

- c. By removing paragraph (a)(2)(vi).
- d. By removing and reserving paragraph (b)(2)(iii)(h).
- e. By removing paragraph (b)(3)(vi)(d).
- f. By removing and reserving paragraph (b)(32).
- g. By removing and reserving paragraph (b)(42).
- h. By revising paragraph (r)(6) introductory text.
- j. By removing and reserving paragraphs (x), (y), and (z)

#### § 52.21 Prevention of significant deterioration of air quality.

- (a) \* \* \*
- (2) \* \* \*
- (iv) \* \* \*

(f) *Hybrid test for projects that involve multiple types of emissions units.* A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in paragraphs (a)(2)(iv)(c) through (d) of this section as applicable with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in paragraph (b)(23) of this section).

\* \* \* \* \*

- (r) \* \* \*

(6) The provisions of this paragraph (r)(6) apply to projects at an existing emissions unit at a major stationary source (other than projects at a source with a PAL) in circumstances where there is a reasonable possibility that a project that is not a part of a major modification may result in a significant emissions increase and the owner or operator elects to use the method specified in paragraphs (b)(41)(ii)(a) through (c) of this section for calculating projected actual emissions.

\* \* \* \* \*

[FR Doc. E7-11289 Filed 6-12-07; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2006-0590; FRL-8325-8]

#### Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Request for Rescission

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing the rescission of the Federal

implementation plan promulgated under the Clean Air Act for the regulation of fugitive sulfur oxides emissions from a copper smelter that had operated in the State of Nevada but that is no longer in existence. This rescission was proposed in the **Federal Register** on August 28, 2006. The intended effect is to rescind unnecessary provisions from the applicable plan.

**DATES:** *Effective Date:* This rule is effective on July 13, 2007.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2006-0590 for this action. The index to the docket is available electronically at <http://regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, EPA Region IX, (415) 947-4126, [rose.julie@epa.gov](mailto:rose.julie@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to EPA.

#### Table of Contents

- I. Proposed Action
- II. Public Comments and EPA’s Response
- III. EPA Action
- IV. Statutory and Executive Order Reviews

#### I. Proposed Action

On August 28, 2006 (71 FR 50875), EPA proposed approval and disapproval of portions of the State’s rescission request and approval of certain replacement provisions. One of the rescission requests for which we proposed approval involved a Federal implementation plan (FIP) that we promulgated in the 1970’s at 40 CFR 52.1475(c), (d), and (e) to regulate sulfur oxides from the Kennecott Copper Company smelter located in White Pine County, Nevada. As described further in our Technical Support Document (TSD) for the proposed rule, we found that the last vestige of the Kennecott Copper Company McGill facility, which was the subject of the FIP requirements in 52.1475, was removed from the area in 1993, and, therefore, the related FIP provisions are obsolete. The TSD contains more information about our proposed action. On January 3, 2007 (72 FR 11), we took final action on most of the provisions for which we had

proposed action on August 28, 2006. This is the second final action related to our August 28, 2006 proposal. We will take final action on the remaining few provisions for which we proposed action on August 28, 2006 in a third separate action.

#### II. Public Comments and EPA Responses

EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments related to the proposed rescission of the FIP for regulation of the Kennecott Copper Company smelter in White Pine County, Nevada.

#### III. EPA Action

As authorized in section 110(k)(3) of the Clean Air Act, EPA is finalizing the approval of the rescission of the Federal implementation plan promulgated for the regulation of fugitive sulfur oxides emissions from the Kennecott Copper Company smelter that had operated in White Pine County, Nevada, but that is no longer in existence. EPA is codifying this action by revising 40 CFR 52.1475 to remove paragraphs (c), (d), and (e).

#### IV. Statutory and Executive Order Reviews

##### A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled “Regulatory Planning and Review.” This action will rescind a Federally promulgated rule for an air pollution emissions source that no longer exists.

##### B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This action will merely rescind a Federally promulgated rule for an air pollution emissions source that no longer exists.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources;

complete and review the collection of information; and transmit or otherwise disclose the information.

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. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

#### *C. Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this rule will not have a significant impact on a substantial number of small entities because this rule merely rescinds a Federally promulgated rule for an air pollution emissions source that no longer exists.

#### *D. Unfunded Mandates Reform Act*

Under sections 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 this final rule 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 rescinds a Federally promulgated rule for an air pollution emissions source that no longer exists, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

#### *E. Executive Order 13132, Federalism*

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule 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, because it merely rescinds a Federally promulgated rule for an air pollution emissions source that no longer exists, and does not alter the relationship or the distribution of power and

responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### *F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled (Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, 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. Thus, Executive Order 13175 does not apply to this rule.

#### *G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045, Protection of Children from Environmental Health risks and Safety Risks" (62 FR 19885, April 23, 1997), because it finalizes the rescission of a federally promulgated rule.

#### *H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to 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.

### I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use (voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

### J. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. Because this rule amendment rescinds a federal implementation plan for a source that has closed down, this rule amendment that does not relax the control measures on sources regulated by the rule and therefore will not cause emissions increases from these sources.

### K. Congressional Review Act

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 July 13, 2007.

### L. Petitions for Judicial Review

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 August 13, 2007. 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 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 5, 2007.

**Stephen L. Johnson**,  
Administrator.

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

*Authority:* 42 U.S.C. 7401 *et seq.*

### Subpart DD—Nevada

#### § 52.1475 [Amended]

■ 2. Section 52.1475 is amended by removing paragraphs (c), (d), and (e).

[FR Doc. E7-11321 Filed 6-12-07; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0716; FRL-8319-8]

### Approval and Promulgation of Air Quality Implementation Plans; Indiana; Exemption from VOC Requirements for Sources Subject to the National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing or Reinforced Plastics Composites Manufacturing

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving a revision to the Indiana Department of Environmental Management's (IDEM) volatile organic compound (VOC) rules for new facilities into the Indiana State Implementation Plan (SIP). This revised rule, submitted by IDEM on July 17, 2006, exempts facilities subject to the boat manufacturing and reinforced plastics composites production national emission standards for hazardous air pollutants (NESHAPS) from the requirement to do a case-by-case State Best Available Control Technology (BACT) analysis under the Indiana SIP, provided that they comply with the applicable NESHAPS. This rule revision is approvable because the only hazardous air pollutant covered by these NESHAPS rules is styrene, a toxic substance which is also classified as a VOC. Therefore, the VOC control requirements in these rules are always applicable. In addition, the provisions in these rules are enforceable and result in a clearly defined level of VOC reductions dependent upon the specific type of operation. These rules were proposed for approval on January 25, 2007, and comments were received supporting EPA's approval.

**DATES:** This final rule is effective on July 13, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2006-0716. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through