ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 70

[MO 063–1063; FRL–6320–5]

Approval and Promulgation of Implementation Plans and State Operating Permits Programs; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is announcing the proposed approval of the Missouri ''Definitions and Common Reference Tables'' rule and certain portions of the Missouri ''Operating Permits'' rule as amendments to the Missouri State Implementation Plan (SIP) and as revisions to the Part 70 (operating permits) program. These revisions clarify the Missouri rules, update the rules for consistency with Federal regulations and other state rules, and are consistent with EPA guidance.

DATES: Comments must be received on or before May 6, 1999.

ADDRESSES: All comments should be addressed to: Kim Johnson, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

Copies of the state submittals are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Kim Johnson, Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101. (913) 551–7975.

SUPPLEMENTARY INFORMATION:

Background

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter (PM), and sulfur dioxide.

Each state must submit these regulations and control strategies to EPA for approval and incorporation into the Federally enforceable SIP.

The CAA requires each state to have a Federally approved SIP which protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to EPA for inclusion into the SIP. EPA must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by EPA.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52 entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR but are ''incorporated by reference,'' which means that EPA has approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean To Me?

Enforcement of the state regulation before and after it is incorporated into the Federally approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, EPA is authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violators as described in the CAA.

What Is the Part 70 (Operating Permits) Program?

The CAA amendments of 1990 require all states to develop operating permits programs that meet certain Federal criteria. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. One purpose of the Part 70 (operating permits) program is to improve enforcement by issuing each source a single permit that consolidates all of the applicable CAA requirements into a Federally enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include: ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen dioxide, or PM_{10}; those that emit 10 tons per year of any single hazardous air pollutant (HAP) (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of HAPs.

Revisions to the state operating permits program are also subject to public notice, comment, and EPA approval.

What Are the Changes That EPA Is Proposing to Approve?

The revisions include changes to the definitions rule 10 CSR 10–6.020 which (1) add a de minimis emission level for municipal solid waste landfills (any source which has emissions below this de minimis level is not required to obtain a new source permit), (2) remove caprolactam from the list of HAPs, and (3) revise the PM definition and the definition for particulate matter less than 10-microns in diameter (PM_{10}). These changes are all consistent with Federal regulations and EPA guidance.

The changes to the operating permits rule 10 CSR 10–6.065 include revising the exemption for grain-handling facilities by including an exemption from Part 70 permitting requirements for country grain elevators. Also included are operating permit rule updates to

make the exemptions consistent with the Missouri construction permits rule requirements, 10 CSR 10–6.060. For example, the sand and gravel operations exemption is revised to include operations with a production rate of less than 17.5 tons per hour instead of 150,000 tons per year. These changes are consistent with EPA guidance and add consistency between the applicable rules which reduces confusion. For more information regarding these changes, the reader is referred to the technical support document for this notice.

What Action Is EPA Taking?

EPA is proposing to approve, as an amendment to the SIP and the Part 70 program, the revisions to Missouri rules 10 CSR 10–6.020, ''Definitions and Common Reference Tables,'' and 10 CSR 10–6.065, ''Operating Permits.'' These revisions clarify the Missouri rules, update the rules for consistency with Federal regulations and other state rules, and are consistent with EPA guidance.

Therefore, EPA is seeking public comment regarding the proposed approval of this state submittal as an amendment to the SIP and the Part 70 (operating permits) program.

EPA is also taking comments on minor changes made to rule 6.020 (submitted to EPA on July 10, 1996) that were approved in a **Federal Register** notice dated May 14, 1997. The primary purpose of the May 14, 1997, notice was to give final approval to revisions which were submitted for approval on August 3, 1996. As a result, the May 14, 1997, notice did not fully discuss the minor changes submitted on July 10, 1996. These changes include revising the volatile organic compounds definition to exempt acetone for consistency with Federal regulations and revising the installation definition for clarity.

Therefore, EPA is taking comments on this revision at this time. If EPA receives adverse comments specifically relating to the two definition changes identified, EPA would withdraw its approval of one or both definition changes and take a new final action on the changes.

EPA also notes that sections (4)(A), (4)(B), and (4)(H) of Missouri rule 6.065 are not part of the SIP or Part 70 program and will not be acted on in this rulemaking.

Conclusion

Proposed Action

EPA is proposing to approve, as an amendment to the Federally approved SIP and the Part 70 program, the revisions to Missouri rules 10 CSR 10–6.020, ''Definitions and Common Reference Tables,'' and 10 CSR 10–6.065, ''Operating Permits,'' effective on April 30, 1998.

Administration Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 entitled ''Regulatory Planning and Review.''

B. E.O. 12875

Under E.O. 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. E.O. 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. E.O. 13084

Under E.O. 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and Subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant

economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA 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).

F. 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 annual costs to state, local, or tribal governments in the aggregate; or to 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 promulgated does not include a Federal mandate that may result in estimated annual 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 requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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 *et seq.*

March 26, 1999.

Dennis Grams, P.E.,

Regional Administrator, Region VII.

[FR Doc. 99–8482 Filed 4–5–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 98–200; FCC 99–44]

Assessment and Collection of Regulatory Fees for Fiscal Year 1999

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress has required it to collect for fiscal year 1999. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees. For fiscal year 1999 sections 9(b)(2) and (3) provide for annual ''Mandatory Adjustments'' and ''Permitted Amendments'' to the Schedule of Regulatory Fees. These revisions will further the National Performance Review goals of reinventing Government by requiring beneficiaries of Commission services to pay for such services.

DATES: Comments are due on or before April 19, 1999, and reply comments are due on or before April 29, 1999.

FOR FURTHER INFORMATION CONTACT: Terry Johnson, Office of Managing Director at (202) 418–0445.

SUPPLEMENTARY INFORMATION:

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I. Introduction

1. By this *Notice of Proposed Rulemaking,* the Commission commences a proceeding to revise its Schedule of Regulatory Fees in order to collect the amount of regulatory fees that Congress, pursuant to section 9(a) of the Communications Act, as amended, has required it to collect for Fiscal Year (FY) 1999.[1]

2. Congress has required that we collect $172,523,000 through regulatory fees in order to recover the costs of our enforcement, policy and rulemaking, international and user information activities for FY 1999.[2] This amount is $10,000,000 or approximately 6% more than the amount that Congress designated for recovery through regulatory fees for FY 1998.[3] Thus, we are proposing to revise our fees in order to collect the increased amount that Congress has required that we collect. Additionally, we propose to amend the Schedule in order to simplify and streamline it.[4]

3. In proposing to revise our fees, we adjusted the payment units and revenue requirement for each service subject to a fee, consistent with sections 159(b)(2) and (3). In addition, we are proposing changes to the fees pursuant to public interest considerations. The current Schedule of Regulatory Fees is set forth in sections 1.1152 through 1.1156 of the Commission's rules.[5]

[1] 47 U.S.C. 159 (a).

[2] Public Law 105–277 and 47 U.S.C. 159(a)(2).

[3] *Assessment and Collection of Regulatory Fees for Fiscal Year 1998,* FCC 98–115, released June 16, 1998, 63 FR 35847 (Jul. 1, 1998).

[4] 47 U.S.C. 159(b)(3).

[5] 47 CFR 1.1152 through 1.1156.