public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in providing comments on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing, postmarked by December 8, 1995.

ADDRESSES: Copies of the State's submittal and other relevant information are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 665–7214.

Texas Natural Resource Conservation Commission, Mobile Source Division, 12124 Park 35 Circle, Austin, Texas 78753, Telephone: (512) 239–1943.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P. E.; Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone (214) 665–7247.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule which is located in the Rules Section of this Federal Register.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 20, 1995.

A. Stanley Meiburg,

Acting Regional Administrator (6RA).

[FR Doc. 95–27681 Filed 11–7–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[TN–KNOX–95–01; FRL–5327–9]

Clean Air Act Proposed Full Approval, or in the Alternative, Proposed Interim Approval of Operating Permits Program: Knox County Department of Air Pollution Control, Knox County, Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval, or proposed interim approval in the alternative.

SUMMARY: The EPA proposes full approval of the operating permits program submitted by the Department of Air Pollution Control located in the geographic area of Knox County, Tennessee. Alternatively, EPA proposes to grant interim approval if specified changes are not adopted prior to final promulgation of this rulemaking. Knox County's program was submitted for the purpose of complying with Federal requirements which mandate that states and local agencies develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

DATES: Comments on this proposed action must be received in writing by December 8, 1995.

ADDRESSES: Written comments on this action should be addressed to Carla E. Pierce, Chief, Air Toxics Unit/Title V Program Development Team, Air Programs Branch, at the EPA Region 4 office listed below. Copies of the Knox County submittal and other supporting information used in developing the proposed interim approval are available for inspection during normal business hours at the following location: Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Title V Development Team, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555, extension 4150.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under title V of the 1990 Clean Air Act (''the Act'') as amended by the 1990 Clean Air Act Amendments, EPA has promulgated rules on July 21, 1992 (57 FR 32250) which define the minimum elements of an approvable State/Local operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state or local agency operating permits programs. These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V and part 70 require that states or authorized local agencies develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act requires that States or authorized local agencies develop and submit these programs to EPA by November 15, 1993, and EPA to approve or disapprove each program within 1 year after receiving the submittal. If the State or local agency submission is materially changed during the one-year review period, 40 CFR 70.4(e)(2) allows EPA to extend the review period for no more than one year following receipt of the additional materials. Knox County provided EPA with additional materials in supplemental submittals dated August 24, 1994, January 6, 1995, January 19, 1995, February 6, 1995, May 23, 1995, and September 18 and 25, 1995. Because these supplements materially changed the County's submittal, EPA has extended the one-year review period.

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 November 15, 1995, or by the end of an interim program, it must establish and implement a Federal operating permits program for that State or local agency.

II. Proposed Action and Implications

A. Analysis of Knox County's Submission

The Department of Air Pollution Control has requested full approval of its title V operating permits program, which covers the geographic area of Knox County within the State of Tennessee. EPA has concluded that the operating permits program submitted by the Tennessee Department of Environment and Conservation (TDEC) on behalf of the Knox County Department of Air Pollution Control (''Knox County'' or ''the County'') meets the requirements of title V and part 70, and proposes to grant full/interim approval to the program. For detailed information on the analysis of the Knox County submission, please refer to the Technical Support Document (TSD) contained in the docket at the address noted above.

1. Program Support Materials

Pursuant to section 502(d) of the Act, each state or local agency must develop and submit to the Administrator an operating permits program under State or local law or under an interstate compact meeting the requirements of title V of the Act. On November 12, 1993, the TDEC requested, under the signature of the Tennessee Governor's designee, approval of the Knox County operating permit program with full authority to administer the program in all areas of the County. The County has

delegated authority to implement part 70 under Tennessee law (Tennessee Code Annotated (TCA), section 68–25–115). The TDEC supplemented the program submittal on August 24, 1994, January 6 and 19, 1995, February 6, 1995, and May 23, 1995.

The Knox County submittal addresses, in section II entitled ''Complete Program Description,'' the requirements of 40 CFR 70.4(b)(1) by describing how the County intends to carry out its responsibilities under the part 70 regulations. EPA has deemed the program description to be sufficient for meeting the requirements of 40 CFR 70.4(b)(1).

Pursuant to 40 CFR 70.4(b)(3), each state or local authority is required to submit a legal opinion from the Attorney General (or the attorney for the state or local air pollution control agency that has independent legal counsel) demonstrating adequate authority to carry out all aspects of the title V operating permits program. The Knox County Law Director submitted a Legal Opinion demonstrating adequate legal authority as required by Federal law and regulation.

Section 70.4(b)(4) requires the submission of relevant permitting program documentation not contained in the regulations, such as permit application forms, permit forms, and relevant guidance to assist in the County's implementation of its permit program. Section V of the Knox County submittal includes the permit application forms, permit forms, and relevant guidance that the County intends to use for the implementation of its permit program. EPA has determined that the application forms meet the requirements of 40 CFR 70.5(c).

2. Regulations and Program Implementation

Knox County developed section 25.70 of the Knox County Air Pollution Control (K.C.A.P.C.) Regulations for the implementation of the substantive requirements of 40 CFR part 70. The County also incorporated K.C.A.P.C. sections 25.8, 30.0, 35.3, and 49.0 to implement other part 70 requirements. These rules, and several other rules and statutes providing for the County's permitting and administrative actions, were submitted by Knox County with sufficient evidence of procedurally correct adoption as required by 40 CFR 70.4(b)(2).

The Knox County program, in K.C.A.P.C. section 25.70.3, meets the requirements of 40 CFR 70.2 and 70.3 with regard to applicability. K.C.A.P.C. sections 25.70.4, 25.70.5, and 25.70.6, substantially meet the requirements of 40 CFR 70.4, 70.5, and 70.6 for permit content (including operational flexibility) and complete permit application forms. In addition, the County's program provides for off-permit changes as described in 40 CFR 70.4(b)(14) in K.C.A.P.C. section 20.70.15. However, K.C.A.P.C. sections 25.70.5(c)(7) and 25.70.7(e)(2) do not reference emissions trading as required by 40 CFR 70.4(b)(12)(iii), 70.5(c)(7), and 70.6(a)(10). As a condition of full approval, Knox County has committed to rectify this lack of flexibility on emissions trading procedures. In a letter dated September 25, 1995, the County has proposed to incorporate the following language in K.C.A.P.C. section 25.70.7(e)(2)(i)(B): ''Notwithstanding paragraphs (e)(2)(i)(A) and (e)(3)(i) of this section, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by EPA. The Department may establish additional requirements for such permit conditions.''

Section 70.4(b)(2) requires States and local agencies to include in their part 70 programs any criteria used to determine insignificant activities or emission levels for the purpose of determining complete applications. Section 70.5(c) states that an application for a part 70 permit may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate appropriate fee amounts. Section 70.5(c) also states that EPA may approve, as part of a state program, a list of insignificant activities and emissions levels which need not be included in permit applications. Under part 70, a state or local agency must request and EPA may approve as part of that state's or local agency's program any activities or emission levels that they wish to consider insignificant. Part 70, however, does not establish emissions thresholds for insignificant activities. EPA has accepted emissions thresholds of five tons per year for criteria pollutants, and the lesser of 1000 pounds per year or section 112(g) de minimis levels for HAP, as reasonable.

The regulations addressing the insignificant activities list of Knox County can be found in K.C.A.P.C. section 25.70.12. This section provides for the exemption of certain emissions units, or pollutant-emitting activities from the title V permitting process. As required by 40 CFR 70.5(c), the County included language in this section to ensure that information needed to determine the applicability of, or to impose any applicable requirement, or to collect any permit fees is not excluded from the application.

Part 70 requires prompt reporting of deviations from the permit requirements. Section 70.6(a)(3)(iii)(B) requires the permitting authority to define ''prompt'' in relation to the degree and type of deviation likely to occur and the applicable requirements. Although the permit program regulations should define ''prompt'' for purposes of administrative efficiency and clarity, an acceptable alternative is to define ''prompt'' in each individual permit. EPA believes that ''prompt'' should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement, given this is a distinct reporting obligation under section 70.6(a)(3)(iii)(A). Where ''prompt'' is defined in the individual permit but not in the program regulations, EPA may veto permits that do not contain sufficiently prompt reporting of deviations. Knox County has not defined ''prompt'' in its program with respect to the reporting of deviations. The contents of K.C.A.P.C. section 25.70.6(a)(3)(iii)(B) requires ''prompt reporting of deviations from permit requirements . . .'', but does not specify what will be considered as prompt reporting. In a letter dated September 25, 1995, Knox County committed to include the following sentence in K.C.A.P.C. section 25.70.6(a)(3)(iii)(B): ''The term ''prompt'', in relation to the degree and type of permit deviations likely to occur, will be defined within each permit according to an EPA approved protocol, such as the EPA/Local Implementation Agreement.''

Knox County has the authority to issue variances from requirements imposed by State law under K.C.A.P.C. section 28.0. EPA regards this provision as wholly external to the program submitted for approval under part 70, and consequently proposes to take no action on this provision of State law. EPA has no authority to approve provisions of state law, such as the variance provision referred to, that are inconsistent with title V. EPA does not

recognize the ability of a permitting authority to grant relief from the duty to comply with a Federally enforceable part 70 permit, except where such relief is granted through the procedures allowed by part 70. A part 70 permit may be issued or revised (consistent with part 70 permitting procedures) to incorporate those terms of a variance that are consistent with applicable requirements. A part 70 permit may also incorporate, via part 70 permit issuance or modification procedures, the schedule of compliance set forth in a variance. However, EPA reserves the right to pursue enforcement of applicable requirements notwithstanding the existence of a compliance schedule in a permit to operate. This is consistent with 40 CFR 70.5(c)(8)(iii)(C), which states that a schedule of compliance ''shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.''

Knox County's program, in K.C.A.P.C. section 25.70.7, meets the permit processing requirements (including public participation and minor permit modifications) of 40 CFR 70.7. The permit review by EPA and affected States requirements of 40 CFR 70.8 are addressed in K.C.A.P.C. section 25.70.8.

In K.C.A.P.C. section 30.0, and in T.C.A. sections 68–210–112 and 68–210–116, the County substantially addresses the requirements of 40 CFR 70.11 with respect to enforcement authority. In response to the comments made by EPA during its substantial review of the County's program, on September 18, 1995, Knox County proposed revisions to the enforcement portion of its program submittal. Such changes are outline below.

In the area of civil penalty assessment, K.C.A.P.C. section 30.1(D) describes that the Director has the authority to assess civil penalties against any person. However, this item does not specify that the maximum fine shall be no less than $10,000 per day per violation, as required by 40 CFR 70.11(a)(3). Knox County has proposed a revision to K.C.A.P.C. section 30.1(D) to specify that the maximum fine shall be no less than $10,000 per day per violation.

Knox County does not have authority to restrain or enjoin immediately and effectively any person by order or by suit in court from engaging in any activity in violation of a permit that is presenting an imminent and substantial endangerment to the public health or welfare of the environment. The County has proposed to incorporate in section 30.1(G) the appropriate authority to satisfy the requirements of 40 C.F.R. 70.11(a)(1). Specifically, the provision will read as follows: ''The Director has the authority to restrain or enjoin immediately and effectively any person, by order or by suit in court, from engaging in any activity in violation of a permit or the Knox County Air Pollution Control Regulations that is presenting an imminent and substantial endangerment to the public health or welfare, or the environment.''

The contents of K.C.A.P.C. section 30.1(F) give the Director in Knox County authority to ''cause to be instituted a civil action in any court of competent jurisdiction for injunctive relief to prevent violation of any regulation promulgated by the Board or any order duly issued by the Director . . .''. It is not clear whether this can be done ''without the necessity of a prior revocation of a permit'' as required by 40 CFR 70.11(a)(2). As a condition of full approval, Knox County has committed to incorporate in section 30.1(F) the following statement: ''Such actions may be taken by the Director without the necessity of a prior revocation of any permit.''

EPA has determined that the proposed provisions submitted by Knox County on September 18 and 25, 1995, are acceptable. As condition of full approval, the County plans to expeditiously adopt the proposed change prior to EPA's final action on the County's program.

The aforementioned TSD contains the detailed analysis of the Knox County program and describes the manner in which the County's program meets all of the operating permit program requirements of 40 CFR part 70.

3. Permit Fee Demonstration

Section 502(b)(3) of the Act requires each permitting authority to collect fees sufficient to cover all reasonable direct and indirect costs necessary for the development and administration of its title V operating permit program. Each title V program submittal must contain either a detailed demonstration of fee adequacy or a demonstration that aggregate fees collected from title V sources meet or exceed $25 per ton of emissions per year (adjusted from 1989 by the Consumer Price Index (CPI)). The $25 per ton is presumed, for program approval, to be sufficient to cover all reasonable program costs and is thus referred to as the ''presumptive minimum.''

Knox County will collect permit and emission-based fees that are projected at $29.26 per ton of pollutant in 1995. Fees will be adjusted annually by the Consumer Price Index beginning in 1996. The fee demonstration showed that the fees collected will adequately cover the anticipated costs of the operating permit program for the years 1995 through 1999.

4. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority for Section 112 Implementation. In its program submittal, Knox County demonstrates adequate legal authority to implement and enforce all section 112 requirements through the title V permit. This legal authority is contained in K.C.A.P.C. section 35.0, and in section 25.70.2 where the term ''applicable requirements'' is defined. EPA has determined that this legal authority is sufficient to allow the local agency to issue permits that assure compliance with all section 112 requirements.

EPA is interpreting the above legal authority to mean that Knox County is able to carry out all section 112 activities with respect to part 70 and non-part 70 sources. For further rationale on this interpretation, please refer to the TSD.

b. Implementation of Section 112(g) Upon Program Approval. EPA issued an interpretive notice on February 14, 1995 (60 FR 8333), which outlines EPA's revised interpretation of section 112(g) applicability. The notice postpones the effective date of section 112(g) until after EPA has promulgated a rule addressing that provision. The notice sets forth in detail the rationale for the revised interpretation.

The section 112(g) interpretative notice explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the Federal rule so as to allow states or local agencies time to adopt rules implementing the Federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), Knox County must have a Federally enforceable mechanism for implementing section 112(g) during the period between promulgation of the Federal section 112(g) rule and adoption of implementing local regulations.

EPA is aware that Knox County lacks a program designed specifically to implement section 112(g). However, the County does have a preconstruction review program that can serve as an adequate implementation vehicle during the transition period because it would allow the County to select control measures that would meet the maximum achievable control technology (MACT), as defined in section 112, and incorporate these

measures into a Federally enforceable preconstruction permit. For this reason, EPA proposes to approve the use of Knox County's preconstruction review program found in K.C.A.P.C. section 25.1, under the authority of title V and part 70, solely for the purpose of implementing section 112(g) to the extent necessary during the transition period between section 112(g) promulgation and adoption of a local rule implementing EPA's section 112(g) regulations. Although section 112(l) generally provides authority for approval of local air programs to implement section 112(g), title V and section 112(g) provide for this limited approval because of the direct linkage between the implementation of section 112(g) and title V. The scope of this approval is narrowly limited to section 112(g) and does not confer or imply approval for purpose of any other provision under the Act (e.g., section 110). This approval will be without effect if EPA decides in the final section 112(g) rule that sources are not subject to the requirements of the rule until local regulations are adopted. The duration of this approval is limited to 18 months following promulgation by EPA of the section 112(g) rule to provide adequate time for the County to adopt regulations consistent with the Federal requirements.

c. Program for Delegation of Section 112 Standards as Promulgated. The requirements for part 70 program approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a state or local program for delegation of section 112 standards promulgated by EPA as they apply to title V sources. Section 112(l)(5) requires that the County's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA also proposes to grant approval, under section 112(l)(5) and 40 CFR 63.91, of Knox County's program for receiving delegation of future section 112 standards and programs that are unchanged from the Federal rules as promulgated. In addition, EPA proposes delegation of all existing standards and programs under 40 CFR parts 61 and 63 for part 70 sources and non-part 70 sources.[1]

Knox County has informed EPA that it intends to accept the delegation of future section 112 standards using the mechanism of adoption-by-reference. The details of the County's use of its delegation mechanism are set forth in a letter dated January 19, 1995, submitted by Knox County as a title V program addendum.

d. Commitment to Implement Title IV of the Act. Knox County adopted and incorporated by reference the provisions of 40 CFR part 72. On March 29, 1995, EPA published a Federal Register notice (60 FR 16127) notifying affected sources that the County's acid rain regulation was acceptable for purposes of administering an acid rain program and that the Knox County acid rain portion of the County's title V program has been established. Knox County has committed to incorporate by reference any new or revised provisions following promulgation by EPA.

B. Proposed Actions

1. Full Approval

The EPA is proposing full approval of the operating permits program submitted by Knox County on November 12, 1993, as supplemented on August 24, 1994, January 6 and 19, 1995, February 6, 1995, May 23, 1995, and September 18 and 25, 1995, if appropriate revisions to the County's program are adopted prior to final promulgation of this rulemaking. Knox County must make the following changes to receive full approval:

1. Knox County must revise the contents of K.C.A.P.C. section 25.70.7(e)(2)(i)(B) to provide for operational flexibility in accordance with 40 CFR 70.4(b)(12)(iii), 70.5(c)(7), and 70.6(a)(10). These requirements allow the permitting authority, if requested by permit applicants, to issue permits that contain terms and conditions allowing for the trading of emissions increases and decreases in permitted facilities.

2. Knox County must revise K.C.A.P.C. section 30.1(D) to specify that the maximum fine shall be no less than $10,000 per day per violation.

3. The County must revise K.C.A.P.C. section 30.1(G) to incorporate the requirements of 40 CFR 70.11(a)(1), with respect to the County's authority to restrain or enjoin immediately and effectively any person by order or by suit in court from engaging in any activity in violation of a permit that is presenting an imminent and substantial endangerment to the public health or welfare of the environment.

4. Knox County must revise K.C.A.P.C. section 30.1(F) to include the requirements of 40 CFR 70.11(a)(2) with respect to the authority ''to seek injunctive relief in court to enjoin any violation of any program requirement, including permit conditions, without the necessity of a prior revocation of a permit.''

EPA has determined that the Knox County program is otherwise adequate to meet the minimum elements of an approvable operating permits program as specified in 40 CFR part 70.

2. Interim Approval

Alternatively, EPA is proposing to grant interim approval under 40 CFR 70.4(d) to the Knox County operating permits program if the changes required for full approval, as described above, are not made prior to final promulgation of this rulemaking. EPA can grant interim approval because Knox County's program substantially meets the requirements of part 70 as discussed in section II(A) of this notice. The interim approval issues noted above will not prevent the County from issuing permits that are consistent with the part 70 program.

If EPA grants interim approval to the Knox County program, the interim approval would extend for two years following the effective date of final interim approval, and could not be renewed. During the interim approval period, Knox County would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a Federal permits program for Knox County. Permits issued under a program with interim approval are fully effective with respect to part 70. The 12-month time period for submittal of permit applications by sources subject to part 70 requirements and the three-year time period for processing the initial permit applications begin upon the effective date of final interim approval.

Following the granting of final interim approval, if Knox County fails to submit a complete corrective program for full approval by the date six months before expiration of the interim approval, EPA would start an 18-month clock for mandatory sanctions. If Knox County then fails to submit a corrective program that EPA finds complete before the expiration of that 18-month period, EPA is required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that Knox County has corrected the

[1] The radionuclide National Emission Standards for Hazardous Air Pollutant (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State operating permits program for part 70 sources. There is not yet a Federal definition of ''major'' for radionuclide sources. Therefore, until a major source definition for radionuclide is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under part 70 for another reason, thus requiring a part 70 permit. EPA will work with the State in the development of its radionuclide program to ensure that permits are issued in a timely manner.

deficiency by submitting a complete corrective program.

3. Other Actions

As discussed previously in section II.A.4.b., EPA proposes to approve Knox County's preconstruction review program found in K.C.A.P.C. section 25.1, under the authority of title V and part 70 solely for the purpose of implementing section 112(g) to the extent necessary during the transition period between 112(g) promulgation and adoption of a local rule implementing EPA's section 112(g) regulations.

In addition, as discussed in section II.A.4.c., EPA proposes to grant approval under section 112(l)(5) and 40 CFR 63.91 to the County's program for receiving delegation of future section 112 standards and programs that are unchanged from Federal rules as promulgated. EPA also proposes to delegate all existing standards under 40 CFR parts 61 and 63 for both part 70 and non-part 70 sources.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Copies of the Knox County submittal and other information relied upon for the proposed full/interim approval are contained in docket number TN–KNOX–95–01 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 proposed interim approval. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) to serve as the record in case of judicial review. The EPA will consider any comments received December 8, 1995.

B. Executive Order 12866

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

C. 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.

D. Unfunded Mandates Reform Act of 1995

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 proposed approval action promulgated today does not include a Federal 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. 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.

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.

Authority: 42 U.S.C. 7401–7671q.

Dated: October 31, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–27697 Filed 11–7–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[TN–CHAT–95–01; FRL–5328–1]

Clean Air Act Proposed Approval or, in the Alternative, Proposed Interim Approval of Operating Permits Program; Hamilton County, Tennessee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed approval.

SUMMARY: EPA proposes full approval of the operating permit program submitted by the State of Tennessee on behalf of the Chattanooga-Hamilton County Air Pollution Control Bureau (''CHCAPCB'' or ''the County'') if certain changes are made prior to final EPA action on this program. Alternatively, EPA proposes to grant interim approval if the necessary changes are not made. CHCAPCB's operating permit program was submitted for the purpose of complying with Federal requirements which mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources in the state.

DATES: Comments on this proposed action must be received in writing by December 8, 1995.

ADDRESSES: Written comments on this action should be addressed to Carla E. Pierce, Chief, Air Toxics Unit/Title V Program Development Team, Air Programs Branch, at the EPA Region 4 office listed below. Copies of CHCAPCB's submittal and other supporting information used in developing the proposed full/interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 4, third floor, 345 Courtland Street NE, Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: Kelly Fortin, Title V Program Development Team, Air Programs Branch, Air Pesticides & Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 345 Courtland Street NE, Atlanta, GA 30365, (404) 347–3555, Ext. 4223.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under title V of the Clean Air Act (''the Act'') as amended by the 1990 Clean Air Act Amendments, EPA promulgated rules on July 21, 1992 (57 FR 32250) that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state and local operating permit programs. These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V and part 70 require that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act requires states to develop and submit these programs to EPA by November 15, 1993, and EPA to approve to disapprove each program within one year after receiving the submittal. If the state's submission is materially changed