX A TO PART 70—APPROVAL STATUS OF STATE AND LOCAL OPERATING PERMITS PROGRAMS

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

SOURCE: 57 FR 32295, July 21, 1992, unless otherwise noted.

§ 70.1 Program overview.

(a) The regulations in this part provide for the establishment of comprehensive State air quality permitting systems consistent with the requirements of title V of the Clean Air Act (Act) (42 U.S.C. 7401, *et seq.*). These regulations define the minimum elements required by the Act for State operating