affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (1976).

D. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, USEPA 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, USEPA 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 USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA 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 the private sector, result from this action.

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 21, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: January 26, 1996.

Valdas V. Adamkus,

Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart YY—Wisconsin

2. Section 52.2570 is amended by adding paragraph (c)(87) to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(91) The State of Wisconsin requested a revision to the Wisconsin State Implementation Plan (SIP). This revision is for the purpose of satisfying the rate-of-progress requirement of section 182(b) and the contingency measure requirement of section 172(c)(9) of the Clean Air Act (Act) which will aid in ensuring the attainment of the national ambient air quality standard (NAAQS) for ozone.

(i) Incorporation by reference.

(A) Wisconsin Statutes, sections 144.31(1)(e) and (f), enacted on April 30, 1992, by Wisconsin Act 302.

[FR Doc. 96–6779 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[KY–JEFF–96–01; FRL–5445–7]

Clean Air Act Approval of Operating Permits Program; Jefferson County, Kentucky

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: The EPA is promulgating full approval of the Operating Permits Program submitted by the Jefferson County, Kentucky Air Pollution Control District (District) located in the geographic area of Jefferson County, Kentucky. The Jefferson County, Kentucky program was submitted for the purpose of complying with Federal requirements which mandate that state and local agencies develop, and submit to EPA programs for issuing operating permits to all major stationary sources, and to certain other sources.

EFFECTIVE DATE: April 22, 1996.

ADDRESSES: Copies of the District's submittal and other supporting information used in developing the final full 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, Georgia 30365, on the 3rd floor of the Tower Building. Interested persons wanting to examine these documents, contained in EPA docket number KY–JEFF–96–01, should make an appointment at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Leonardo Ceron, 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 4196.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (Section 501–507 of the Clean Air Act (''the Act'')), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 require that states or authorized local agencies develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. 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 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 the interim program, it must establish and implement a Federal Program.

On November 24, 1995, EPA proposed full approval, or in the alternative, interim approval of the operating permits program for the Jefferson County, Kentucky, Air Pollution Control District. *See* 60 FR 58033. The November 24, 1995, notice also proposed approval of the District's interim mechanism for implementing section 112(g) and for delegation of section 112 standards as promulgated. EPA did not receive any comments on the proposal. On February 16, 1996, the District submitted a package containing revisions to the operating permits program, which addressed the

deficiency discussed in the full/interim approval notice. As required by 40 CFR 70.6(g), the District adopted revisions to Regulation 1.07, section 2.2, to ensure that excess emissions due to emergency situations are classified as a violation of an existing permit. Specifically the new regulation 1.07, section 2.2, reads as follows: ''Notwithstanding the provisions of section 2.1, if a federal regulation requires compliance with emissions standards during startup, shutdown, malfunction, or emergency, excess emissions resulting from any of these events shall be deemed in violation of those standards even though, based upon a showing by the owner or operator of the source and an affirmative determination by the district, the applicable requirements identified in section 2.1 are satisfied.'' Additionally, 40 CFR 70.6(g) required the District to adopt revisions to Regulation 1.07, section 2.1, to only allow sources the use of the legal mechanism of ''affirmative defense'' when excess emissions are emitted from a source during an emergency situation. Specifically, the new Regulation 1.07, section 2.2 reads as follows: ''However, in the case of technology-based federal emission standards, an emergency shall constitute an affirmative defense to an enforcement action brought for noncompliance with these emission standards if, based upon a showing by the owner or operator of the source and an affirmative determination by the District, the requirements of section 5 are met.'' It is EPA's understanding that the District's sections 2.1 and 2.2 allow sources to use the legal mechanism of affirmative defense on federally mandated emission limits, when a federally promulgated emission standards has been violated during emergencies situations as defined in Regulation 1.07, section 5. These changes became locally effective on January 17, 1996.

In this action, EPA is promulgating full approval of the Jefferson County, Kentucky operating permits program, and approving the section 112(g) and section 112(l) mechanisms noted above.

II. Final Action and Implications

A. Title V Operating Permits Program

The EPA is promulgating full approval of the operating permits program submitted by the Jefferson County, Kentucky, Air Pollution Control District, on February 1, 1994, and supplemented on November 15, 1994; May 3, 1995; July 14, 1995; and February 16, 1996. The November 24, 1995, notice established that the District would receive full approval of its program if changes to Regulation 1.07, sections 2.1 and 2.2 were adopted prior to final promulgation. Such changes became locally effective on January 17, 1996. The District has demonstrated that the program will be adequate to meet the minimum elements of a state or local operating permits program as specified in 40 CFR part 70.

The scope of the District's part 70 program approved in this notice applies to all part 70 sources (as defined in the approved program) within Jefferson County, Kentucky, except any sources of air pollution over which an Indian Tribe has jurisdiction. *See, e.g.,* 59 FR 55813, 55815–18 (Nov. 9, 1994). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' *See* section 302(r) of the Act; *see also* 59 FR 43956, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

B. Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of District's preconstruction program found in Regulation 2.03 as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and the District's adoption of rules specifically designed to implement section 112(g). This approval is limited to the implementation of the 112(g) rule and is effective only during any transition time between the effective date of the 112(g) rule and the adoption of specific rules by the District to implement section 112(g). The duration of this approval is limited to 18 months following promulgation by EPA of section 112(g) regulations to provide the District with adequate time to adopt regulations consistent with Federal requirements.

C. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that the District's 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 promulgating approval under section 112(l)(5) and 40 CFR 63.91 of the District's program for receiving delegation of section 112 standards and programs that are unchanged from Federal rules as promulgated. In addition, EPA is approving the delegation of all existing standards and programs under 40 CFR parts 61 and 63. This program for delegation applies to both part 70 sources and non-part 70 sources.

III. Administrative Requirements

A. Docket

Copies of the District's submittal and other information relied upon for the final full approval are contained in docket number KY–JEFF–96–01 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 final full approval. The docket is available for public inspection at the location listed under the **ADDRESSES** section of this document.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

C. Regulatory Flexibility Act

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.

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.

Dated: March 15, 1996.

Phyllis P. Harris,

Acting Deputy Regional Administrator.

Part 70, title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding the entry for Kentucky in alphabetical order to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Kentucky

(a) Kentucky Natural Resources and Environmental Protection Cabinet: submitted on December 27, 1993, and supplemented on November 15, 1994, April 14, 1995, May 3, 1995 and May 22, 1995; interim approval effective on December 14, 1995; interim approval expires on December 14, 1997.

(b) Air Pollution Control District of Jefferson County, Kentucky: submitted on February 1, 1994, and supplemented on November 15, 1994, May 3, 1995, July 14, 1995 and February 16, 1996; full approval effective on April 22, 1996.

* * * * *

[FR Doc. 96–7035 Filed 3–21–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 799

[OPPTS–42185; FRL–5356–7]

RIN 2070–0033

Testing Consent Order For Alkyl Glycidyl Ethers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final consent agreement and order; final rule.

SUMMARY: Pursuant to the Toxic Substances Control Act (TSCA), EPA has issued a testing consent order (Order) that incorporates an enforceable consent agreement (ECA) with Air Products and Chemicals, Inc., Callaway Chemical Company, Ciba-Geigy Corporation, CVC Specialty Chemicals, and Shell Chemical Company (the Companies). The Companies have agreed to perform certain health effects tests on alkyl (C_{12}-C_{13}) glycidyl ether (CAS No. 120547–52–6), as a representative of the alkyl glycidyl ethers subcategory of EPA's proposed test rule for glycidol and its derivatives. This notice summarizes the ECA, adds alkyl (C_{12}-C_{13}) glycidyl ether to the list of chemical substances and mixtures subject to testing consent orders, and announces that export notification requirements apply to alkyl (C_{12}-C_{13}) glycidyl ether.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. ET–543B, USEPA, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This notice amends 40 CFR 799.5000 by adding alkyl (C_{12}-C_{13}) glycidyl ether to the list of chemical substances and mixtures subject to testing consent orders and export notification requirements.

I. Background

Alkyl glycidyl ethers (AGEs) are epoxy resin additives derived from glycidol and are used as modifiers for other epoxides in flooring and adhesives. Their annual production volume is approximately 7 million pounds. Approximately 37,000–69,000 workers may be exposed to AGEs.

In its Third Report to the EPA Administrator, published in the Federal Register on October 30, 1978 (43 FR 50630), the TSCA section 4 Interagency Testing Committee (ITC) designated the category glycidol and its derivatives (collectively referred to as ''glycidyls'') for priority consideration for health effects testing with regard to the following endpoints: Carcinogenicity, mutagenicity, teratogenicity, and other adverse health effects, with particular emphasis on the reproductive system. Epidemiological studies were also recommended. The rationale for the original designation is discussed in the same Federal Register notice. This chemical category was defined by the ITC as all substances with the general formula:

$$R–O–CH_2CH(O)CH_2$$

where R is a hydrogen atom or any alkyl, aryl, or acyl group. R is unrestricted as to the number and type of substituents it may carry.

On December 30, 1983, EPA published an advanced notice of proposed rulemaking (ANPRM) (FRL–2480–7) in the Federal Register (48 FR 57562) to require testing glycidyls under section 4(a) of TSCA.

In the November 7, 1991 issue of the Federal Register (56 FR 57144), EPA published a notice of proposed rulemaking (FRL–3736–2) for testing the category glycidol and its derivatives. Unit I.D. of the notice described EPA's evaluation of the testing needs for glycidyls. The proposal contained testing requirements for, among others, the following chemical substances: lauryl glycidyl ether (CAS No. 2461–18–9); hexadecyl glycidyl ether (CAS No. 15965–99–8); *n*-octadecyl glycidyl ether (CAS No. 16245–97–9); tetradecyl glycidyl ether (CAS No. 38954–75–5); alkyl (C_{10}-C_{16}) glycidyl ether (CAS No. 68081–84–5); and alkyl (C_{12}-C_{14}) glycidyl ether (CAS No. 68609–97–2). The proposal designated these chemical substances as subcategory II-A.

The November 7, 1991, notice proposed that manufacturers of subcategory II-A chemical substances conduct tests on a representative member of the subcategory for the following endpoints: Subchronic toxicity, developmental toxicity, subchronic neurotoxicity (functional observational battery, motor activity, and neuropathology), and genetic toxicology (immediately required testing—the *salmonella typhimurium* reverse mutation assay; *in vitro* mammalian bone marrow cytogenetics; and *in vivo* mammalian bone marrow cytogenetics tests: chromosomal analysis or micronucleus assay).

II. Enforceable Consent Agreement Negotiations

On July 17, 1992, EPA published a Federal Register notice (57 FR 31714) (FRL–4078–9) announcing an ''open season''. The open season was a time during which industry and other interested parties could submit to EPA proposals for enforceable consent agreements (ECAs) to test chemical substances for which the Agency had not issued final test rules. In that notice, EPA indicated that it would review the submissions and select candidates for negotiation of ECAs pursuant to 40 CFR 790.22. EPA also indicated that it would, at a future date, publish a Federal Register notice soliciting persons interested in participating in or monitoring negotiations for the development of ECAs on the chemical substances selected.

On September 15, 1992, the Companies submitted a proposal (Ref. 1) for a categorization scheme and a testing program that would be an alternative to that described in the proposed test rule for the category glycidol and its derivatives. The Companies proposed a testing program for, among others, a representative of the subcategory II-A chemical substances. On April 26, 1993, the Companies made another proposal (Ref. 2) that expanded the scope of the testing program.

On August 18, 1993, EPA published a Federal Register notice (58 FR 43893) (FRL–4639–5) that solicited interested parties to participate in or monitor ECA negotiations on subcategory II-A chemical substances.

On November 30, 1994, the Companies submitted a draft proposed ECA (Ref. 3) that revised the material that they had previously submitted in this matter. The Companies proposed as the test substance alkyl (C_{12}-C_{13}) glycidyl ether (CAS No. 120547–52–6) which is subsumed within the six subcategory II-A substances (60 FR 31154, June 13, 1995) (FRL–4960–3). These seven chemicals are referred to as alkyl glycidyl ethers (AGEs). The Companies proposed the following tests—subchronic toxicity (with an