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.

William J. Muszynski,

Acting Regional Administrator, Region 2.

For reasons set out in the preamble, Appendix A of part 70 of title 40, chapter I, 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 paragraph (c) in the entry for New York to read as follows:

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

* * * * *

New York

* * * * *

(c) The New York State Department of Environmental Conservation submitted program revisions on June 8, 1998 and October 5, 2001. The rule revisions contained in the June 8, 1998 and October 5, 2001 submittals adequately addressed the conditions of the interim approval effective on December 9, 1996, and which would expire on December 1, 2001. The October 5, 2001 submission consists of rules adopted pursuant to New York's emergency rulemaking procedures. The State is hereby granted final full approval effective on November 30, 2001.

* * * * *

[FR Doc. 01–30144 Filed 12–4–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–7113–9]

Clean Air Act Full Approval of Operating Permits Program in Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to fully approve the operating permits program submitted by the State of Alaska. Alaska's operating permits program was submitted in response to the directive in the 1990 Clean Air Act 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 authority's jurisdiction.

DATES: Effective November 30, 2001.

ADDRESSES: Copies of the State of Alaska's submittal and other supporting

information used in developing this final, full approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. A reasonable fee may be charged for copies.

FOR FURTHER INFORMATION CONTACT: Denise Baker, EPA, Region 10, Office of Air Quality (OAQ–107), 1200 6th Avenue, Seattle, WA 98101, (206) 553–8087.

SUPPLEMENTARY INFORMATION:

I. Background

The Clean Air Act (CAA) Amendments of 1990 require all state and local permitting authorities to develop operating permits programs that meet certain Federal criteria. The State of Alaska submitted a program in response to this directive. EPA granted interim approval to Alaska's air operating permits program on December 5, 1996, (61 FR 64463). The interim approval notice identified 19 remaining conditions that Alaska must meet in order to receive full approval of its Title V operating permits program.

After Alaska revised its operating permits program to address the conditions of the interim approval, EPA promulgated a proposal to approve Alaska's Title V operating permits program on July 26, 2001, (66 FR 38966). At the same time, because EPA viewed the proposal as a noncontroversial action and did not anticipate adverse public comment on the proposal, EPA also published a direct final rule approving the Alaska operating permits program (66 FR 38940). EPA received one adverse public comment on the proposal. Therefore, EPA removed the direct final approval on September 20, 2001, (66 FR 48357). After carefully reviewing and considering the issues raised by the commenter, EPA is taking final action to give full approval to the Alaska operating permits program.

II. What Is the Effective Date of EPA's Full Approval of Alaska's Title V Program?

EPA is using the good cause exception under the Administrative Procedure Act (APA) to make the full approval of the state's program 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 Alaska's prior program expires on December 1, 2001. In the absence of this full approval of Alaska's amended program taking effect on November 30, the federal program under 40 CFR part 71 would automatically take effect in Alaska and would remain in place until the effective date of the fully-approved state program. EPA believes it is in the public interest for sources, the public and the State of Alaska to avoid any gap in coverage of the state program, as such a gap could cause confusion regarding permitting obligations. Furthermore, a delay in the effective date is unnecessary because Alaska has been administering the Title V permit program for nearly five years under an interim approval. Through this action, EPA is approving a few revisions to the existing and currently operational program. The change from the interim approved program which substantially met the part 70 requirements, to the fully approved program is relatively minor, in particular if compared to the changes between a state-established and administered program and the federal program.

III. Response to Comments

EPA received one comment letter in response to our July 26, 2001, (66 FR 38966) proposed approval notice for the Alaska Title V operating permits program. The commenter stated that EPA should withhold approval of Alaska's program until two issues were resolved. First, the commenter stated that ''Alaska's plan is not yet in compliance with the federal Clean Air Act and its implementing regulations (40 CFR part 70).'' The commenter argued that Alaska had failed to meet several Title V requirements, including the requirement to include monitoring, recordkeeping and reporting sufficient to assure compliance with and enforcement of each applicable requirement. Second, the commenter stated that ''there is an ongoing review of Alaska's entire Title V program that will not be completed until December 1, 2001.'' The comments provided to EPA in response to our July 26, 2001, (66 FR 38966) proposed approval notice for Alaska were made by the same party and raised issues that had previously been discussed in the commenter's letter submitted on March 12, 2001, in response to 65 FR 77376 (December 11, 2000).

A. Response to Issue #1—Assertion That Alaska Is Not Yet in Compliance With Certain Requirements of the Title V Program

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs, including Alaska, 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 that had received interim or full approval. This notice was published on December 11, 2000 (65 FR 77376). In the notice, EPA committed to respond to the merits of any such claims of deficiency on or before December 1, 2001, for those states, such as Alaska, that have received interim approval and on or before April 1, 2002, for states that have received full approval.

As noted above, one citizen organization commented on what it believes to be deficiencies with respect to the Alaska Title V 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. A 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.

For the reasons described below, EPA is not in the context of this action responding to the comments submitted after the December 11, 2000, notice that identify potential new deficiencies.

B. Response to Issue #2—Ongoing Review

The commenter referred to the ongoing review of Alaska's Title V program, and took the position that EPA should not grant full approval to Alaska's program until that review is completed. In support of this, the commenter asserted that the subject matter of the ongoing review, namely, the adequacy of the Alaska Title V program, is essentially the same as the subject matter of the proposal to fully approve the Alaska program. The commenter stated that EPA must base its decision of whether to grant full approval on the adequacy of the Alaska program as it currently exists, not as it existed at the time of interim approval. The commenter further stated that EPA must take into account any deficiency existing in the Alaska program, regardless of whether it had been identified in the granting of interim approval. According to the commenter, any other position would eviscerate EPA's oversight responsibilities.

For the reasons discussed below, we disagree that any deficiencies that may be identified following interim approval would prohibit us from granting Alaska full program approval at this time.

In 1990, Congress amended the Clean Air Act, 42 U.S.C. 7401 to 7671q (''CAA'' or ''Act''), by adding Title V, 42 U.S.C. 7661 to 7661f, which requires certain air pollutant emitting facilities, including ''major source[s]'' and ''affected source[s],'' to obtain and comply with operating permits. *See* 42 U.S.C. 7661a(a). Title V is intended to be administered by local, state or interstate air pollution control agencies, through permitting programs that have been approved by EPA. *See* 42 U.S.C. 7661a(a). EPA is charged with overseeing the State's efforts to implement an approved program, including reviewing proposed permits and vetoing improper permits. *See* 42 U.S.C. 7661a(i) and 7661d(b). Accordingly, Title V of the CAA provides a framework for the development, submission and approval of state operating permits programs. Following the development and submission of a state program, the Act provides two different approval options that EPA may utilize in acting on state submittals. *See* 42 U.S.C. 7661a(d) and (g). Pursuant to section 502(d), EPA ''may approve a program to the extent that the program meets the requirements of the Act * * *'' EPA may act on such program submittals by approving or disapproving, in whole or in part, the state program. An alternative option for acting on state programs is provided by the interim approval provision of section 502(g). This section states: ''If a program * * * substantially meets the requirements of this title, but is not fully approvable, the Administrator may by rule grant the program interim approval.'' This provision provides EPA with the authority to act on State programs that substantially, but do not fully, meet the requirements of Title V and part 70. Only those program submittals that meet the requirements of eleven key program areas are eligible to receive interim approval. *See* 40 CFR 70.4(d)(3)(i)–(xi). Finally, section 502(g) directs EPA to ''specify the changes that must be made before the program can receive full approval.'' 42 U.S.C. 7661a(g); 40 CFR 70.4(e)(3). This explicit directive encompasses another, implicit one: Once a state corrects the specified deficiencies then it will be eligible for full program approval. EPA believes this is so even if deficiencies have been identified sometime after final interim approval, either because the deficiencies arose after EPA granted interim approval or, if the deficiencies existed at that time, EPA failed to identify them as such in proposing to grant interim approval.

Thus, an apparent tension exists between these two statutory provisions. Standing alone, section 502(d) appears to prevent EPA from granting a state operating permits program full approval until the state has corrected all deficiencies in its program no matter how insignificant, and without consideration as to when such deficiency was identified. Alternatively, section 502(g) appears to require that EPA grant a state program full approval if the state has corrected those issues that the EPA identified in the final interim approval. The central question, therefore, is whether Alaska, by virtue of correcting the deficiencies identified in the final interim approval, is eligible at this time for full approval, or whether Alaska must also correct any new or recently identified deficiencies that may exist, as a prerequisite to receiving full program approval.

According to settled principles of statutory construction, statutory provisions should be interpreted so that they are consistent with one another. *See Citizens to Save Spencer County* v. *EPA*, 600 F.2d 844, 870 (D.C. Cir. 1979). Where an agency encounters inconsistent statutory provisions, it must give maximum possible effect to all of the provisions, while remaining within the bounds of its statutory authority. *Id.* at 870–71. Whenever possible, the agency's interpretation should not render any of the provisions null or void. *Id.* Courts have recognized that agencies are often delegated the responsibility to interpret ambiguous statutory terms in such a fashion. *See Chevron U.S.A., Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 845 (1984). Harmonious construction is not always possible, however, and furthermore should not be sought if it requires distorting the language in a fashion never imagined by Congress. *Citizens to Save Spencer County*, 600 F.2d at 870.

In this situation, in order to give effect to the principles embodied in Title V that major stationary sources of air pollution be required to have an operating permit that conforms to certain statutory and regulatory requirements, and that operating permits programs be administered and enforced by state permitting authorities, the appropriate and more cohesive reading of the statute recognizes EPA's authority to grant Alaska full approval in this situation while working simultaneously with the state, in its oversight capacity, on any additional issues that were recently identified. To conclude otherwise would disrupt the current administration of the state program, by causing the program to transfer to administration by EPA, and would cause further delay in Alaska's ability to issue operating permits to major stationary sources. A smooth transition from interim approval to full approval is in the best interest of the public and the regulated community and best reconciles the statutory directives of Title V.

Furthermore, requiring the State to address the deficiencies, if there are any, that have been identified in the past year to receive full approval runs counter to the established regulatory process that is already in place to deal with newly identified program deficiencies. Section 502(i)(4) of the Act and 40 CFR 70.4(i) and 70.10 provides EPA with the authority to issue notices of deficiency (''NOD'') whenever EPA makes a determination that a permitting authority is not adequately administering or enforcing a part 70 program, or that the State's permit program is inadequate in any other way. Consistent with these provisions, in its NOD EPA will specify a reasonable time frame for the permitting authority to correct any identified deficiency. The Alaska Title V interim approval expires on December 1, 2001. This deadline does not provide adequate time for the State to correct newly identified issues

prior to the expiration of interim approval. Allowing the State's program to expire because of issues identified as recently as March 2001, will cause disruption and further delay in the issuance of permits to major stationary sources in Alaska. As explained, Title V does not require such a result. Rather, the appropriate mechanism for dealing with additional deficiencies that are identified sometime after a program received interim approval but prior to being granted full approval is the notice of program deficiency or administration deficiency as discussed herein. This process provides the State an adequate amount of time after such findings to implement any necessary changes without disrupting the continuity of the state operating permits program. Addressing newly identified issues on a separate track from the granting of full approval still ensures that these issues will be addressed in due course. Rather than undermining EPA's oversight authority as the commenter suggests, proceeding in this manner allows for a more rational and orderly method for addressing new issues as they arise.

At this time, EPA has identified one concern regarding the Alaska Title V program for which it has asked the State for an immediate response. This concern relates to the rate of Title V permit issuance by Alaska. In response to EPA's request, Alaska has provided EPA with a commitment letter that includes a timeline and milestones for issuance of remaining permits. Specifically, the State has committed to issuing all outstanding Alaska Title V air operating permits on or before December 1, 2003. EPA is satisfied that this timeline for issuance of remaining permits represents reasonable progress towards issuance of all permits. Accordingly, EPA is not issuing a notice of deficiency because the State's commitment that future permits will be issued consistent with state and federal requirements addresses EPA's concern. However, it will be important to ensure that the State actually meets this commitment. EPA will monitor the State's efforts over the next two years to ensure the State is proceeding on a pace to meet the commitment and that the commitment is ultimately met.

IV. What Is the Scope of EPA's Full Approval?

In its program submission, Alaska did not assert jurisdiction over Indian country. To date, no tribal government in Alaska 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.

V. 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 permits 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 permits program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permits 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. 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