modified after the SOCMI wastewater NSPS was proposed) to the NSPS.[2]

Today's proposal, therefore, adds section 60.787(a) to the SOCMI wastewater NSPS to make it clear that the rule applies only to emissions from wastewater sources, not to emissions from other, non-wastewater sources. The new provision provides that to be considered a modification within the meaning of section 111 of the Act the increase of emissions to the atmosphere brought about by any physical or operational change to an existing facility (i.e., process unit) must be an increase in emissions from wastewater generated by the process unit. Physical and operational changes that result in an increase in emissions from other emissions sources within the process unit such as process vents or equipment leaks not related to the collection and/or treatment of wastewater will not be considered a modification under the provisions of the SOCMI wastewater NSPS.

Section 60.787 is amended by revising the section title to ''Modification and Reconstruction'', adding a new paragraph (a), and reformatting the original paragraph (a) to now be paragraph (b).

The new § 60.787(a) states that ''For the purposes of this subpart, any physical or operational change to an existing process unit that results in an increase in the emission rate to the atmosphere of VOC shall be considered a modification within the meaning of section 111 of the Act, 42 U.S.C. § 7411, to the extent that an increase in emissions is from wastewater generated by the process unit. Physical and operational changes that result in an increase in emissions from other emission sources within the process unit, such as process vents or equipment leaks, not associated with or related to the collection, storage, and/or treatment of wastewater shall not be considered a modification under this subpart. [Note: Sources of VOC emissions associated with wastewater collection, storage, and treatment systems include but are not limited to individual drain systems, manholes, junction boxes, lift stations, trenches, sumps, weirs, oil-water separators, equalization or neutralization basins, clarifiers, aeration basins, storage and treatment tanks, surface impoundments, and containers.]''

b. Compliance Schedule

Today's proposal would also allow the owner or operator of a SOCMI process unit more time to comply with the SOCMI wastewater NSPS, if the modification of a process unit requires major capital improvements to the wastewater collection and treatment system. The NSPS general provisions at 40 CFR 60.14(g) require that modified sources comply with the NSPS within 180 days of completion of the physical or operational change that results in increased emissions. Compliance with the proposed standards for wastewater equipment and control devices, however, will in some cases require large capital projects, such as the excavation of underground sewer pipes, that may take longer than 180 days to complete.

Today's proposal, therefore, adds section 60.770(e) to the SOCMI wastewater NSPS to allow up to three years, if warranted, to complete capital improvements to wastewater collection and treatment systems necessary to comply with the SOCMI wastewater NSPS as a result of the modification of a process unit. To obtain an extension to the 180 day compliance deadline in 40 CFR § 60.14(g), the owner or operator of an affected facility would be required to submit a compliance schedule and a justification for the schedule to the Administrator for approval. Today's proposal also adds section 60.770(d) to clarify that extensions of time to comply with the NSPS would be limited to situations involving the modification of a process unit; affected facilities for which construction or reconstruction is commenced after September 12, 1994 would continue to be required to be in compliance with the NSPS upon the initial start-up of the affected facility.

Section 60.770 is amended by revising the section title to ''Applicability, designation of affected facility, and compliance schedule,'' and by adding new paragraphs (d) and (e).

The new § 60.770(d) states that ''the owner or operator of an affected facility for which construction or reconstruction is commenced after September 12, 1994 (the proposal date), shall be in compliance with the provisions of this subpart upon initial start-up of the affected facility.''

The new § 60.770(e) requires that ''the owner or operator of an existing facility that becomes an affected facility under this subpart as a result of a modification, within the meaning of section 111 of the Clean Air Act, 42 U.S.C. § 7411, and as specified in § 60.787(a) of this subpart, shall be in compliance with applicable requirements of this subpart within 180 days of the completion of any physical or operational change as provided in § 60.14(g) of this part, unless the Administrator approves, upon the submission of a compliance schedule and a justification for the schedule, additional time up to a maximum of three years from the completion of the physical or operational change to comply with the applicable requirements of this subpart.''

List of Subjects in 40 CFR Part 60

Environmental protection, Air pollution control, Reporting and recordkeeping requirements, Volatile organic compounds.

Statutory Authority: The statutory authority for this proposed amendment is provided by sections 101, 111, 114, 116, and 301 of the Clean Air Act, as amended; 42. U.S.C., 7401, 7411, 7414, and 7601.

Dated: September 25, 1995.

Richard Wilson,

Acting Assistant Administrator.

[FR Doc. 95–25182 Filed 10–10–95; 8:45 am]

BILLING CODE 6560–50–P

[2] Section 60.770 of the proposed SOCMI wastewater NSPS (59 FR 46780, September 12, 1994) defines an ''affected facility'' that must comply with the NSPS to be ''. . . a process unit that generates a wastewater and produces one or more of the chemicals listed in § 60.788 of this subpart as a product, co-product, by-product, or intermediate for which construction, modification, or reconstruction of the process unit commenced after September 12, 1994.''

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40 CFR Part 70

[TN–NASH–95–01; FRL–5313–6]

Clean Air Act Proposed Full Approval, or in the Alternative, Proposed Interim Approval of Operating Permits Program; Metropolitan Health Department, Metropolitan Government of Nashville and Davidson County, TN

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 State of Tennessee on behalf of the Metropolitan Health Department (''Nashville-Davidson County'' or ''the County''), located in the geographic area of Nashville-Davidson County. Alternatively, EPA proposes to grant interim approval if specified changes are not adopted prior to final promulgation of this rulemaking. Nashville-Davidson County's program was submitted for the purpose of complying with Federal requirements which mandate that states or local authorities 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 November 13, 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 Nashville-Davidson County 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, 345 Courtland Street, NE, Atlanta, GA 30365.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, 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, extension 4150.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

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 or 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 states or authorized local agencies to 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 that EPA act to approve or disapprove each program within one year after receiving the submittal. If the state or authorized 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 material. EPA received the Nashville-Davidson County title V operating permit program submittal on November 13, 1993. Nashville-Davidson County provided EPA with additional material in supplemental submittals dated April 19, 1994, September 27, 1994, and December 28, 1994. Because these supplements materially changed the County's title V program submittal, EPA extended the one-year review period.

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 two 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 the Nashville-Davidson County Submission

The Metropolitan Health Department has requested full approval of its title V operating permits program, which covers the geographic area of Nashville-Davidson County within the State of Tennessee. EPA has concluded that the operating permit program submitted by 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 Nashville-Davidson 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 authority 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 13, 1993, the Tennessee Department of Environment and Conservation (TDEC) requested, under the signature of the Tennessee Governor's designee, approval of the Nashville-Davidson County operating permit program with full authority to administer the program in all areas of the County. The County has been delegated authority to implement part 70 under Tennessee law (Tennessee Code Annotated (TCA), section 68–25–115). The TDEC supplemented the County's program submittal on April 19, 1994, September 27, 1994, and December 28, 1994.

The Nashville-Davidson County submittal addresses, in Section 70.4 entitled ''State Program Submittal and Transition,'' 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 Metropolitan Government of Nashville and Davidson County 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. Appendix 5 of the Nashville-Davidson County submittal includes the permit application forms, permit forms, and other 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

Nashville-Davidson County developed Regulation No. 13 for the implementation of the substantive requirements of 40 CFR part 70. The County also made changes to Chapter 10.56 of the Metropolitan Code of Law (M.C.L.) to implement other part 70 requirements. These provisions, and several other rules and statutes providing for the County's permitting and administrative actions, were submitted by Nashville-Davidson County with sufficient evidence of procedurally correct adoption as required by 40 CFR 70.4(b)(2).

The Nashville-Davidson County program, in sections 13.2, 13.3 of Regulation No. 13, and M.C.L. section 10.56.10, meets the requirements of 40 CFR 70.2 and 70.3 with regard to applicability. Sections 13.3, 13.4 and 13.5 of Regulation No. 13, meet the requirements of 40 CFR 70.4, 70.5, and 70.6 for permit content (including operational flexibility) and complete permit application forms. The County's program does not provide for off-permit changes as described in 40 CFR 70.4(b)(14).

Section 70.4(b)(2) requires states or local agencies to include 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 or local 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 a state or local 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 provisions addressing the insignificant activities list of Nashville-Davidson County can be found in M.C.L. section 10.56.050. 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 proposed revisions to M.C.L. section 10.56.050 on July 29, 1995, 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. Specifically the new provision, M.C.L. section 10.56.050(F), will read as follows: ''Notwithstanding any exemptions in this Section, any application submitted in accordance with Section 10.56.020 and Section 10.50.040 of this Chapter shall include all emission sources and quantify emissions if needed to determine major source status, to determine compliance with an applicable requirement and/or the applicability of any applicable requirement such as a NSPS, NESHAPS, or MACT standard, etc., or in [the] calculation [of] permit fees in accordance with Section 10.56.080.''

EPA has determined that the proposed provision is acceptable and, as a condition of full approval, the County plans to expeditiously adopt the proposed changes prior to EPA's final action on the County's program.

Part 70 requires prompt reporting of deviations from the permit requirements. The contents of 40 CFR 70.6(a)(3)(iii)(B) require 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 40 CFR 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 require sufficiently prompt reporting of deviations. Nashville-Davidson County has proposed to define ''prompt'' in section 13.4 of Regulation No. 13.

Nashville-Davidson County has the authority to issue variances from requirements imposed by local law under M.C.L. section 10.56.130. 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 local law. EPA has no authority to approve provisions of local 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.''

Sections 13.5 and 13.6 of Regulation No. 13 in the Nashville-Davidson County program meet the permit processing requirements (including public participation and minor permit modifications) of 40 CFR 70.7 and 70.8. Sections 90 and 150 of M.C.L. Chapter 10.56 and T.C.A. 68–210–112 address the enforcement authority requirements of 40 CFR 70.11.

The aforementioned TSD contains the detailed analysis of the Nashville-Davidson 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.''

Nashville-Davidson County has elected to adopt the ''presumptive minimum'' of $25/ton (annually adjusted by the CPI) for each regulated pollutant. The fee demonstration included in the program submittal indicates that the fees collected will adequately cover the anticipated costs of the operating permit program.

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

a. Authority for Section 112 Implementation. In its program submittal, Nashville-Davidson County demonstrates adequate legal authority to implement and enforce all Section 112 requirements through the title V permit. This legal authority is contained in M.C.L. section 10.56.210, and in section 13.1 of Regulation No. 13 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 Nashville-Davidson 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 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), Nashville-Davidson 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 Nashville-Davidson 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 Nashville-Davidson County's preconstruction review program found in M.C.L. section 10.56.020, 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 Nashville-Davidson 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]

Nashville-Davidson 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 December 28, 1994, submitted by the County as a title V program addendum.

d. Commitment to Implement Title IV of the Act. Nashville-Davidson 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 Nashville-Davidson County acid rain portion of the County's title V program has been established. Nashville-Davidson 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 Nashville-Davidson County on November 12, 1993, and as supplemented on April 19, 1994, September 27, 1994, and December 28, 1994, if appropriate revisions consistent with 40 CFR 70.5(c) are incorporated in M.C.L. section 10.56.050, and adopted prior to final promulgation of this rulemaking. EPA has determined that the Nashville-Davidson 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 Nashville-Davidson County operating permits program if the change required for full approval, as described above, is not made prior to final promulgation of this rulemaking. EPA can grant interim approval because Nashville-Davidson County's program substantially meets the requirements of part 70 as discussed in section II(A) of this notice. The interim approval issue 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 Nashville-Davidson 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, Nashville-Davidson County would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a Federal permits program for Nashville-Davidson 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 Nashville-Davidson County fails to submit a complete corrective program for full approval by the date six months before expiration of the interim

[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.

approval, EPA would start an 18-month clock for mandatory sanctions. If Nashville-Davidson 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 Nashville-Davidson County has corrected the deficiency by submitting a complete corrective program.

3. Other Actions

As discussed previously in section II.A.4.b., EPA proposes to approve Nashville-Davidson County's preconstruction review program found in M.C.L. section 10.56.020, 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 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. This program for delegation applies to 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 full/interim approval. Copies of the Nashville-Davidson County submittal and other information relied upon for the proposed approval are contained in docket number TN–NASH–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 full/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 November 13, 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, and Reporting and recordkeeping requirements.

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

Dated: September 22, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

[FR Doc. 95–25069 Filed 10–10–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 88–548, FCC 95–392]

Private Land Mobile Services Frequency Coordination

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; withdrawal.

SUMMARY: The Commission has released an *Order* terminating the proceeding of PR Docket No. 88–548 concerning private land mobile services frequency coordination. This action was initiated by the Commission and is necessary because the Notice of Proposed Rule Making issued in that proceeding has become outdated.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of an Order adopted on September 13, 1995, and released on September 26, 1995. The full text of the Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M St. N.W., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc. 2100 M St. N.W., Washington, DC 20037, telephone (202) 857–3800.

Summary of Order

a. On August 15, 1989, the Commission released a Notice of Proposed Rule Making, PR Docket No. 88–548, 54 FR 35359, August 25, 1989, proposing to modify frequency coordination procedures in the private land mobile radio services (PLMRS). On June 23, 1995, the Commission released a Report and Order and Further Notice of Proposed Rule Making, PR Docket No. 92–235, 60 FR 37152, July 19, 1995, which addressed, among other issues, frequency coordination in the PLMRS. The Report and Order portion of the item stated that the Commission has decided to consolidate the private land mobile radio services below 800 MHz, and requested that the PLMRS community and frequency coordinators, submit a consensus consolidation plan to the Commission within 90 days of the effective date of the Report and Order. Because of our action in PR Docket No. 92–235, the rationale upon which our original proposal was based and the comments filed in response to the proposal are outdated. Therefore, we conclude that the public interest will be