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Robert Springer,

Acting Regional Administrator.

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40 CFR Part 70

[AD-FRL-5273-9]

Clean Air Act Proposed Interim Approval of the Operating Permits Program; Nevada Division of Environmental Protection; Nevada

AGENCY: Environmental Protection

Agency ("EPA").

ACTION: Proposed interim approval.

SUMMARY: The EPA proposes interim approval of the operating permits program submitted by the Nevada Division of Environmental Protection ("NDEP" or "State") for the purpose of complying with federal requirements for an approvable state program to issue operating permits to all major stationary sources and to certain other sources.

DATES: Comments on this proposed action must be received in writing by September 6, 1995.

ADDRESSES: Comments should be addressed to Celia Bloomfield, Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of NDEP's submittal and other supporting information used in developing the proposed interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Celia Bloomfield (telephone: 415/744–1249), Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. Introduction

As required under title V of the 1990 Clean Air Act Amendments (sections 501–507 of the Clean Air Act ("Act")), EPA has promulgated rules that define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state

operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 CFR part 70 ("part 70"). Title V requires states to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act requires that states develop and submit title V 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 the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a federal

This proposed interim approval applies to the NDEP title V operating permits program and sources under NDEP's jurisdiction. NDEP has jurisdiction over all sources in the State outside of Washoe County, Clark County and tribal lands, as well as all fossil fuel fired steam generating power plants inside Washoe and Clark Counties. Washoe County District Health Department received interim approval on January 5, 1995 (60 FR 1741), and interim approval was proposed for Clark County Health District on March 14, 1995 (60 FR 13683).

B. Federal Oversight and Sanctions

If EPA were to finalize this proposed interim approval, it would extend for two years following the effective date of final interim approval and could not be renewed. During the interim approval period, NDEP would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a federal permits program in Nevada. Permits issued under a program with interim approval have full standing with respect to part 70, and the one-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the three-year time period for processing the initial permit applications.

Following final interim approval, if NDEP failed to submit a complete corrective program for full approval by the date six months before expiration of the interim approval, EPA would start an 18-month clock for mandatory sanctions. If NDEP then failed to submit a corrective program that EPA found

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

If, following final interim approval, EPA were to disapprove NDEP's complete corrective program, EPA would 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 NDEP had submitted a revised program and EPA had determined that it

and EPA had determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator found a lack of good faith on the part of NDEP, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determined that NDEP had come into compliance. In all cases, if, six months after EPA applied the first sanction, NDEP had not submitted a revised program that EPA had determined corrected the deficiencies that prompted disapproval, a second sanction would be required.

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

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

II. Proposed Action and Implications

A. Analysis of State Submission

The analysis contained in this notice focuses on specific elements of NDEP's title V operating permits program that must be corrected to meet the minimum requirements part 70. The full program submittal; the Technical Support Document ("TSD"), which contains a detailed analysis of the submittal; and