is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. section 804(2). This rule will be effective November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. 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 70

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

Dated: November 29, 2001.

L. John Iani,

Regional Administrator, Region 10.

40 CFR part 70, chapter I, 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 Alaska is amended by revising paragraph (a) to read as follows:

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

* * * * *

Alaska

(a) Alaska Department of Environmental Conservation: submitted on May 31, 1995, as supplemented by submittals on August 16, 1995, February 6, 1996, February 27, 1996, July 5, 1996, August 2, 1996, and October 17, 1996; interim approval effective on December 5, 1996; revisions submitted on June 5, 1996, October 3, 1996, August 25, 1998, and May 24, 1999; full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–30143 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NV 063–Pt70; FRL–7113–8]

Clean Air Act Full Approval of Title V Operating Permits Programs; Clark County Department of Air Quality Management, Washoe County District Health Department, and Nevada Division of Environmental Protection, Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits program of the Clark County Department of Air Quality Management (''Clark County''), the Washoe County District Health Department (''Washoe County''), and the Nevada Division of Environmental Protection (''NDEP''). These three programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to Clark County's operating permits program on July 13, 1995, to Washoe County's program on January 5, 1995, and to NDEP's program on December 12, 1995. All three permitting agencies revised their programs to satisfy the conditions of interim approval, and EPA proposed full approval in the **Federal Register** on October 10, 2001. EPA received comments on our proposed approval of Clark County's program from Mr. Robert Hall of the Nevada Environmental Coalition, and on our proposed approval of NDEP's program from NDEP. After carefully reviewing and considering the issues raised by the commenters, EPA is taking final action to give full approval to the Clark County and NDEP operating permits programs. EPA received no comments on our proposed approval of the Washoe County program and we are also granting full approval to that program in today's action.

EFFECTIVE DATE: This rule is effective on November 30, 2001.

ADDRESSES: Copies of the three program submittals and other supporting information used in developing this final full approval, including the two comment letters on our proposed approval, are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105.

FOR FURTHER INFORMATION CONTACT: David Albright, EPA Region 9, at 415–972–3971 or at albright.david@epa.gov.

SUPPLEMENTARY INFORMATION: This section contains additional information about our final rulemaking, organized as follows:

I. Background on the Clark County, Washoe County, and NDEP Operating Permits Programs

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain federal criteria. Clark County, Washoe County, and NDEP submitted their operating permits programs in response to this directive. Because the Clark County, Washoe County, and NDEP programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to each program in three separate rulemakings, published on July 13, 1995 (60 FR 36070), January 5, 1995 (60 FR 1741), and December 12, 1995 (60 FR 63631), respectively. Each interim approval notice described the conditions that had to be met in order for the programs to receive full approval.

After Clark County, Washoe County, and NDEP revised their programs to address the conditions of interim approval, EPA proposed to approve all three title V operating permits programs on October 10, 2001 (66 FR 51620).

II. Comments Received by EPA on Our Proposed Rulemaking and EPA's Responses

EPA received two comment letters during the public comment period. Mr. Robert Hall, Nevada Environmental Coalition, submitted a letter on November 9, 2001 commenting on our proposed approval of the Clark County program and NDEP submitted a letter on November 9, 2001 commenting on our proposed approval of the Nevada program. Copies of these letters are

included in the docket for this rulemaking maintained at the EPA Region 9 office.

A. Letter From Mr. Robert Hall, Nevada Environmental Coalition (NEC) Dated November 9, 2001

Mr. Hall, president of the NEC, raised numerous issues in his comment letter with respect to DAQM's implementation of the Clean Air Act. EPA responds below to those comments that are germane to EPA's proposal on October 10, 2001, to approve the Clark County DAQM operating permits program based upon the specific revisions made to the Clark County program addressing their interim approval deficiencies. However, many of Mr. Hall's comments relate to non-title V air permitting issues or to title V program issues that were not the subject of EPA's proposed action. Both categories of comments are beyond the scope of EPA's proposed action, which pertained specifically to whether Clark County had corrected the issues identified as deficiencies when EPA granted the program interim approval. In this notice, EPA is not responding to comments submitted by Mr. Hall that are beyond the scope of our present rulemaking. Nevertheless, many of the concerns raised by Mr. Hall are similar to issues that he raised in his comment letter submitted in response to EPA's 90-day public comment period that provided members of the public an opportunity to identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs. (65 FR 77376, December 11, 2000) The 90-day comment period was made available as part of EPA's settlement of a lawsuit over EPA's extension of all title V operating permits program interim approvals. As described in section III.D of this notice, EPA expects to respond in writing to Mr. Hall's earlier comments by December 14, 2001.

Set out below are the relevant issues raised by Mr. Hall in his comment letter and EPA's responses to the issues.

1. Program Submittal by the Clark County Department of Air Quality Management

Mr. Hall argues that because the title V program interim approval was originally granted to the Clark County Health District and revisions to the interim approved program were submitted by the Health District, EPA cannot grant full approval of the title V program to the Clark County Department of Air Quality Management. Mr. Hall contends that the Clark County program submittal is legally insufficient unless the revised program is re-written and re-submitted in the name of the Clark County Department of Air Quality Management.

As EPA noted in our proposed approval of the Clark County title V program (66 FR 51620, October 10, 2001), on August 7, 2001, the Governor of Nevada officially transferred responsibility for air quality management in Clark County from the County's Health District to the newly created Department of Air Quality Management, overseen by the Board of County Commissioners of Clark County. In a letter dated June 21, 2001 to the Clark County Commission, Governor Guinn designates ''the Board of County Commissioners as the regulatory, enforcement and permitting authority for implementing applicable provisions of the federal Clean Air Act, any amendments to that Act, and any regulations adopted pursuant to that Act within Clark County.'' The change is essentially a shift in the organizational location of the County's air quality management program and all rules, regulations, and policies of the Health District that comprise Clark County's title V operating permits program were carried over to the new Department, pursuant to the Governor's designation.

In addition, the revised Clark County title V operating permits program was submitted by Allen Biaggi, Administrator of the Nevada Division of Environmental Protection, on behalf of Nevada Governor Kenny C. Guinn, as his appointed designee. Thus, the commenter's suggestion that the revised Clark County program submittal was made by an entity lacking the necessary legal authority under part 70 is clearly not the case. Moreover, DAQM has assured EPA that it assumes all air quality management commitments made by the County's Health District. For these reasons, EPA believes it is appropriate that full title V program approval is granted to the Clark County Department of Air Quality Management.

2. Clark County Regulations Are Not SIP-Approved

Mr. Hall also comments that the applicant submitted, as part of its revised title V operating permits program, local regulations that are not approved into the Nevada State Implementation Plan (SIP), and that the submittal should have contained only rules that are SIP-approved. The commenter also claims that the applicant does not identify the versions (by date of adoption) of the rules submitted.

The rules revised by Clark County to address interim approval deficiencies are Sections 0 (''Definitions'') and 19 (''Part 70 Operating Permits''). Mr. Hall is correct that neither of these two rules are currently SIP-approved. However, Mr. Hall is mistaken in his belief that the rules constituting an agency's title V operating permits program need to be approved into the SIP. The establishment of operating permits programs is separate and distinct from the state implementation plan process. The statutory requirements for operating permit programs are contained in title V of the CAA (42 U.S.C. 7661–7661f), whereas the statutory requirements for state implementation plans are contained in title I of the Act (42 U.S.C. 7410). Nothing in the Act requires the local regulations relied upon by agencies for establishing permitting programs under title V of the Act to be incorporated into the state implementation plans required under title I of the Act.

Further, EPA's regulations implementing title V, which are codified at 40 CFR part 70, require that submitted operating permits programs include identification of ''the specific statutes, administrative regulations, and, where appropriate, judicial decisions that demonstrate adequate authority'' to carry out all aspects of the program, and that the statutes and regulations cited ''shall be in the form of lawfully adopted State statutes and regulations. * * *'' (*See* 40 CFR 70.4). While these statutes and regulations clearly need to be consistent with the requirements of title V and 40 CFR part 70, they do not need to be part of the State's implementation plan. EPA has determined that the revisions Clark County made to Sections 0 and 19 are consistent with the requirements of part 70, which makes the revisions approvable as part of Clark County's title V operating permits program.

As for Mr. Hall's assertion that the revised Clark County submittal does not identify the versions of the rules upon which it is based, EPA disagrees. The revised Clark County program submittal clearly identifies the versions of Sections 0 and 19 (the two regulations revised specifically to address interim approval deficiencies) as being those adopted by Clark County on May 24, 2001.

3. Clark County's Definitions Rule

Mr. Hall further comments that Clark County's revised title V program submittal contains a revision to a regulation (Clark County Section 0—Definitions) that was recently vacated by the 9th Circuit Court of Appeals. The commenter claims that since the date of EPA's proposed approval of the Clark County title V program (October 10,

2001) is well after the date of the court's decision to vacate EPA's approval of Clark County's Section 0 (August 29, 2001), EPA has erred in its proposal to grant full approval to the Clark County program, which relies, in part, on this vacated rule section.

The commenter is correct that EPA's final rulemaking approving Clark County Section 0 (''Definitions'') and other rules into the Clark County portion of the Nevada SIP was recently vacated by the court. Mr. Hall is also correct that the revised Clark County operating permits program relies, in part, on the definitions in Section 0. However, the commenter is incorrect in his evaluation of the impact of the court's action relative to the County's title V program. While the court did vacate EPA's approval of Section 0 into the SIP, this action does not vacate Section 0 as a valid Clark County regulation. Section 0 remains valid and legally enforceable by Clark County. As noted in our response to issue 2 above, EPA regulations require that the rules comprising programs submitted for approval under part 70 must be enforceable by the State (or local entity), not EPA, and must meet the requirements of part 70. The Clark County title V program was granted only interim approval, in part, because the definition of ''applicable requirement'' in Section 0 did not match the definition in 40 CFR 70.3. EPA is now granting full approval to the revised Clark County operating permits program because all of its interim approval deficiencies have been fixed, including Clark County's modification of the definition of ''applicable requirement'' in Section 0. Since Clark County's revised definition of applicable requirement is consistent with part 70 and is contained in a rule (Section 0) that is valid and legally enforceable by Clark County, EPA believes that this interim program deficiency previously identified by the Agency has been fully resolved.

4. EPA Unlawfully Extended Interim Approval

The commenter also cites his belief that the requirements of the CAA and 40 CFR part 70 were not met when EPA extended interim approval of the Clark County title V operating permits program more than two years beyond the August 14, 1995 initial interim approval date. Mr. Hall further claims that EPA is required to implement a federal permitting program in Clark County and to impose sanctions as set forth in 40 CFR 70.10.

On August 29, 1997, EPA published a final rule in the **Federal Register** extending interim approval of operating permits programs nationwide to October 1, 1998 (62 FR 45732). In further rulemakings, EPA extended interim approvals again, ultimately promulgating a final rule on May 22, 2000 extending all operating permits program interim approvals up to December 1, 2001 (65 FR 32035). Section 307(b)(1) of the CAA requires in pertinent part that ''[a]ny petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the **Federal Register**.* * *'' The sixty day window for filing challenges to the current interim approval extension closed on July 21, 2000. Clearly, Mr. Hall's current claim that EPA unlawfully extended interim approval of the Clark County operating permits program and his request that EPA impose a federal part 71 program and sanctions against Clark County is not within the statutorily-mandated timeframe for such appeals.

Moreover, a timely challenge to EPA's subsequent extension of all operating permits program interim approvals was brought in the Court of Appeals for the D.C. Circuit against EPA, and a settlement agreement resolving this challenge was entered November 21, 2000, in *Sierra Club and the New York Public Interest Research Group* v *EPA*. A component of that settlement agreement was that EPA would amend 40 CFR part 70 to clarify that all existing interim approved programs expire on December 1, 2001 and cannot be extended. EPA is, therefore, acting in accordance with existing regulations in granting final title V operating permits program approval to Clark County, effective November 30, 2001, based on Clark County's revisions to their program which adequately addressed all interim approval deficiencies.

After carefully reviewing and considering the issues raised by Mr. Hall, EPA is taking final action to give full approval to the Clark County operating permits program.

B. Letter From Colleen Cripps, Bureau of Air Quality, NDEP Dated November 9, 2001

NDEP submitted a letter commenting on EPA's October 10, 2001 notice, in which the Agency proposed to take no action on four rule changes made by the State that were not required as conditions for receiving full program approval. Specifically, EPA proposed to take no action on the State's changes to Nevada Administrative Code (NAC) sections 445B.094, 445B.187, 445B.290, and 445B.294 because EPA deemed these changes to be unapprovable.

In its letter, NDEP requested that EPA reconsider approval of sections 445B.094 and 445B.290 in our final rulemaking. As noted in the technical support document (TSD) for our proposed action, EPA was concerned that NAC section 445B.094 (the definition of ''major source'') did not provide a major source threshold for PM_{10} sources in attainment areas nor in PM_{10} nonattainment areas that are not classified as ''serious'' because of an exclusion in section 445B.094. NDEP clarified in their comments that the exclusion in section 445B.094 applies only to particulate matter greater than 10 microns in size. Thus, there is no exclusion for PM_{10}, which is particulate matter less than 10 microns in size. EPA's concern about NAC section 445B.290 (''Class I–B application for Class I operating permit; filing requirement'') was that it appeared to not require certain nonmajor affected sources to apply for a Class I permit. NDEP's comments clarified that when section 445B.290 is read together with the ''Class I source'' definition at NAC 445B.036, there is a clear requirement that all affected sources apply for and obtain Class I operating permits.

EPA agrees with NDEP that the revisions to NAC sections 445B.094 and 445B.290 are consistent with the requirements of part 70 and today's action grants approval to these two additional changes as part of our full approval of the NDEP operating permits program.

III. EPA's Final Action

A. Full Approval of the Clark County, Washoe County, and NDEP Operating Permit Programs

EPA is granting full approval to the operating permits programs submitted by Clark County, Washoe County, and NDEP based on the revisions submitted on June 1, 2001, May 8, 2001, and May 30, 2001, respectively. The revisions submitted by the three agencies satisfactorily address the program deficiencies identified in EPA's interim approvals published on July 13, 1995 for Clark County (60 FR 36070), January 5, 1995 for Washoe County (60 FR 1741), and December 12, 1995 for NDEP (60 FR 63631).

In addition, EPA is approving, as a revision to NDEP's title V program, several additional rule changes made by the State, including the revisions described in section II.B above to sections 445B.094 (definition of major source) and 445B.290 (class I operating permit filing requirement) upon which EPA had proposed to take no action. As discussed in greater detail in the

proposal, EPA also approves a revision to NAC section 445B.138, the definition of potential to emit (''PTE''), based on NDEP's representations that it will implement the PTE definition in a manner that is consistent with judicial decisions and EPA policies. In the future, if NDEP does not implement the PTE definition consistent with our guidance, and/or has not established a sufficient compliance incentive absent federal and citizen's enforceability, EPA could find that the State has failed to administer or enforce its program and may take action as authorized by 40 CFR 70.10(b). Finally, EPA also finalizes the other rule revisions listed in Table 1 of EPA's October 10, 2001 proposed rulemaking.

B. Effective Date of Full Approval

EPA is using the good cause exception under the Administrative Procedures Act (APA) to make the full approval of the Clark County, Washoe County, and NDEP programs effective on November 30, 2001. In relevant part, the APA provides that publication of ''a substantive rule shall be made not less than 30 days before its effective date, except—. . . (3) as otherwise provided by the agency for good cause found and published with the rule.'' 5 U.S.C. 553(d)(3). Section 553(b)(3)(B) of the APA provides that good cause may be supported by an agency determination that a delay in the effective date is impracticable, unnecessary, or contrary to the public interest. EPA finds that it is necessary and in the public interest to make this action effective sooner than 30 days following publication. In this case, EPA believes that it is in the public interest for the program to take effect before December 1, 2001. EPA's interim approval of the Clark County, Washoe County, and NDEP programs expires on December 1, 2001. In the absence of this full approval of the amended programs taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect statewide in Nevada and would remain in place until the effective date of fully-approved programs. EPA believes it is in the public interest for sources, the public and the State and local permitting authorities to avoid any gap in coverage of the part 70 program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Clark County, Washoe County, and NDEP have been administering title V permit programs for 6 years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational programs. The change from the interim approved programs which substantially met the part 70 requirements, to the fully approved programs is relatively minor, in particular if compared to the changes between state and locally-established and administered programs and the federal program.

C. The Scope of EPA's Full Approval

In their program submissions, Clark County, Washoe County, and NDEP did not assert jurisdiction over Indian country. To date, no tribal government in Nevada has applied to EPA for approval to administer a title V program in Indian country within the state. EPA regulations at 40 CFR part 49 govern how eligible Indian tribes may be approved by EPA to implement a title V program on Indian reservations and in non-reservation areas over which the tribe has jurisdiction. EPA's part 71 regulations govern the issuance of federal operating permits in Indian country. EPA's authority to issue permits in Indian country was challenged in *Michigan* v. *EPA*, (D.C. Cir. No. 99–1151). On October 30, 2001, the court issued its decision in the case, vacating a provision that would have allowed EPA to treat areas over which EPA determines there is a question regarding the area's status as if it is Indian country, and remanding to EPA for further proceedings. EPA will respond to the court's remand and explain EPA's approach for further implementation of part 71 in Indian country in a future action.

D. Citizen Comment Letters

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a notice in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** notice.

Two individuals commented on what they believe to be deficiencies with respect to the Clark County title V program. As stated in the **Federal Register** notice published on October 10, 2001 (66 FR 51620) proposing to fully approve Clark County's operating permits program, EPA takes no action on those comments in today's action. Rather, EPA expects to respond by December 14, 2001 to timely public comments on programs that have obtained interim approval, and by April 1, 2002 to timely comments on fully approved programs. We will publish a notice of deficiency (NOD) when we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. In addition, we will publish a notice of availability in the **Federal Register** notifying the public that we have responded in writing to these comments and how the public may obtain a copy of our response. An NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight. Furthermore, in the future, EPA may issue an additional NOD if EPA or a citizen identifies other deficiencies.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this final approval is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this final approval will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it approves pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it will not have substantial direct effects on the States, on the relationship between the national

government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, ''Federalism'' (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This final approval also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

In reviewing State operating permit programs submitted pursuant to title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. 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 70

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

Dated: November 29, 2001.

Laura Yoshii,

Acting Regional Administrator, Region 9.

40 CFR part 70, chapter I, 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 revising paragraphs (a) (b), and (c) under Nevada to read as follows:

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

* * * * *

Nevada

* * * * *

(a) Nevada Division of Environmental Protection:

(1) Submitted on February 8, 1995; interim approval effective on January 11, 1996; interim approval expires December 1, 2001.

(2) Revisions submitted on May 30, 2001. Full approval is effective on November 30, 2001.

(b) Washoe County District Health Department:

(1) Submitted on November 18, 1993; interim approval effective on March 6, 1995; interim approval expires December 1, 2001.

(2) Revisions submitted on May 8, 2001. Full approval is effective on November 30, 2001.

(c) Clark County Department of Air Quality Management:

(1) Submitted on January 12, 1994 and amended on July 18 and September 21, 1994; interim approval effective on August 14, 1995; interim approval expires on December 1, 2001.

(2) Revisions submitted on June 1, 2001. Full approval is effective on November 30, 2001.

* * * * *

[FR Doc. 01–30097 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300734A; FRL–6804–4]

RIN 2070–AB78

4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one [Metribuzin], Dichlobenil, Diphenylamine, Sulprofos, Pendimethalin, and Terbacil; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule establishes, modifies, and revokes specific tolerances for residues of the herbicides dichlobenil, metribuzin, pendimethalin, and terbacil; the plant growth regulator diphenylamine, and the insecticide sulprofos. EPA is revoking certain tolerances because EPA has canceled the food uses associated with them. The regulatory actions proposed in this final rule are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2002 to reassess 66% of the tolerances in existence on August 2, 1996, or about 6,400 tolerances. This final rule revokes 29 tolerances, but only one tolerance reassessment (sulprofos) is counted here toward the August, 2002 review deadline. The tolerances associated with the other 28 revocations were reassessed and counted previously through the Reregistration Eligibility Decision (RED) process.

DATES: This regulation is effective March 5, 2002. Objections and requests for hearings, identified by docket control number OPP–300734A, must be