

program would impose on industry a marginal cost (i.e., a cost above what industry would incur to comply with State requirements) of \$31.9 million for collecting information (e.g., completing permit applications). Additionally, EPA has calculated the marginal cost to industry of the part 71 fee structure to be \$64.7 million. As shown in the ICR, part 71 programs would generate \$137.5 million in fees, using an average fee of nearly \$60 per ton of certain regulated pollutants. On the other hand, most States are expected to charge approximately \$31 per ton (or \$25 per ton as adjusted for inflation using a baseline year of 1989) which is the fee amount which title V of the Act suggests would be adequate to fund a State permit program. The difference between fees generated under part 71 and under the otherwise applicable State fee requirements (based on \$31 per ton) would be \$64.7 million. In addition, it is important to note that the estimates used in these projections (and the ICR) are based on the assumption that EPA would administer 10 part 71 programs for a full year. The EPA believes that it is very unlikely that it would administer that many programs for such an extended time period. For these reasons, EPA believes that the total marginal costs to industry under today's proposal would not exceed \$100 million in any one year. Therefore, the Agency concludes that it is not required by Section 202 of the Unfunded Mandates Reform Act of 1995 to provide a written statement to accompany this proposed regulatory action because promulgation of the rule would not result in the expenditure by State, local, and tribal governments, in the aggregate or by the private sector, of \$100,000,000 or more in any one year.

List of Subjects

40 CFR Part 55

Air pollution control, Outer Continental Shelf, operating permits.

40 CFR Part 71

Air pollution control, Prevention of significant deterioration, New source review, Fugitive emissions, Particulate matter, Volatile organic compounds, Nitrogen dioxide, Carbon monoxide, Hydrocarbons, Lead, Operating permits, Indian Tribes, Air pollution control—Tribal authority.

Dated: March 28, 1995.

Carol Browner,
Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as set forth below.

(Note: Material enclosed by brackets and designated as "Option" set forth an alternative proposal regarding revision of permit terms that prescribe monitoring or recordkeeping procedures. Material enclosed by brackets and designated as "alternatives" set for an alternative proposal regarding processing changes under the administrative amendment procedures and de minimis permit revision procedures.)

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401, *et seq.*) as amended by Public Law 101-549.

2. Section 55.6 is proposed to be amended by adding paragraph (c)(3) to read as follows:

§ 55.6 Permit requirements.

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(c) * * *

(3) If the COA does not have an operating permits program approved pursuant to 40 CFR part 70 or if EPA has determined that the COA is not adequately implementing an approved program, the applicable requirements of 40 CFR part 71, the Federal operating permits program, shall apply to the OCS sources. The applicable requirements of 40 CFR part 71 will be implemented and enforced by the Administrator. The Administrator may delegate the authority to implement and enforce all or part of a Federal operating permits program to a State pursuant to § 55.11.

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3. Section 55.10 is proposed to be amended by revising paragraph (a)(1) and by adding paragraph (b) to read as follows:

§ 55.10 Fees.

(a) * * *

(1) EPA will calculate and collect operating permit fees from OCS sources in accordance with the requirements of 40 CFR part 71.

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(b) OCS sources located beyond 25 miles of States' seaward boundaries. EPA will calculate and collect operating permit fees from OCS sources in accordance with the requirements of 40 CFR part 71.

4. Section 55.13 is proposed to be amended by adding paragraph (f) to read as follows:

§ 55.13 Federal requirements that apply to OCS sources.

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(f) 40 CFR part 71 shall apply to OCS sources:

(1) Located within 25 miles of States' seaward boundaries if the requirements

of 40 CFR part 71 are in effect in the COA.

(2) Located beyond 25 miles of States' seaward boundaries.

(3) When an operating permits program approved pursuant to 40 CFR part 70 is in effect in the COA and a Federal operating permit is issued to satisfy an EPA objection pursuant to 40 CFR 71.4(e).

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PART 71—[AMENDED]

5. The authority citation for part 71 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

6. Part 71 is proposed to be amended by adding subpart A to read as follows:

Subpart A—Operating Permits

Sec.

- 71.1 Program overview.
- 71.2 Definitions.
- 71.3 Sources subject to permitting requirements.
- 71.4 Program implementation.
- 71.5 Permit applications.
- 71.6 Permit content.
- 71.7 Permit review, issuance, renewal, reopenings, and revisions.
- 71.8 Affected State review.
- 71.9 Permit fees.
- 71.10 Delegation of part 71 program.
- 71.11 Administrative record, public participation, and administrative review.
- 71.12 Prohibited acts.

Subpart A—Operating Permits

§ 71.1 Program overview.

(a) This part sets forth the comprehensive Federal air quality operating permits permitting program consistent with the requirements of title V of the Clean Air Act (Act) (42 U.S.C. 7401 *et seq.*) and defines the requirements and the corresponding standards and procedures by which the Administrator will issue operating permits. This permitting program is designed to promote timely and efficient implementation of goals and requirements of the Act.

(b) All sources subject to the operating permit requirements of title V of the Act and this part shall have a permit to operate that assures compliance by the source with all applicable requirements.

(c) The requirements of this part, including provisions regarding schedules for submission and approval or disapproval of permit applications, shall apply to the permitting of affected sources under the acid rain program, except as provided herein or as modified by title IV of the Act and 40 CFR parts 72 through 78.

(d) Issuance of permits under this part may be coordinated with issuance of permits under the Resource