

June 21 and 22; July 4, 5 and 6, July 19 and 20, August 2 and 3, August 16 and 17, August 30 and 31 and September 1, September 13 and 14 and September 27 and 28, 1997. In the event of an approaching tropical storm or hurricane, the draws will return to normal operation within 24 hours.

Dated: March 24, 1997.

**T.W. Josiah,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 97-8507 Filed 4-3-97; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[AD-FRL-5806-2]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes approval of the revision to the Operating Permits Program submitted by the Arizona Department of Environmental Quality ("ADEQ") on behalf of the Pima County Department of Environmental Quality ("Pima" or "County") for the purpose of complying with section 502(b)(3) of the Clean Air Act ("the Act"), which 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.

**DATES:** Comments on this proposed action must be received in writing by May 5, 1997.

**ADDRESSES:** Comments must be submitted to Ginger Vagenas at EPA, AIR-3, 75 Hawthorne Street, San Francisco, CA 94105. Copies of Pima's submittal and other supporting information used in developing this proposed approval are available for inspection (AZ-Pima-97-1-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 (see 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).

### II. Proposed Action

EPA is proposing to approve the submitted amendments to the 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. Submitted Materials

Pima's title V program amendment 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.

#### B. Legal Opinion

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. Pima's submittal includes an opinion from the County Attorney regarding the adequacy of the laws of the State of Arizona and Pima's amended title V program. The County Attorney states:

[I]t is my opinion that the laws of the state of Arizona provide adequate authority to carry out all aspects of the amended program submitted by the Pima County Air Quality Control District to the EPA. \* \* \*

[T]he Arizona Revised Statutes and Pima County Code, Title 17, ensure that permit fees assessed as part of the Title V (Class 1) permit program will cover all reasonable direct and indirect costs required to develop, administer, and enforce Pima County's Title V Permit Program.

#### C. Permit Fee Demonstration

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. Beginning in 1994, the emissions fee rate is adjusted 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 costs of the Title V related activities not covered by title V permit fees. These activities are inspection services and associated direct and indirect costs. Pima estimates the annual cost of these activities to be \$68,640. Based upon known sources and emissions reported by the sources, and using the emission fee (\$28.15 per ton, indexed to the CPI beginning in 1994) and the fee schedule, the County estimates its annual revenue from emissions fees will be \$70,100.

**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. 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 estimates processing costs for permit issuance 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.

### III. 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 a docket (AZ-Pima-97-1-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 May 5, 1997.

#### 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. 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, Reporting and recordkeeping requirements.

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

Dated: March 23, 1997.

**Felicia Marcus,**

*Regional Administrator.*

[FR Doc. 97-8691 Filed 4-3-97; 8:45 am]

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## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

[Docket No. FEMA-7211]

### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, FEMA.

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

**FOR FURTHER INFORMATION CONTACT:** Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management