

1995; interim approval expires August 13, 1997.

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(l) *Lake County AQMD* (complete submittal received on March 15, 1994); interim approval effective on August 14, 1995; interim approval expires August 13, 1997.

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(bb) *Shasta County AQMD* (complete submittal received on November 16, 1993); interim approval effective on August 14, 1995; interim approval expires August 13, 1997.

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(ee) *Tehama County APCD* (complete submittal received on December 6, 1993); interim approval effective on August 14, 1995; interim approval expires August 13, 1997.

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BILLING CODE 6560-50-P

40 CFR Part 70

[AD-FRL-5258-3]

Clean Air Act Final Interim Approval of the Operating Permits Program for Clark County, Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is promulgating interim approval of the title V operating permits program submitted by the Clark County Health District (Clark County) for the purpose of complying with federal requirements that mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources. In addition, today's action grants final approval to Clark County's mechanism for receiving delegation of section 112 standards as promulgated.

EFFECTIVE DATE: August 14, 1995.

ADDRESSES: Copies of Clark County's submittals and other supporting information used in developing the final approvals are available for inspection (docket number NV-Clark-95-OPS) during normal business hours at the following location: U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Ed Pike (telephone 415/744-1248), Mail Code A-5-2, U.S. Environmental Protection Agency, Region IX, Air & Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act (Act)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70, require that states develop and submit operating permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The 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 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a federal program.

On March 14, 1995, EPA proposed interim approval of the operating permits program for Clark County or, if specified changes were made, full approval. See 60 FR 13683. The County has not modified the program and EPA is promulgating interim approval. The March 14, 1995 **Federal Register** also proposed approval of Clark County's interim mechanism for implementing section 112(g) and program for delegation of section 112 standards as promulgated. EPA requested public comment on the proposals and received one comment letter. In this notice, EPA is promulgating interim approval of Clark County's operating permits program, approving the section 112(g) and section 112(l) mechanisms noted above, and responding to the public comment.

II. Final Action and Implications

A. Response to Public Comment on Proposal

EPA received one public comment letter from the National Environmental Development Association's Clean Air Regulatory Project ("NEDA/CARP"). The letter opposed EPA's proposed approval of the County's preconstruction permitting program as a transitional mechanism for preconstruction review of major air toxics sources under section 112(g) of the Act. The letter also requested that EPA issue an interpretation of the County rule to reduce the number of significant permit modifications that are required by the County. EPA did not receive any other comments on the proposal.

1. Section 112(g) Implementation

The commenter stated that Clark County should not be allowed to use its existing preconstruction program to determine case-by-case maximum achievable control technology (MACT) for new, reconstructed, and modified sources if a transitional program is necessary during an interim period between promulgation of EPA's 112(g) rule and local adoption of a 112(g) rule. The commenter stated that Clark County's preconstruction program may not appropriately address the de minimis levels and offset requirements in the 112(g) rule.

Section 112(g)(2) of the Clean Air Act prohibits the construction, reconstruction, and modification of any major source of hazardous air pollutants after the effective date of a title V program unless the source meets MACT. EPA has published an interpretive notice in the **Federal Register** that interprets section 112(g) to allow State and local agencies to decide whether to delay implementing 112(g) of the Act until EPA promulgates a final 112(g) rule unless they choose to implement the requirements of 112(g) as a matter of state or local law prior to EPA promulgation of the 112(g) rule. In addition, EPA will consider whether an additional delay in the effective date of 112(g) is necessary in the final 112(g) rulemaking. 60 FR 8333 (February 14, 1995). Unless and until EPA provides for such an additional postponement of section 112(g), however, Clark County must be able to implement section 112(g) during the period between promulgation of the federal section 112(g) rule and adoption of implementing County regulation. Therefore, EPA is approving the use of the County's preconstruction program as an interim mechanism.

Clark County's preconstruction program will allow the County to select control measures that would meet MACT, as defined in section 112, and incorporate these measures into a federally enforceable preconstruction permit, if necessary during a transition period. EPA believes that the promulgated 112(g) rule will offer the County sufficient guidance for implementing the requirements of 112(g) prior to local adoption of the 112(g) rule. EPA believes that, although Clark County currently lacks a program designed specifically to implement section 112(g), Clark County's preconstruction review program will serve as an adequate implementation vehicle during a transition period.

One consequence of the fact that Clark County lacks a program designed

specifically to implement section 112(g) is that the applicability criteria found in its preconstruction review program may differ from those in the section 112(g) rule. However, whether a particular source change qualifies as a modification, construction, or reconstruction for section 112(g) purposes during any transition period will be determined according to the final section 112(g) rule. EPA expects that Clark County would be able to issue a preconstruction permit containing a case-by-case determination of MACT where necessary for purposes of section 112(g), even if review under its own preconstruction review program would not be triggered, and would use the applicability criteria in the final 112(g) rule to determine whether review is required.

2. Permit Modification Procedures

The commenter stated that Clark County appears to include minor NSR in the definition of title I modification, and requested that EPA "clarify" that minor NSR modifications are not title I modifications because title I modifications are not eligible for processing as minor permit modifications. The commenter also requested that the County allow streamlined processing for minor new source review (NSR) changes instead of requiring significant permit modifications.

EPA believes that Clark County's permit revision procedures are consistent with the requirements of part 70 and do not need further clarification. As noted in EPA's proposal and the commenter's letter, Clark County requires a significant modification for all title I modifications. The County's rule includes all New Source Review (NSR) modifications, including minor NSR changes, in the significant modification track. For instance, the County requires significant permit modifications for all changes to case-by-case emissions limits such as NSR limits and for net emissions increases (District Board of Health of Clark County Air Pollution Control Regulations, section 19.5). EPA believes that the best reading of the term title I modification includes minor NSR and is consistent with the County's rule. See 59 FR 44573. In addition, § 70.7(e)(2)(A)(6) allows the County to adopt a more inclusive significant permit modification track than the minimum requirements in part 70. Therefore, EPA is not requiring that the County change its permit revision procedures.

B. Final Action

1. Title V Operating Permits Program

The EPA is promulgating interim approval of Clark County's title V operating permits program as submitted on January 12, 1994 and amended on July 18 and September 21. EPA did not receive any comments on the changes that are necessary for full approval and is requiring that the County implement these changes to obtain full approval. The County must submit enforcement commitments, including commitments to adequately enforce the part 70 program. The County must also ensure that provisions concerning confidential business information consistent with part 70. The County must add a 9-month deadline for issuing early reductions permits to its rules and modify the following provisions: operational flexibility, applicable requirements, and insignificant activities. See 60 FR 13683 (March 15, 1995) for more detailed information regarding approval issues for Clark County.

The scope of this approval of Clark County's part 70 program applies to all part 70 sources (as defined in the approved program) within Clark County, Nevada, 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).

This interim approval, which may not be renewed, extends until August 13, 1997. During this interim approval period, Clark County is protected from sanctions, and EPA is not obligated to promulgate, administer and enforce a federal operating permits program in Clark County. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of this interim approval, as does the 3-year time period for processing the initial permit applications.

If Clark County fails to submit a complete corrective program for full approval by February 13, 1997, EPA will start an 18-month clock for mandatory sanctions. If Clark County then fails to submit a corrective program that EPA finds complete before the expiration of

that 18-month period, EPA will be required to apply one of the sanctions in section 179(b) of the Act, which will remain in effect until EPA determines that Clark County has corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator finds a lack of good faith on the part of Clark County, both sanctions under section 179(b) will apply after the expiration of the 18-month period until the Administrator determines that Clark County has come into compliance. In any case, if, six months after application of the first sanction, Clark County still has not submitted a corrective program that EPA has found complete, a second sanction will be required.

If EPA disapproves Clark County's complete corrective program, EPA will be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date Clark County has submitted a revised program and EPA has determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator finds a lack of good faith on the part of Clark County, both sanctions under section 179(b) shall apply after the expiration of the 18-month period until the Administrator determines that the Clark County has come into compliance. In all cases, if, six months after EPA applies the first sanction, Clark County has not submitted a revised program that EPA has determined corrects the deficiencies, a second sanction is required.

In addition, discretionary sanctions may be applied where warranted any time after the expiration of an interim approval period if the Clark County has not submitted a timely and complete corrective program or EPA has disapproved its submitted corrective program.

Moreover, if EPA has not granted full approval to the Clark County program by the expiration of this interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a federal permits program for the Clark County upon interim approval expiration.

2. County Preconstruction Permit Program Implementing Section 112(g)

EPA is approving the use of Clark County's preconstruction review program found in Sections zero and 19 as a mechanism to implement section 112(g) during the transition period between promulgation of EPA's section 112(g) rule and Clark County's adoption

of rules specifically designed to implement section 112(g). EPA is limiting the duration of this approval to 12 months following promulgation by EPA of the section 112(g) rule, as no difficulties were identified with the proposed 12-month deadline for adoption of a 112(g) rule.

3. Program for Delegation of Section 112 Standards as Promulgated

Requirements for part 70 program 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 Clark County's program contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also promulgating approval under section 112(l)(5) and 40 CFR 63.91 of Clark County's program for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated. This program for delegations applies to both existing and future standards but is limited to sources covered by the part 70 program.

III. Administrative Requirements

A. Docket

Copies of Clark County's submittal and other information relied upon for the final interim approval, including the public comment letter received by EPA, are contained in docket number NV-Clark-95-OPS 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 interim 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 action from review under 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 permit programs submitted to satisfy the requirements of 40 CFR part 70. Because these actions do not impose any new requirements, they do not have a significant impact on a substantial number of small entities.

D. 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.

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.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: July 5, 1995.

Felicia Marcus, 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. In Appendix A to part 70 the entry for Nevada is amended by adding introductory text and paragraph (c) to read as follows:

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

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Nevada

The following district program was submitted by the Nevada Division of Environmental Protection on behalf of:

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(c) Clark County Air Quality Management District: submitted on January 12, 1994 and amended on July 18 and September 21, 1994; interim approval effective on August 14, 1995; interim approval expires August 13, 1997.

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[FR Doc. 95-17123 Filed 7-12-95; 8:45 am] BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Parts 3, 51g and 110

RIN 0905-AE67

Unnecessary Regulations

AGENCY: Centers for Disease Control and Prevention.

ACTION: Final rule.

SUMMARY: As part of the Administration's initiative to eliminate outdated material from the Code of Federal Regulations, the Department is rescinding Parts 3, 51g, and 110 of Part 42. Part 3, on the charging of fees for special statistical services, is redundant, as pertinent statutory text is sufficient. Part 51g relates to a health education grant program which no longer exists. Part 110 is no longer necessary because a statutory provision—to the effect that information and education about vaccines be codified in regulation—was repealed.

EFFECTIVE DATE: Rescission of all three Parts is effective on July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Rebecca B. Wolf, Office of Program Planning and Evaluation, Centers for Disease Control and Prevention, (404) 639-3243.

SUPPLEMENTARY INFORMATION: The Centers for Disease Control and Prevention (CDC) reviewed its existing regulations for continuing usefulness and necessity. CDC found that three regulations are no longer needed. This final rule removes those regulations from the Code of Federal Regulations.

National Center for Health Statistics; Special Statistical Services

Part 3 of Title 42 authorizes the Director of the National Center for Health Statistics to perform, under