

from NO<sub>x</sub> requirements under section 182 of the CAA was delegated to the Regional Administrator from the Administrator in a memo dated July 6, 1994, from Jonathan Cannon, Assistant Administrator, to the Administrator, titled, "Proposed Delegation of Authority: Exemptions from Nitrogen Oxide Requirements Under Clean Air Act Section 182(f) and Related Provisions of the Transportation and General Conformity Rules"—Decision Memorandum."

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. This rule approves an exemption from a CAA requirement. Therefore, I certify that it does not have a significant impact on any small entities affected.

#### List of Subjects in 40 CFR Part 52

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

Dated: January 12, 1995.

**Joe R. Franzmathes,**

*Acting Regional Administrator.*

[FR Doc. 95-2351 Filed 1-30-95; 8:45 am]

BILLING CODE 6560-50-F

#### 40 CFR Part 70

[AD-FRL-5147-7]

#### Clean Air Act Proposed Approval of Operating Permits Program; Lincoln-Lancaster County Health Department; State of Nebraska

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes approval of the Operating Permits Program submitted by the Lincoln-Lancaster County Health Department (LLCHD) (Nebraska) 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.

**DATES:** Comments on this proposed action must be received in writing by March 2, 1995.

**ADDRESSES:** Comments should be addressed to Christopher D. Hess at the Region VII address.

Copies of the LLCHD submittal and other supporting information used in developing the proposed rule are available for inspection during normal business hours by contacting: Christopher D. Hess, USEPA, Region VII, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

**FOR FURTHER INFORMATION CONTACT:** Christopher D. Hess (913) 551-7213.

#### SUPPLEMENTARY INFORMATION:

##### I. Background and Purpose

###### A. Introduction

As required under title V of the Clean Air Act ("the Act") as amended (1990), EPA has promulgated rules which 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 (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70. Title V requires states to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that states develop and submit these programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act which outlines 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 two years. If EPA has not fully approved a program by two years after the November 15, 1993, date, or by the end of an interim program, it must establish and implement a Federal program.

##### II. Proposed Action and Implications

###### A. Analysis of Submission by Local Authority

###### 1. Introduction

What follows are brief explanations indicating how the submittal meets the requirements of part 70. The reader may consult the Technical Support Document (TSD) for a more detailed explanation of these topics.

###### 2. Support Materials

*a. Governor's letter.* The designated representative of the Governor of Nebraska has requested approval on behalf of the LLCHD as a local permitting agency. LLCHD has also requested approval in its submittal cover letter. Lincoln-Lancaster proposes to administer title V in its two counties.

*b. Regulations.* The basic regulatory framework for the operating permit program is the "1993 Lincoln-Lancaster County Air Pollution Control Program," version 1.2, as amended May 1994. These rules essentially adopt the state's "Title 129—Nebraska Air Quality Regulations," which includes the title V requirements for the state. LLCHD rules use a different numbering system than the state's but is essentially the same in content. These rules were approved by the Lincoln City Council and by the Lancaster County Board of Supervisors. LLCHD has also incorporated by reference the Nebraska Environmental Protection Act and Nebraska statutes into its program. The submittal includes a discussion of the public review and hearing process which the local agency followed in adopting the rules.

The submittal currently contains two provisions which would restrict operation of the program. However, LLCHD has agreed to make modifications to both of these provisions in order to receive full approval of the program. The reader is directed to the applicability provisions section of this notice (II.A.2.e.) for discussion of the first item (applicable requirements definition), and (II.A.2.h.) for the second item (Title I modifications).

*c. Attorney General's legal opinion.* The opinion of the County Attorney contains the elements required by 40 CFR 70.4(b)(3) and states there is adequate authority to meet all of the title V and part 70 requirements.

###### 3. Implementation

*a. Program description.* A comprehensive plan for implementing the title V program was included in the submittal. This plan includes program authority, agency organization, and staffing. Approximately 80 sources have been identified that will be required to submit a title V permit application within LLCHD jurisdiction.

LLCHD has also identified adequate procedures for its permit application and review process, along with inspection and enforcement provisions. The EPA has determined the program description meets the requirements of 40 CFR 70.4(b)(1). An implementation agreement was not included in LLCHD's

submittal, but the EPA is encouraging its development in anticipation of program approval.

The presumptive minimum plus consumer price index (CPI) will be used for the operating permit fee. This will be discussed further under the fee demonstration section (II., 3.). Like the state, LLCHD will maintain a Class II program for minor, non-title V sources.

*b. Program implementation.* A permit registry is being established to ensure issuing one-third of all permits in the first year of the program. This registry also includes a provision to review permit applications within nine months of receipt for those sources of hazardous air pollutants participating in the early reduction program under section 112(i)(5) of the Clean Air Act.

In terms of initial permit applications, LLCHD outlines adequate procedures to satisfy part 70 requirements. The application process includes affected state and EPA review. LLCHD's procedures and guidance are designed to ensure that a permit is issued within 18 months of application.

LLCHD has established criteria for monitoring source compliance which include compliance inspections, citizen complaint responses, follow-up inspections, and permit application review. LLCHD will physically inspect each title V source at least once per year. Surveillance through monitoring will also be conducted to ensure compliance.

*c. Personnel.* LLCHD provided a workload analysis for each program category of title V activity to include permitting, compliance and enforcement, planning, monitoring, small business assistance, and communications to determine the amount of personnel needed. EPA's analysis suggests that LLCHD's estimate appears adequate for implementing the title V program.

*d. Data management.* All permit application information will be submitted to the state which will, in turn, make that information available to the EPA. The proposed permits will be made available for EPA review. LLCHD requires the retention of permit information by the source for five years in Article 2, section 8, (D)(2)(b). LLCHD has also committed to maintaining records for five years in its program description.

*e. Applicability provisions.* LLCHD provides for permitting of all major sources, affected sources, sources that opt to apply for a permit, and all sources subject to sections 111 or 112 standards (new source performance standards and standards for hazardous air pollutants).

LLCHD exempts sources that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the Act. This exemption is allowed by § 70.3(b)(1) until the Administrator completes a rulemaking to determine how the program should be structured for nonmajor sources.

*(1) Applicable requirements.* On the one hand, LLCHD's rules require all applicable requirements to be included in the permit. This includes requirements that have been promulgated or approved by EPA through rulemaking at the time of issuance but which have future effective dates. Additionally, the director may insert EPA promulgated requirements into permits before LLCHD has adopted the standard.

However, the EPA has determined that the items enumerated in Article 1, section 2 (3-10) in the definition of "applicable requirements" undermine the ability to incorporate all applicable requirements. As currently written, a rule must be promulgated by EPA and adopted by LLCHD to be considered an applicable requirement.

As an example of this concern, item (4) of the applicable requirement definition states, "Any standard or other requirement established pursuant to Section 112 of the Act and regulations adopted in Section 27 of these Regulations and Standards relating to hazardous air pollutants listed in Appendix II." The practical effect of this definition, as an example, is that a source could claim it need not identify certain hazardous air pollutant standards in its application, for inclusion in the permit, if the requirement is not both promulgated under section 112 of the Act and in section 27 of the Lincoln-Lancaster regulations.

LLCHD has committed to modify the definition of applicable requirements in accordance with EPA guidance to receive program approval. The state of Nebraska has already initiated action to correct this deficiency. The Nebraska Environmental Quality Council adopted regulatory changes on December 2, 1994, which are included in the docket for this proposed rulemaking for the LLCHD program. Once LLCHD adopts the revisions made by the Council on December 2, including those described in II.A.2.h. also, the EPA intends to take final action to fully approve the program.

*(2) Variances.* Both the state's and LLCHD's rules allow sources to petition the permitting authority for a variance. Importantly, both rules clearly state that no variance will be granted that

sanctions any violation of state or Federal statutes or regulations. Based on these provisions, the submittal is approvable with respect to variances.

*f. Permit content.* LLCHD's regulations require title V permits to include part 70 terms and conditions for all applicable requirements in Article 2, section 7 (C)(1). These rules also stipulate that the duration of the permit (five years) will be specified in the permit. LLCHD has also provided for the inclusion of enhanced monitoring in permits.

LLCHD's regulations do require the permit to contain a condition prohibiting emissions exceeding any allowances that the source lawfully holds under title IV of the Act as required by § 70.6(a)(4). The regulations also meet the requirements of § 70.6(a)(5) (severability), § 70.6(a)(6) (permit provisions), § 70.6(a)(7) (fees), and § 70.6(a)(8) (emissions trading). Part 70 also requires terms and conditions for reasonably anticipated operating scenarios to be included in the permit. LLCHD's rules require that the terms and conditions of each alternative scenario meet all the requirements of part 70. Section 70.6(a)(10) requires the permit to contain terms and conditions, if the permit applicant requests them, for the trading of emissions increases and decreases at the facility. LLCHD's regulations fulfill this requirement.

Part 70 also has federally enforceable requirements for the terms and conditions in a part 70 permit at § 70.6(b), compliance requirements at § 70.6(c), and emergency provisions at § 70.6(g). LLCHD's regulations comply with these requirements.

LLCHD's program provides for general permits in Article 2, section 9. In section 9(B), the director will identify criteria by which sources may qualify for the general permit as required by § 70.6(d)(1).

The permitting program can also have provisions for permitting temporary sources and for permit shields. LLCHD's permitting program has both of these options and meets the requirements of part 70. LLCHD's program provides for operational flexibility and closely follows EPA's requirements.

The program does make provision to exempt the listing of insignificant activities in permit applications. The state has developed this list, which will be approved in December 1994 and then adopted by LLCHD.

*g. Permit forms.* LLCHD addresses permit application requirements in Article 2, sections 5 and 7 of its regulations. Within its rules adequate procedures are outlined for the following: duty to apply, complete

applications, confidential information, correcting a permit application, standard forms, and compliance certification. A detailed analysis of how the submittal meets these part 70 requirements is included in the TSD.

*h. Permit issuance.* LLCHD regulations satisfy both the complete and timely component of section 503 of the Act and 40 CFR 70.5(a). Sources are required to submit permit applications within 12 months after becoming subject to the permit program, or on or before some earlier date established under the LLCHD operating permit registry. Source permit applications must conform to the standard LLCHD application form, and must contain information sufficient to allow LLCHD to determine all applicable requirements with respect to the applicant. An application will be deemed complete within 60 days of receipt unless LLCHD finds them to be incomplete. LLCHD regulations only require notification of the source if the application is incomplete.

LLCHD regulations also require that final action be taken on complete applications within 18 months of submittal of a complete application, except for initial permit applications which are subject to the three-year transition plan set forth by the Clean Air Act Amendments of 1990.

LLCHD regulations also require compliance with public participation procedures, notification to affected states, compliance with all applicable requirements, and allow for a 45-day period for EPA objection.

The regulations provide for priority on applications for construction or modification under an EPA-approved preconstruction review program. The operating permit regulations do not affect the requirement that any source have a preconstruction permit under an EPA-approved preconstruction review program. The program also provides that permits being renewed are subject to the same procedural requirements, including those for public participation and affected state and EPA review that apply to initial permit issuance. The operating permit program provides for administrative amendments which meet the requirements of the Federal rule.

Permit modification processing procedures are equivalent to Federal requirements as they provide for the same degree of permitting authority, EPA, and affected state review and public participation.

The program satisfies all but one of the Federal minor permit modification procedures. The Federal permit rule requires that a title I modification not be processed as a minor permit

modification. The LLCHD rules (see section 15(C)(1)(e)) require that the activity not be a modification which requires a construction permit under section 17; this section is titled "Construction Permits-When Required." Thus, LLCHD is required to include a reference in section 15(C)(1)(e) referring to section 19, "Prevention of Significant Deterioration," and section 18, "New Source Performance Standards," since activities under these chapters could be considered title I modifications.

The origin of the LLCHD rule is in title 129 of the state rule. The state has proposed rule changes for adoption in December 1994 to correct this deficiency. As with all other rules adopted by the state, LLCHD will incorporate this change approximately two months afterward and therefore fulfill all minor permit modification requirements. This change, along with the modification of "applicable requirement," will be required before the EPA will grant approval for the program.

The program provides for promptly sending to EPA any notice that LLCHD refuses to accept all recommendations of an affected state regarding a proposed minor permit modification. In addition, the program provides that the permitting authority may approve, but may not issue, a final permit modification until after EPA's 45-day review period or until the EPA has notified the permitting authority that the EPA will not object to issuance, whichever is first.

The LLCHD program provides for minor permit modification group processing which meets the Federal criteria. Specifically, the program provides that any application for group processing must meet permit application requirements similar to those outlined in § 70.7(e)(3), and also provides for notifying the EPA and affected states of the requested permit modification within five working days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level.

Significant modification procedures are defined in a manner that parallels Federal provisions. The submittal's program description commits to completion of review of the majority of significant permit modifications within nine months after receipt of a complete application.

*(1) Permit reopenings.* LLCHD provides that a permit is to be reopened and revised when additional applicable requirements become applicable to a major source with a remaining permit term of three or more years, and that

such a reopening is to be completed within 18 months after promulgation of the applicable requirement. In addition, the proceedings to reopen a permit will follow the same procedures that apply to initial issuance, will affect only those parts of the permit for which cause to reopen exists, and will ensure reopenings are made as expeditiously as practicable. The rule provides that at least 30 days' advance notice must be given to the permittee for reopenings and that notice will be given of the intent to reopen the permit.

*(2) Off-permit revisions.* LLCHD has elected to not allow off-permit activities.

*i. Compliance tracking and enforcement.* The requirement for proposed compliance tracking and enforcement reporting has been met by the LLCHD. This reporting will be accomplished by providing enforcement information to the state monthly for subsequent monthly entry into the Aerometric Information Retrieval System. The proposed enforcement program will consist of source inspection, surveillance, response to complaints, permit application review, and enforcement responses. Proposed enforcement authorities mirror the state's and meet the requirements of § 70.11. These responses include permit modification, permit revocation, stipulation, administrative orders, injunctive relief, civil/criminal referral, and referral to the EPA.

*j. Public participation, EPA and affected States review.* LLCHD's submittal ensures that all permit applications are available to the public. All requirements are included to ensure that each concerned citizen will be aware of proposed and final permit actions. This includes the commitment to keep a record of proceedings that will allow citizens to object to a permit up to 60 days after the EPA review period.

LLCHD has adopted rules that ensure mutual review by affected states and the EPA. LLCHD will not issue a permit when it is objected to in accordance with § 70.8(c).

#### 4. Fee Demonstration

LLCHD has elected to collect the presumptive minimum plus CPI (currently \$30.07) in accordance with part 70 to cover direct and indirect costs of developing and administering its program.

The submittal states that a specific title V fund, with individual billing codes for this program, will be created. Article 2, section 29 of the LLCHD regulations directs all moneys collected from the permit fees to be made payable to LLCHD and to be credited to the Air Pollution Control Fund.

Part 70 also requires permitting authorities to submit periodic accounting reports to EPA. Upon further guidance by EPA, LLCHD will be requested to submit these reports.

LLCHD's submittal included a list of sources and the amount of fees that it expects to collect in the first year from each source as part of its fee demonstration (\$379,122). LLCHD's year-to-year estimates of resources by major activities adequately satisfies the four-year projection.

#### 5. Provisions Implementing the Requirements of Other Titles of the Act

*a. Acid rain.* The legal requirements for an approval under the title V operating permits program for a title IV program were cited in EPA guidance distributed on May 21, 1993, entitled "Title V—Title IV Interface Guidance for States." The LLCHD has met the five major criteria of this guidance which include legal authority, regulatory authority, forms, regulatory revisions, and a commitment to acid rain deadlines. The LLCHD has adopted by reference 40 CFR part 72.

*b. Section 112.* The specific title V program approval criteria with respect to section 112 provisions are enumerated in a memorandum from John Seitz, Office of Air Quality Planning and Standards, dated April 13, 1993. LLCHD has met these criteria as described in the following topics:

*(1) Section 112(d), (f), and (h)—EPA emissions standards.* In accordance with part 70, LLCHD will not issue any permit (or permit revision addressing any emissions unit subject to a newly promulgated section 112 standard) unless it would ensure compliance with all applicable section 112 standards. Additionally, part 70 permits will be reopened which have three or more years remaining before their expiration date to incorporate any newly promulgated standard (section 70.7 (f)(1)(i)).

*(2) General provisions.* The Seitz memorandum notes that the implementation of all current National Emission Standard for Hazardous Air Pollutants (NESHAP) standards and future maximum achievable control technology (MACT) (and residual risk) standards includes the implementation of any "general provisions" that EPA develops for these standards. Initial title V approval must ensure that states will carry out these provisions as in effect at the time of any permit issuance or revisions. EPA adopted the 40 CFR part 63, subpart A General Provisions on February 28, 1994. Neither the state nor Lincoln-Lancaster has had an opportunity to adopt these provisions to

date. However, the intention is to adopt all applicable requirements as noted in the general program description. EPA thus considers this requirement to be met.

*(3) Section 112 (g)—Case-by-Case MACT for modified/constructed and reconstructed major toxic sources.* The agency proposes to require best available control technology for new and modified sources of air toxics. In the absence of any EPA guidance/regulations defining case-by-case MACT procedures and methods for determining agency equivalency of Federal requirements at the time of agency program submittal, the agency's submission should be adequate for the interim. LLCHD's intent is to adopt Federal air toxic regulations expeditiously.

*(4) Section 112 (i)(5)—early reductions.* LLCHD has adequate provisions for implementation of this program by adopting by reference 40 CFR part 63, subpart D, early reduction compliance extension rules, promulgated in the **Federal Register** on December 29, 1992. To date, no source in the agency area has made a commitment to participate in the early reductions program. The agency provides for incorporating alternative emission limits into permits in section 8, paragraph (B)(3).

*(5) Section 112(j)—case-by-case MACT hammer.* It is the agency's intent to make case-by-case MACT determinations and to issue permits to subject sources in accordance with the section 112(j) requirements. Section 7(B)(2) requires newly subject sources to file a permit application within 12 months of first becoming operational or otherwise subject to the title V program. Section 7(B)(3) requires sources subject to section 28 (MACT) to submit a permit application within 12 months of becoming operational. The agency would make its case-by-case MACT determination after receipt of the permit application and prior to permit issuance.

*(6) Section 112(l)—State air toxics programs.* The EPA intends to delegate authority for existing section 112 standards under the authority of section 112(l) concurrent with approval of the title V program. It is expected that the agency will request delegation of future 112 standards/rules in accordance with the adoption-by-reference procedures in 40 CFR part 63, subpart E, § 63.91. Since the agency has already adopted by reference the section 112(i) early reduction rule (Section 27), EPA anticipates delegating this authority concurrent with title V approval.

*(7) Section 112(r)—accidental release plans.* The agency has provided for the

section 112(r) requirements in its rules in section 8(K). The permit of a source subject to the requirements of section 112(r) will contain a requirement to register the plan; verification of plan preparation and submittal to the state (NDEQ), the state Emergency Response Commission, and any local emergency planning committee; and will require an annual certification in accordance with section 7(B), that the risk management plan is being properly implemented.

The permit application requires a schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance: section 7, paragraph (F)(2). The permit requirement for a compliance schedule is listed in section 8, paragraph (L)(3).

#### B. Options for Approval/Disapproval and Implications

The EPA is proposing to grant approval to the operating permits program submitted by the LLCHD on November 12, 1993, and modified on June 15, 1994. Prior to final action, LLCHD must: (1) Render a modification of the definition "applicable requirement," and (2) modify the provisions related to title I modifications.

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) approval requirements for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the LLCHD program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, the EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of LLCHD's program for receiving delegation of section 112 standards that are unchanged from Federal standards as promulgated. This program for delegations only applies to sources covered by the part 70 program.

### III. Administrative Requirements

#### A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed rule. Copies of LLCHD's submittal and other information relied upon for the proposed interim approval are contained in a docket 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 rulemaking. The principal purposes of the docket are:

1. To allow interested parties a means to identify and locate documents for participating in the rulemaking process; and

2. To serve as the record in case of judicial review. The EPA will consider any comments received by March 2, 1995.

#### B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

1. Have an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities;

2. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

3. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligation of recipients thereof; and

4. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order."

It has been determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

#### C. Paperwork Reduction Act

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain the OMB clearance for collection of information from 10 or more non-Federal respondents.

#### D. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Interim approvals under section 502 of the Act do not create any new requirements, but simply approve

requirements that the state is already imposing. Therefore, because the Federal operating permits program approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning operating permits programs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2). If the interim approval is converted to a disapproval, it will not affect any existing LLCHD requirements applicable to small entities. Federal disapproval of the submittal does not affect its state enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing LLCHD requirements nor does it substitute a new Federal requirement.

#### List of Subjects in 40 CFR Part 70

Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: January 6, 1995.

**William Rice,**

*Acting Regional Administrator.*

[FR Doc. 95-2335 Filed 1-30-95; 8:45 am]

BILLING CODE 6560-50-F

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[MM Docket No. 95-12, RM-8559]

##### Radio Broadcasting Services; Hudson, Texas

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Phil Parr proposing the allotment of Channel 242A to Hudson, Texas, as the community's first local aural transmission service. Channel 242A can be allotted to Hudson in compliance with the Commission's minimum distance separation requirements

without the imposition of a site restriction. The coordinates for Channel 242A at Hudson are 31-23-50 and 94-46-15.

**DATES:** Comments must be filed on or before March 20, 1995, and reply comments on or before April 4, 1995.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Phil Parr, 1604 Southwood, Lufkin, Texas 75905 (Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 95-12, adopted January 18, 1995, and released January 26, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

##### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 95-2364 Filed 1-30-95; 8:45 am]

BILLING CODE 6712-01-F

##### 47 CFR Part 73

[MM Docket No. 95-13, RM-8566]

##### Radio Broadcasting Services; Tower Hill, Illinois

**AGENCY:** Federal Communications Commission.