

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 69**

[Region 2 Docket No. VI-5-265 B, FRL-7605-6]

**Special Exemption From Requirements of the Clean Air Act for the Territory of United States Virgin Islands**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing approval of a petition, from the Governor of the Virgin Islands (US VI), which seeks an exemption of the Clean Air Act (CAA) section 165(a) requirement to obtain a Prevention of Significant Deterioration (PSD) permit to construct prior to construction of a new gas turbine at the Virgin Islands Water and Power Authority (VIWAPA) St. Thomas facility. This exemption allows for construction, but not operation, of Unit 23 prior to issuance of a final PSD permit.

**DATES:** This direct final rule is effective on March 1, 2004, without further notice, unless EPA receives adverse comment by January 30, 2004. If any adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Steven C. Riva, Chief, Permitting Section, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, New York, New York 10007-1866. Electronic comments could be sent either to [Riva.Steven@epa.gov](mailto:Riva.Steven@epa.gov) or to <http://www.regulations.gov> which is an alternative method for submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. Please follow the on-line instructions for submitting comments.

Copies of the Governor's petition and submittals relied upon in the approval process are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, New York, New York 10007-1866, Attn: Umesh Dholakia.

Environmental Protection Agency, Region 2 Office, Caribbean Field Office, Centro Europa Building, Suite 417, 1492 Ponce de Leon Avenue, Stop 22, San Juan, Puerto Rico 00907-4127, Attn: John Aponte.

The U. S. Virgin Islands Department of Planning and Natural Resources (VIDPNR), Division of Environmental Protection, Cyril E. King Airport, Terminal Building, Second Floor, St. Thomas, U.S. Virgin Islands 00802, Attn: Leslie Leonard.

**FOR FURTHER INFORMATION CONTACT:** Umesh Dholakia, Environmental Engineer, Air Programs Branch, Division of Environmental Protection and Planning, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4023 or at [Dholakia.Umesh@epa.gov](mailto:Dholakia.Umesh@epa.gov).

**SUPPLEMENTARY INFORMATION:** The following table of contents describes the format for the **SUPPLEMENTARY INFORMATION** section:

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**I. What Action Is EPA Taking Today?**

EPA is approving a petition from the U.S. VI Governor seeking an exemption of the CAA requirement to obtain a PSD permit to construct prior to commencing construction of a new gas turbine at the VIWAPA St. Thomas facility.

Pursuant to section 325(a) of the CAA, on July 21, 2003, the Governor of the U.S. VI filed a petition with the Administrator seeking an exemption from the CAA section 165(a) PSD requirement to obtain a PSD permit to construct prior to commencing construction. The Governor requested the exemption on behalf of VIWAPA so that it can proceed, as quickly as possible, to construct Unit 23, a 36 megawatt (MW) gas turbine at its St. Thomas facility.

This exemption will allow for construction, not operation, prior to issuance of a final PSD permit, of Unit 23 at the VIWAPA St. Thomas facility.

**II. What Are the Regulatory Requirements for Authorizing an Exemption Under the CAA?**

Section 325(a) of the CAA provides the Administrator of EPA the authority to exempt sources in the U.S. VI from any requirement under the Act other

than section 112 or any requirement under section 110 or part D necessary to attain or maintain National Ambient Air Quality Standard (NAAQS) provided the Administrator determines that compliance is not feasible due to unique geographical, meteorological or economic factors or such other factors deemed significant.

**III. What Are the Bases for the Petitioner's Request?**

The Petitioner contends that granting this exemption will not impact upon compliance with any requirement under sections 112, 110, or part D of the Act necessary to attain or maintain National Ambient Air Quality Standards. To support this contention, petitioner first acknowledges that because the exemption will not authorize operation of the unit until after receipt of the PSD permit, the exemption will not result in any violations of sections 112, 110, or part D of the Act necessary to attain or maintain a NAAQS. In addition petitioner contends that modeling, submitted in support of the permit application for the unit and supplemented since that application, demonstrates that NAAQS and PSD increments will continue to be preserved if both the new unit and all other existing units on St. Thomas are operating at maximum permitted capacity burning.

Petitioner further asserts that the exemption should be granted because of severe geographic constraints on the U.S. VI power system and because of a power crisis on St. Thomas. A summary of these assertions appears below:

*a. Geographic Constraints*

The petitioner contends that the exemption is necessary because of severe geographic constraints on the U.S. VI power system. The petition states that the VIWAPA St. Thomas facility is unable to interconnect with a larger power supply grid. Furthermore, the petition states that the distance between St. Thomas and St. Croix prohibit interconnection between the two VIWAPA plants. Thus, the petitioner explains, St. Thomas is serviced by a single power plant.

The petitioner also contends that when significant problems occur units must be shipped off-island for inspection and repair because vendors who provide such services are not located within the U.S. VI. The reasons it provides for this are that vendors do not have inspection and repair facilities in the U.S. VI. Thus, the petition states, major outages extend longer and cost more to correct than they would on the mainland. The petitioner explains that