

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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## 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