APPENDIX D—WTI SPOT PRICE, MARKET CENTER: MIDLAND, TX—Continued

[January 1997 Production and Sale]

Midland WTI spot trade date	Midland WTI spot delivery assess. month	Final Midland WTI spot	(Mean)
Jan–07–97	Feb. 1997	26.24	
Jan–08–97	Feb. 1997	26.48	
Jan–09–97	Feb. 1997	26.18	
Jan–10–97	Feb. 1997	26.02	
Jan–13–97	Feb. 1997	24.99	
Jan–14–97	Feb. 1997	24.88	
Jan–15–97	Feb. 1997	25.65	
Jan–16–97	Feb. 1997	25.10	
Jan–17–97	Feb. 1997	24.94	
Jan–20–97	Feb. 1997	24.80	
Jan–21–97	Feb. 1997	24.19	
Jan–22–97	Feb. 1997	23.88	
Jan–23–97	Feb. 1997	23.58	
Jan–24–97	Feb. 1997	23.66	
WTI Midland Avg Spot Price for January 1997		25.20	

APPENDIX E—NYMEX-BASED OIL ROYALTY COMPUTATION, NAVAJO NATION, MARKET CENTER: MIDLAND, TX

[January 1997 Production and Sale]

Average of Five High Daily NYMEX Settle Prices		$26.25
Cushing/Market Center Location Differential:		
WTI Cushing Average Spot Price	$25.38	
WTI Midland Average Spot Price	25.20	
WTI Midland over (under) WTI Cushing		(.18)
Market Center/Designated Area Location and Quality Differential (Exchange Agreement):		
Transportation and Quality Differential from Midland to Navajo reservation		(.25)
Royalty Value per barrel		25.82

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AD–FRL–5966–5]

Clean Air Act Withdrawal of Proposed Approval of Amendment to Title V Operating Permits Program and Proposed Approval of Amendments to Title V Operating Permits Program; Pima County Department of Environmental Quality, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed rule; proposed rule.

SUMMARY: The EPA withdraws its proposed approval (62 FR 16124, April 4, 1997) of revisions to the Pima County Department of Environmental Quality (''Pima'' or ''County'') title V operating permits program. In this document EPA also proposes approval of the following revisions to the operating permits program submitted by the Arizona Department of Environmental Quality (''DEQ'') on behalf of Pima: a revision to the fee provisions; and a revision that will defer the requirement for minor sources subject to standards under sections 111 or 112 of the Act to obtain title V permits, unless such sources are in a source category required by EPA to obtain title V permits.

DATES: Comments on this proposed action must be received in writing by March 16, 1998. Comments should be addressed to the contact indicated below.

ADDRESSES: Copies of Pima's submittals and other supporting information used in developing this proposed approval are available for inspection (AZ–Pima–97–1–OPS and AZ-Pima-97–2–OPS) during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9; 75 Hawthorne Street; San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas (telephone 415–744–1252), Mail Code AIR–3, U.S. Environmental Protection Agency, 75 Hawthorne Street; San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

As required under title V of the Clean Air Act as amended (1990), EPA has promulgated rules that define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which the EPA will approve, oversee, and withdraw approval of state operating permits programs (57 FR 32250; July 21, 1992). These rules are codified at 40 CFR part 70. Title V requires states to develop and submit to EPA, by November 15, 1993, programs for issuing these operating permits to all major stationary sources and to certain other sources. The EPA's program review occurs pursuant to section 502 of the Act, which outlines criteria for approval or disapproval.

On November 15, 1993, Pima's title V program was submitted. EPA proposed interim approval of the program on July 13, 1995 (60 FR 36083). The fee provisions of the program were found to be fully approvable. On November 14, 1995, in response to changes in state law, Pima amended its fee provisions under Chapter 12, Article VI of Title 17 of the Pima County Air Quality Control Code. Those changes were submitted to

EPA on January 14, 1997, after it promulgated final interim approval of Pima's title V program (61 FR 55910, October 30, 1996). EPA subsequently proposed to approve Pima's revised fee provisions (62 FR 16124, April 4, 1997). On July 17, 1997, EPA received a submittal from ADEQ on behalf of Pima requesting that EPA approve a revision to the applicability provisions of Pima's title V program.

II. Withdrawal of April 4, 1997 Proposed Action

Because EPA's evaluation of Pima's title V program fee provisions takes into account the numbers and types of sources requiring permits, EPA believes that, in light of the proposed changes to Pima's applicability provisions, it must reconsider its proposed action. EPA is therefore withdrawing its previous proposal to approve revisions to Pima's fee provisions and will in this notice evaluate the approvability of the fee changes in the context of the submitted changes to program applicability.

III. Proposed Action

EPA is proposing to approve the submitted amendments to the applicability and fee provisions of Pima's title V operating permits program. A description of the submitted materials and an analysis of the amendments are included below.

A. Applicability

1. Submitted Materials

The amendment to the applicability provisions of Pima's title V program was submitted by the Arizona DEQ on July 17, 1997. The submittal includes the deletion of the term ''Title V Source'' from Pima County Air Quality Control Code (PCC) 17.04.340.133, proof of adoption, evidence of necessary legal authority, evidence of public participation including comments submitted on the rulemaking, and a supplemental legal opinion from the County Attorney regarding the legal adequacy of Pima's title V program, including implementation of section 111 and 112 of the Clean Air Act. In a letter dated November 7, 1997, Pima clarified which sections of its title V program it wished to have rescinded and which sections approved, and on December 2, 1997, Pima sent a letter to EPA requesting approval under section 112(l) of the Clean Air Act for the delegation of unchanged section 112 standards applicable to sources that are not required to obtain title V permits.

2. Analysis of Submission

As approved by EPA, Pima's title V program requires nonmajor sources subject to a standard under section 111 or section 112 to obtain a title V permit. While not currently required by part 70, this provision is fully approvable. On November 14, 1995, Pima revised its regulations in order to allow nonmajor sources regulated under sections 111 and 112 to defer or be exempted from the title V permit requirement to the extent allowed by the Administrator. This was accomplished by deleting the term ''Title V Source,'' which was defined to include nonmajor sources subject to section 111 and 112 standards, from PCC 17.04.340. With this change, only those sources required to obtain a Class I (title V) permit, (i.e., major sources, solid waste incinerators required to obtain a permit pursuant to section 129(e) of the CAA, and sources required by the Administrator to obtain a permit), are subject to the District's title V program. Non-major sources, including those regulated under sections 111 and 112 of the CAA, are deferred from the requirement to obtain a Class I/title V permit, to the extent allowed by the Administrator. See PCC 17.12.140 and the supplemental County Attorney's opinion dated June 24, 1997.

The approach taken in Pima's revised program is consistent with the minimum criteria specified by part 70. EPA is therefore proposing to approve the above described changes to Pima's title V program.

3. Amendments to the Applicability Provisions in Pima County's Title V Program

If EPA finalizes its approval of the proposed amendments to Pima County's applicability provisions, Rule 17.04.340.240 (definition of ''title V source'' adopted September 28, 1993) will be removed from the County's title V program.

4. Program for Delegation of Section 112(l) Standards as Promulgated

As EPA stated in its proposed approval of Pima's original title V program, requirements for approval under 40 CFR 70.4(b) encompass the section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Because Pima's original submittal included all sources subject to section 112 standards in the universe of sources subject to its title V permitting requirements, EPA's approval of Pima's program under section 112(l) extended to section 112 standards as applicable to minor as well as major sources.

The change in applicability of Pima's title V program affects EPA's approval under section 112(l) of Pima's program for accepting delegation of section 112 standards as promulgated. If the proposed changes are approved, Pima will not be issuing part 70 permits to nonmajor sources (unless such sources are designated by EPA being required to obtain a part 70 permit). As a result, EPA's 112(l) delegation, which relied upon part 70 permits as the vehicle for implementing section 112 standards, would no longer cover minor sources.

In a letter dated December 2, 1997, Pima specifically requested approval under section 112(l) of a program for delegation of unchanged section 112 standards applicable to sources that are not subject to mandatory permitting requirements under title V. (See letter from David Esposito, Director, PDEQ to David Howekamp, Director, Air and Toxics [sic] Division, EPA Region IX.) Pima's request for approval under section 112(l) for non-part 70 sources references the information contained in its original title V program submittal as demonstration that Pima meets the criteria under section 112(l) and 40 CFR 63.91 for approval of a delegation program. EPA is therefore proposing to expand its approval under section 112(l) to include Pima's program for delegation of section 112 standards as they apply to those sources not required to obtain a title V permit.

B. Fees

1. Submitted Materials

An amendment to the fee provisions of Pima's title V program was submitted by the Arizona DEQ on January 14, 1997. The submittal includes the revised fee regulations (Chapter 12, Article VI of Title 17 of the Pima County Air Quality Control Code as amended on November 14, 1995), a technical support document, and a legal opinion by the County Attorney. Additional materials, including proof of adoption and a commitment to provide periodic updates to EPA regarding the status of the fee program, were submitted on February 26, 1997. In a letter dated July 25, 1997, Pima submitted a detailed discussion of the expected costs of and anticipated revenue from its title V program. The County's analysis is based on the amended applicability provisions adopted on November 14, 1995, which EPA is also proposing to approve today.

2. Permit Fee Demonstration

Section 502(b)(3) of the Act requires that each permitting authority collect fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V operating permits 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)). Pima has submitted a detailed fee analysis that demonstrates the fees it will collect under the amended rules are adequate to cover program costs.

Title V emission fees. Pima's fee provisions require that the owner or operator of each source required to obtain a title V permit shall pay an annual emissions fee equal to $28.15 per year per ton of actual emissions of all regulated air pollutants, or a specified minimum, whichever is greater. See 17.12.510.C. and 17.12.510.C.5. The regulations also require a yearly adjustment in the emissions fee rate to reflect the increase, if any, in the Consumer Price Index. See 17.12.510.C.4.

Emission fees are used by Pima to cover the direct and indirect costs of the title V related activities not covered by title V permit fees. These activities are: (1) Part 70 program development and implementation; (2) issuance of title V permits to existing sources; (3) part 70 source compliance, including inspection services; and (4) part 70 business assistance, which helps sources determine and meet their obligations under part 70. Pima estimates the annual cost of these activities in the first three years of program implementation to range between $83,562 and $87,674. Based upon the fall 1996 dollar per ton value ($35.78), invoicing records and emissions estimates, Pima projects it will collect $98,275 in emissions fees annually. For more detail, see July 25, 1997 letter from David Esposito, Director of Pima Department of Environmental Quality, to Ginger Vagenas, US E.P.A.

Permit fees. Pima's fee provisions require that applicants for permits to construct and operate that are subject to title V must pay the total actual cost of reviewing and acting upon applications for permits and permit revisions. See 17.12.510.G. and 17.12.510.I. These fees are used to cover the cost of issuing permits to new sources and for processing revisions to permits. Pima estimated the permitting related average hourly billing costs for permitting of title V facilities, including salary, fringe benefits, direct non-salary costs and indirect costs including cost estimates of various types of permit related activities. The estimated hourly cost is $53.60.

Because state law caps hourly fees at $53.00, Pima's hourly charges are capped at $53.00. See 17.12.510.M. Although this cap is 60 cents per hour less than the District's estimated hourly costs for permit processing, EPA finds this provision to be fully approvable. Given the inherent uncertainty in the cost estimates, EPA believes that the difference is insignificant and unlikely to cause a shortfall in revenues. Further, Pima is tracking its program costs and revenues and has committed to provide EPA with periodic updates that will demonstrate whether fee revenues are meeting the costs of the program. If EPA finds that the County is not collecting fees sufficient to fund the title V program, it will require a program revision.

In addition to imposing a cap on hourly fees, state law also limits the maximum chargeable fee for issuing and revising permits. State law and Pima regulations cap title V permit issuance fees at $30,000. See 17.12.510.G. Pima has estimated the cost of issuing a title V permit to a new source at $21,484. Fees for processing permit revisions are capped at $25,000 for significant revisions and $10,000 for minor permit revisions. See 17.12.510.I. Because the workload associated with these classes of permit revisions is likely to vary a great deal, Pima did not attempt to estimate the cost of these actions. The County believes that costs for permit revisions will be less than the maximum allowable fees. (See letter to Dave Howekamp, EPA, from David Esposito, Pima County, dated February 17, 1997.) EPA will periodically review the County program to ensure adequate fees are collected.

3. Amendments to the Fee Provisions in Pima County's Title V Program

If EPA finalizes its approval of the proposed amendments to Pima County's fee provisions, the following changes will be made to the County's title V program. Rules 17.12.320, 17.12.500, 17.12.520 , 17.12.580 (adopted September 28, 1993); Rule 17.12.610 (adopted November 14, 1989); and Rules 17.12.640 and 17.12.650 (adopted December 10, 1991) will be removed. Rules 17.12.320, 17.12.500, and 17.12.510 (adopted November 14, 1995) will be added.

IV. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed approval. Copies of Pima's submittal and other information relied upon for the proposed interim approval are contained in dockets (AZ–Pima–97–1–OPS, and AZ–Pima–97–2–OPS) 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 by March 16, 1998.

B. 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.

C. Unfunded Mandates

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.

The EPA has determined that the approval action promulgated today 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.

D. Small Business Regulatory Enforcement Fairness Act

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing

this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by section 804(2) of the APA as amended.

E. Executive Order 12866

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

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Authority: 42 U.S.C. sections 7401–7671q.

Dated: February 2, 1998.

Felicia Marcus,

Regional Administrator.

[FR Doc. 98–3581 Filed 2–11–98; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE55

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Plant Thlaspi Californicum (Kneeland Prairie Penny-Cress) From Coastal Northern California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for the plant *Thlaspi californicum* (Kneeland Prairie penny-cress). *Thlaspi californicum* is known from Kneeland Prairie in Humboldt County, California, where it grows in coastal prairie on serpentine outcrops. The Service considers the occurrences of *T. californicum* reported from Mendocino County to be *T. montanum*, a widely distributed species. Habitat loss, potential road realignment, and proposed airport expansion activities imperil the continued existence of *T. californicum*. The restricted range of this species, limited to a single population, increases the risk of extinction from naturally occurring events such as fire. This proposed rule, if made final, would extend Federal protection under the Act to this plant species.

DATES: To ensure consideration in the development of a final decision-making document for this species, comments from all interested parties should be received by April 13, 1998. Public hearing requests must be received by March 30, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Sacramento, California 95821–6340. Comments and materials received, as well as the supporting documentation used in preparing the rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Kirsten Tarp, Sacramento Fish and Wildlife Office (see **ADDRESSES** section) (telephone 916/979–2120; facsimile 916/979–2128).

SUPPLEMENTARY INFORMATION:

Background

Thlaspi californicum is found on serpentine soils at a coastal prairie in Humboldt County, California. Serpentine soils are derived from ultramafic rocks such as serpentinite, dunite, and peridotite, which are found in discontinuous outcrops in the Sierra Nevada and Coast Ranges of California from Santa Barbara County to Humboldt County. The chief constituent of the parent rock is a variant of iron-magnesium silicate. Most serpentine soils are formed in place over the parent rock, and are therefore shallow, rocky, and highly erodible. Serpentine soils, because of the parent material, tend to have high concentrations of magnesium, chromium, and nickel, and low concentrations of calcium, nitrogen, potassium, and phosphorus (Kruckeberg 1984). These characteristics make serpentine soil inhospitable for the growth of most plants, but some plants have adapted to serpentine substrates.

Sereno Watson (1892) described *Thlaspi californicum* based on material collected by Volney Rattan from Kneeland Prairie at 760 meters (m) (2,500 feet (ft)) elevation in Humboldt County, California. Payson (1926) maintained it as a full species in his monograph of the genus, whereas it was referred to as *T. alpestre* var. *californicum* in Jepson's (1925) manual, and *T. glaucum* ssp. *californicum* by Munz (1959). Holmgren (1971) assigned the name *Thlaspi montanum* var. *californicum* and gave its range as Kneeland Prairie (including a 1952 specimen from a ''serpentine rockpile toward Ashfield Butte''). She noted that the plant had last been collected in 1962. Rollins (1993a, 1993b) has elevated it to a full species: *Thlaspi californicum*.

Thlaspi californicum is a perennial herb in the mustard family (Brassicaceae) that grows from 9.5 to 12.5 centimeters (cm) (3 to 6 inches (in)) tall, with a basal rosette. The margins of the basal leaves range from entire to toothed. The white flowers have strongly ascending pedicels (flower stalks). The fruit is a sharply pointed silicle (a short fruit typically no more than 2 to 3 times longer than wide). *Thlaspi californicum* flowers from May to June. Characteristics that separate *T. californicum* from *T. montanum* include the orientation of the pedicel, shape and notching of the fruit, and length/width ratio of the fruit. *Thlaspi montanum* has pedicels perpendicular to the stem, not strongly ascending, and the silicles are either truncate or shallowly notched, but not acute at the apex as they are in *T. californicum* (Meyers 1991).

Rollins (1993a, 1993b) and Holmgren (1971) considered *Thlaspi californicum* to occur only at Kneeland Prairie. Wheeler and Smith (1991), in their ''Flora of Mendocino County,'' reported two additional occurrences of *T. californicum* located on Mendocino National Forest in Mendocino County. These sites have been examined by Dave Isle, Mendocino National Forest botanist; Dave Imper, Environmental Specialist with SHN Consulting Engineers and Geologists; and Service staff. In addition, all of the herbarium specimens for *T. californicum* and *T. montanum* at Humboldt State University, including those collected in Mendocino County, have been examined by Imper and Service staff. The only collections considered by Imper and the Service to be *T. californicum* are from Kneeland Prairie in Humboldt County (Imper 1997; Larry Host and Kirsten Tarp, U.S. Fish and Wildlife Service (USFWS), pers. comms., 1997). Plants from Blue Banks and near the Spruce Grove campground on the Mendocino National Forest have pedicels that are perpendicular to the stem and silicles that are truncate and notched, characteristic of *T. montanum*. Additionally, the habitat and elevation are different from Kneeland Prairie. Other herbarium specimens, housed at the Humboldt State University herbarium and collected from Blue Banks and from Spruce Grove campground, are identified as *T. montanum*. McCarten (1991) did not