

**§ 520.446 [Amended]**

■ 2. Section 520.446 is amended by removing paragraphs (a)(2) and (b)(2); by redesignating paragraphs (a)(3) and (b)(3) as paragraphs (a)(2) and (b)(2); in paragraph (b)(1) by removing “No. 000009” and by adding in its place “Nos. 000009 and 059130”; and in newly redesignated paragraph (b)(2) by removing “(a)(3)” and by adding in its place “(a)(2).”

Dated: May 19, 2004.

**Steven D. Vaughn,**

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 04-12961 Filed 6-8-04; 8:45 am]

BILLING CODE 4160-01-S

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**DEPARTMENT OF HOMELAND SECURITY**
**Coast Guard**
**33 CFR Part 100**

[CGD01-04-052]

**Special Local Regulation; Harvard-Yale Regatta, Thames River, New London, CT**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of implementation of regulation.

**SUMMARY:** The Coast Guard is implementing the permanent regulations for the annual Harvard-Yale Regatta, a rowing competition held on the Thames River in New London, CT. The regulation controls vessel traffic within the immediate vicinity of the event due to the confined nature of the waterway and anticipated congestion at the time of the event, thus providing for the safety of life and property on the affected navigable waters.

**DATES:** The regulations in 33 CFR 100.101 will be enforced from 9:30 a.m. on June 12, 2004, until 5 p.m. on June 13, 2004.

**FOR FURTHER INFORMATION CONTACT:** Petty Officer Austin Nagle, Office of Search and Rescue, First Coast Guard District, (617) 223-8460.

**SUPPLEMENTARY INFORMATION:** This notice implements the permanent special local regulation governing the 2004 Harvard-Yale Regatta. The regulations in 33 CFR 100.101 will be enforced from 9:30 a.m. until 5 p.m. on June 12, 2004, with a rain date of June 13, 2004, if the regatta is postponed due to inclement weather.

A portion of the Thames River in New London, Connecticut will be closed during the event to all vessel traffic

except participants, official regatta vessels, patrol craft and spectators as prescribed by the regulation. The regulated area is that area of the river between the Penn Central drawbridge, now known as the Thames River Amtrak drawbridge, and Bartlett's Cove. Additional public notification will be made via the First Coast Guard District Local Notice to Mariners and marine safety broadcasts. The full text of this regulation is found in 33 CFR 100.101.

Dated: May 27, 2004.

**Vivien S. Crea,**

*Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.*

[FR Doc. 04-12964 Filed 6-8-04; 8:45 am]

BILLING CODE 4910-15-P

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**ENVIRONMENTAL PROTECTION AGENCY**
**40 CFR Part 52**

[NV-040-0075; FRL-7663-4]

**Approval and Promulgation of Implementation Plans; Nevada-Las Vegas Valley PM-10 Nonattainment Area; Serious Area Plan for Attainment of the Annual and 24-Hour PM-10 Standards**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving the serious area particulate matter (PM-10) plan for the Las Vegas Planning Area that addresses attainment of the annual and 24-hour PM-10 national ambient air quality standards (NAAQS) and includes motor vehicle emissions budgets for transportation conformity. We are also granting Nevada's request to extend the Clean Air Act (CAA or Act) deadline for attaining the 24-hour PM-10 standard in the Las Vegas area from 2001 to 2006. Finally, we are approving into the State Implementation Plan (SIP) fugitive dust rules adopted by Clark County (County).

**DATES:** *Effective Date:* July 9, 2004.

**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours by appointment. You can inspect copies of the submitted SIP revisions by appointment at the following locations:

Environmental Protection Agency,  
Region 9, Air Division, Air Planning  
Office (AIR-2), 75 Hawthorne Street,  
San Francisco, CA 94105-3901;  
Clark County Department of Air Quality  
Management, 500 S. Grand Central  
Parkway, Las Vegas, NV 89155;

Nevada Division of Environmental  
Protection, 333 West Nye Lane,  
Carson City, NV 89710.

**Electronic Availability**

This document and the Response to Comments Document for this action are also available as electronic files on EPA's Region 9 Web Page at <http://www.epa.gov/region09/air>.

**FOR FURTHER INFORMATION CONTACT:**

Karen Irwin, Office of Air Planning (AIR-2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105. (415) 947-4116, [irwin.karen@epa.gov](mailto:irwin.karen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, “we,” “us” and “our” refer to EPA. This supplementary information is organized as follows:

- I. Summary of Today's Actions
- II. Public Comments and EPA Responses
- III. Background to Today's Actions
  - A. Prior PM Planning Activities in Clark County
  - B. Serious Area Plan for the Las Vegas Area
- IV. Other Related Action in the Las Vegas Area
- V. Final Actions
- VI. Administrative Requirements

**I. Summary of Today's Actions**

We are approving the *PM-10 State Implementation Plan for Clark County* (“Clark County Serious Area Plan” or “Plan”), submitted on July 23, 2001.<sup>1</sup> The Plan addresses attainment of the annual and 24-hour PM-10 standards.<sup>2</sup> This action is based on our determination that this Plan complies with the CAA requirements for serious PM-10 nonattainment area plans.

First, we are approving the following specific elements of the Plan:

- A demonstration that the Plan provides for implementation of best available control measures (BACM);<sup>3</sup>

<sup>1</sup> On November 19, 2002, the Nevada Division of Environmental Protection submitted to EPA an amendment to the Plan adopted by the Clark County Board of Commissioners on November 19, 2002. The amendment establishes new deadlines for SIP commitments concerning revisions to Sections 90 through 94 and adds documentation on adopted local ordinances for fireplaces and woodstoves as Appendix R of the Plan. EPA approved these ordinances in a separate action. 68 FR 52838 (Sept. 8, 2003).

<sup>2</sup> PM-10 is particulate matter with an aerometric diameter of less than or equal to a nominal 10 micrometers. There are two separate NAAQS for PM-10, an annual standard of 50 µg/m<sup>3</sup> and a 24-hour standard of 150 µg/m<sup>3</sup>.

<sup>3</sup> Because the demonstration of BACM subsumes the demonstration of Reasonably Available Control Measures (RACM), a separate analysis to determine if the measures represent a RACM level of control is not necessary. The BACM demonstration, therefore, is also a finding that the Plan provides for the implementation of RACM as required under CAA sections 173(c)(1) and 189(a)(1)(C).

- An emissions inventory;
- A demonstration of attainment of the annual standard by the CAA deadline of December 31, 2001 and a demonstration that attainment of the 24-hour standard by December 31, 2001 is impracticable;
- A demonstration that attainment of the 24-hour standard will occur by the most expeditious alternative date practicable, in this case, December 31, 2006;
- A demonstration that the Plan includes to our satisfaction the most stringent measures (MSM) found in the implementation plan of another state or achieved in practice in another state and that can be feasibly implemented in the area;
- A demonstration that major sources of PM-10 precursors such as nitrogen oxides and sulfur dioxide do not significantly contribute to violations of the PM-10 standards;
- A demonstration that the Plan provides for reasonable further progress and quantitative milestones;
- Transportation conformity motor vehicle emissions budgets; and
- Contingency measures.

We are also approving the County's fugitive dust rules (Sections 90 through 94 and portions of Section 0),<sup>4</sup> as well as specific commitments by the County and local jurisdictions within the County to implement the Plan and perform other activities. As explained in our proposed approval, we are finding that the Plan and these rules comply with CAA sections 110(a) and 189(b)(1)(B).

This action also grants Nevada's request to extend the attainment date for the 24-hour PM-10 standard from December 31, 2001 to December 31, 2006. This approval is based on our determination that the State has met the CAA's criteria for granting such extensions.

This preamble describes our actions on the Clark County Serious Area Plan. We have not repeated the evaluation of the Plan that we provided in the proposal for today's action. See 68 FR 2954, January 22, 2003.

<sup>4</sup> The Plan included the November 16, 2000, versions of these rules. On October 24, 2002, the Nevada Division of Environmental Protection submitted to EPA revised versions of Clark County Sections 90 through 93, dated November 20, 2001, which supersede the earlier versions submitted with the Plan. It is this 2001 version of Sections 90 through 93 that we are approving in today's action. The versions of Section 94 and the portions of Section 0 being approved are the November 16, 2000 versions. The County has since adopted revisions to these rules and EPA will review and act on these changes in a separate rulemaking.

## II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties:

1. Jennifer Anderson, Sierra Club; letter dated February 21, 2003.
2. Robert Hall, Nevada Environmental Coalition, Inc.; letter dated February 21, 2003.

Responses to all comments can be found in our Response to Comments Document that accompanies this final action. A copy of this document can be downloaded from our website or obtained by calling or writing the contact person listed above.

## III. Background to Today's Action

### A. Prior PM Planning Activities in Clark County

The 1977 Amendments to the CAA required States to revise their SIPs for all areas that did not meet the NAAQS. At that time, EPA's particulate matter NAAQS were measured in terms of total suspended particulates (TSP). The Las Vegas Valley was designated nonattainment for TSP. As a result, Nevada submitted, and EPA approved, a nonattainment area plan and a series of revisions with state and local control measures. See 46 FR 21758 (April 14, 1981), 46 FR 43141 (August 27, 1981) and 47 FR 26386 (June 18, 1982).

In 1987, EPA promulgated NAAQS for PM-10, 52 FR 24643 (July 1, 1987), and the approach by which areas would be designated. 52 FR 24672 (July 1, 1987). In accordance with these rulemakings, EPA categorized areas based on the likelihood that the SIP existing at the time would need to be revised to meet the PM-10 standards. 52 FR 29383 (August 7, 1987). Clark County was placed in "Group I", meaning EPA found there was a strong likelihood that the area would violate the PM-10 NAAQS and that SIP revisions would be required. *Id.*; see also 55 FR 45799 (October 31, 1990) (refining definition of area to be the Hydrographic Area 212). EPA concluded that actual attainment and nonattainment designations with respect to the new PM-10 NAAQS were not required under the Act and retained the TSP designations in place at the time.

In 1990 Congress amended the Clean Air Act. Under section 107(d)(4)(B)(i) of the amended Act, all areas identified as Group I areas with respect to the PM-10 NAAQS were designated nonattainment by operation of law on November 15, 1990—the enactment date of the 1990 Clean Air Act Amendments.

Section 188(a) of the amended Act further required that all areas designated nonattainment by operation of law be classified as moderate nonattainment areas. Thus, EPA designated Clark County a moderate PM-10 nonattainment area. See 56 FR 11101 (March 15, 1991) (announcing designation of areas) and 56 FR 56694 (November 6, 1991) (codifying designations). CAA section 189(a)(2) required moderate areas designated by operation of law to submit plans by November 15, 1991. The County submitted its moderate area plan on December 6, 1991.

In 1993, EPA found, in accordance with CAA section 188(b)(1)(A), that the Clark County area could not practicably attain the PM-10 standard by the applicable moderate area attainment date of December 31, 1994, and therefore should be reclassified to a serious PM-10 nonattainment area. 58 FR 3334 (January 8, 1993). EPA concluded that implementation of the control measures included in Clark County's moderate area plan would not result in emission reductions sufficient to attain the 24-hour standard. EPA also found that a substantial portion of PM-10 emissions in the area were due to fugitive dust and additional controls would be required. *Id.*

Reclassification to a serious PM-10 nonattainment area triggered, among other requirements, the requirement to implement more stringent control measures (*i.e.*, BACM) and the requirement to submit a revised plan demonstrating that the area would attain the PM-10 NAAQS by a new attainment date of December 31, 2001. See CAA section 189(b). The County submitted a serious area PM-10 plan in 1997 to demonstrate attainment in accordance with section 189(b). EPA, however, found this attainment demonstration, along with previously submitted plans for RACM and BACM,<sup>5</sup> failed to meet the requirements of the CAA and therefore proposed to disapprove these submittals. 65 FR 37324 (June 14, 1998). Prior to EPA taking final action on the proposed disapproval, the State of Nevada withdrew the moderate and serious area plans for Clark County. See Letter from Allen Biaggi, Administrator, Division of Environmental Protection, Nevada Department of Conservation, to Felicia Marcus, Regional Administrator,

<sup>5</sup> See Clark County's February 15, 1995 submittal, "Addendum to the "Moderate Area" PM-10 State Implementation Plan for the Las Vegas Valley" (The 1995 RACM Addendum) and December 1994 submittal "Providing for the Evaluation, Adoption and Implementation of Best Available Control Measures and Best Available Control Technology to Improve PM-10 Air Quality" (1994 BACM Plan).

EPA Region 9 (December 5, 2000). On January 5, 2001, EPA issued a "finding of nonsubmittal" for failure to submit the required PM-10 plans. See 66 FR 1046. This finding was made effective December 20, 2000, and began an 18-month "clock" for mandatory application of sanctions and a 2-year clock for promulgation of a Federal Implementation Plan (FIP) in accordance with CAA section 179. *Id.* Under the sanctions clock, mandatory sanctions (*i.e.*, tighter offset ratios for new and modified major sources and, six months later, highway funding restrictions) would be imposed unless and until EPA found the State had made a "complete" submittal of a plan addressing the applicable PM-10 requirements for the Las Vegas Valley. See *id.* at 1047 (citing 40 CFR 52.31 and CAA section 179). Under the FIP clock, EPA was to promulgate a FIP in place of a SIP unless and until EPA approved a SIP for the area.<sup>6</sup> CAA section 110(c)(1).

#### *B. Serious Area Plan for the Las Vegas Area*

Following EPA's proposed disapproval of the 1997 PM-10 Plan, the County began revising its fugitive dust control measures. On June 22, 2000, the County adopted dust controls for open areas and vacant lots (Section 90), dust controls for unpaved roads (Section 91), dust controls for unpaved parking lots (Section 92), dust controls for paved roads and street sweepers (Section 93), and dust controls for construction activities (Section 94 and Construction Activities Notebook Including Section 94 Handbook).<sup>7</sup> On November 16, 2000, the County revised Section 0 governing regulatory definitions to include a number of definitions related to fugitive dust control measures. These rules provide the backbone for the Clark County Serious Area Plan, which was adopted by the Clark County Board of Commissioners on June 19, 2001.<sup>8</sup> The

<sup>6</sup> While the FIP Clock expired in December 2002, EPA pursued review and approval of the SIP submitted in 2001 rather than preparation of a FIP. Today's approval removes the obligation to prepare a FIP for the area.

<sup>7</sup> These new fugitive dust rules generally supplement the existing PM-10 measures previously approved into the SIP in 1981 and 1982. The two exceptions are: (1) Section 17 ("Permission to Disturb Topsoil"), which is being removed from the SIP by this action and replaced with the new Sections 90 through 94; and (2) the definitions in sections 1.35 ("Fugitive Dust") and 1.64 ("Off-road Vehicle"), which are being replaced by the new definitions in Sections 0.70 and 0.114, respectively.

<sup>8</sup> In 2001, the Clark County Department of Air Quality Management (DAQM) was created to handle both the permitting and enforcement functions of the Clark County Health District along with the planning functions previously managed by

Nevada Division of Environmental Protection submitted Sections 90 through 94 and Section 0, along with the June 19, 2001, Plan to EPA on July 25, 2001.<sup>9</sup> On January 11, 2002, we determined the conformity budgets in the Plan were adequate (67 FR 1461) and on January 22, 2003, we proposed approval of the Plan and the associated rules (68 FR 2954). The Technical Support Document associated with our proposed approval is available on EPA's Web site.

The Plan supports the County's strategy of focusing controls on sources of fugitive dust. The Plan includes a detailed inventory of PM-10 emissions in the nonattainment area and uses modeling and monitoring data to determine the effect these emissions have on ambient concentrations and to identify the significant contributors to violations in the area. The Plan and PM-10 monitoring data show the area met and continues to meet the annual PM-10 standard but was not able to meet the 24-hour standard by the statutory deadline of December 31, 2001. The Plan further demonstrates that the County has adopted control measures meeting the CAA requirements for BACM and MSM and that implementation of these measures will result in reductions in the inventory of emissions to levels that ensure the area will attain the 24-hour standard by the extended attainment date of December 31, 2006. The Plan also includes demonstrations of reasonable further progress between now and the 2006 attainment deadline, a demonstration of the need for an extension, a description of contingency measures and enforceable commitments, and motor vehicle emissions budgets for ensuring transportation projects conform to the Plan.

We received comments on several aspects of the Plan and our responses to these comments are provided in a separate document. See Response to Comments Document (April 2004). While the comments led us to look more carefully at certain demonstrations and, in some cases, request additional information from the County, we have not changed our conclusions from the

the Clark County Department of Comprehensive Planning. Because of the shifting organization of the local air agencies, we refer generally to the "County" for both the new DAQM and its predecessor agencies.

<sup>9</sup> On October 24, 2002, the State submitted revised versions of Sections 90 through 93, dated November 20, 2001, to replace the November 16, 2000 versions included with the Plan submittal. In addition, on November 19, 2002, the State submitted amendments to the Plan regarding SIP commitment deadlines and adoption of local ordinances.

proposal that the rules and Plan comply with the requirements of the Act and reasonably support the County's demonstration of attainment.

#### **IV. Other Related Action in the Las Vegas Area**

In addition to working on this PM-10 Plan and the associated fugitive dust rulemakings, the County is in the process of updating air control requirements on several other fronts. The County has revised its stationary source permitting regulations for new and modified sources in Sections 12, 58 and 59 (and portions of Section 0). These regulations will ensure that new and modified major sources of PM-10 and other nonattainment criteria pollutants will be subject to offset and control requirements. In addition EPA is in the final stages of reviewing the Las Vegas carbon monoxide (CO) attainment plan. EPA proposed approval of this plan, which includes inspection and maintenance and gasoline and transportation control measure provisions, on January 28, 2003 (68 FR 4141). These actions may provide incidental PM-10 benefits for the area and will be reviewed to ensure consistency with today's action.

#### **V. Final Actions**

With this final action, we are incorporating by reference the following portions of the Clark County Serious Area Plan for the Las Vegas Planning Area, adopted June 19, 2001, with amendments adopted November 19, 2002, into the Nevada SIP:

(1) The demonstration in Chapter 4 and Appendices G and J that the Plan provides for implementation of BACM as required under CAA section 189(b)(1)(B).

(2) The baseline and projected emissions inventories provided in Chapter 3 and Appendices B through E and L as required under CAA section 172(c)(3).

(3) The demonstration in Chapters 5 and 7 of attainment of the annual standard by the CAA deadline of December 31, 2001 and that attainment of the 24-hour standard by December 31, 2001 is impracticable as required under CAA section 189(b)(1)(A).

(4) The demonstration in Chapter 7 and Appendix A that attainment of the 24-hour standard will occur by the most expeditious alternative date practicable, in this case, December 31, 2006, as required under CAA sections 189(b)(1)(A) and 188(e).

(5) The demonstration in Chapter 6 that the Plan includes MSM as required under CAA section 188(e).

(6) The demonstration in Chapter 4 that major sources of PM-10 precursors such as nitrogen oxides and sulfur dioxide do not significantly contribute to violations of the PM-10 standards as required under CAA section 189(e).

(7) The demonstration in Chapter 5 and Appendix M that the Plan provides for reasonable further progress and quantitative milestones as required under CAA sections 189(c) and 172(c)(2).

(8) The contingency measures in Chapter 4 as required under CAA section 172(c)(9).

We are also approving the following transportation conformity motor vehicle emissions budgets in Appendix N<sup>10</sup> as required under CAA section 176(c):

Year	Motor vehicle emissions budget (tons PM-10 per day)
2001 .....	201.75
2003 .....	155.77
2006 .....	141.41

Finally, today's final approval includes additions to and removals from the SIP of specific local measures as follows:

(1) We are approving into the SIP Clark County Sections 90, 91, 92 and 93, adopted on November 20, 2001, which supersede earlier versions submitted in Appendix G of the Plan.

(2) We are approving the following portions of Section 0, adopted on November 16, 2000, into the SIP:<sup>11</sup>

- Section 0.25 "Best Management Practices"
- Section 0.33 "Commercial and Residential Construction"
- Section 0.36 "Construction Activity"
- Section 0.37 "Control Measure"
- Section 0.43 "Disturbed Surface Area"
- Section 0.45 "Dust Palliative"
- Section 0.46 "Dust Suppressant"
- Section 0.47 "Easement"
- Section 0.48 "Easement Holder"
- Section 0.51 "Emergency"
- Section 0.58 "EPA or Administrator"
- Section 0.65 "Flood Control Construction"
- Section 0.70 "Fugitive Dust"
- Section 0.81 "Hearing Officer"
- Section 0.84 "Highway Construction"
- Section 0.110 "Nonroad Easement"

<sup>10</sup>EPA notified Clark County that the motor vehicle emissions budgets were adequate by letter from Jack Broadbent, EPA, to Allen Biaggi, Nevada Division of Environmental Protection, November 9, 2001. Public notice of EPA's adequacy determination was provided on January 11, 2002 (67 FR 1461).

<sup>11</sup>Clark County included all of Section 0 in Appendix G of the Plan. In this action, we are approving only definitions relevant to Sections 90 through 94.

- Section 0.111 "Normal Farm Cultural Practice"
- Section 0.114 "Offroad Vehicle"
- Section 0.117 "Open Areas and Vacant Lots"
- Section 0.120 "Owner and/or Operator"
- Section 0.127 "Pave"
- Section 0.132 "PM-10 Nonattainment Area"
- Section 0.133 "PM-10"
- Section 0.140 "Public Road"
- Section 0.141 "Reclaimed Water"
- Section 0.147 "Road Easement"
- Section 0.162 "Trench"
- Section 0.164 "Unpaved Parking Lot"
- Section 0.166 "Vacant Lot"

(3) We are approving into the SIP the commitments contained in Chapter 4, section 4.8.

(4) We are approving into the SIP Clark County Section 94, adopted on November 16, 2000, along with the associated August 24, 2000, "Construction Activities Notebook including the Section 94 Handbook" (Appendix G).

(5) We are removing from the SIP Clark County Section 17 "Permission to Disturb Topsoil" and Sections 1.35 (defining "Fugitive Dust") and 1.64 (defining "Off-road Vehicle") because these sections are replaced by the overlapping provisions in Sections 0 and 90 through 94 being approved today.

**VI. Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely approves a state plan and rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also 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 is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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).

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 9, 2004. 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: May 3, 2004.

#### Wayne Nastri,

Regional Administrator, Region IX.

■ 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

■ 2. Section 52.1470 is amended by adding paragraphs (c)(16)(viii)(B), (c)(24)(iv)(B), and (c)(42) to (c)(44) to read as follows:

#### § 52.1470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(16) \* \* \*

(viii) \* \* \*

(B) Previously approved on August 27, 1981 at (c)(16)(viii) and now deleted Section 17, Rules 17.1–17.8.

\* \* \* \* \*

(24) \* \* \*

(iv) \* \* \*

(B) Previously approved on June 18, 1982 at (c)(24)(iv) and now deleted Section 17, Rules 17.2.1 and 17.6.1.

\* \* \* \* \*

(42) The following plan was submitted on July 23, 2001, by the Governor's designee.

(i) Incorporation by reference.

(A) Clark County Department of Air Quality Management.

(1) PM-10 State Implementation Plan for Clark County including: Chapter 3,

Chapter 4 (excluding pages 4–125 and 4–126), Chapters 5 through 7,

Appendices A through E, Appendix G (excluding pages 90–1 through 90–10, 91–1 through 91–9, 92–1 through 92–7, 93–1 through 93–8, and the following paragraphs of pages 0–1 through 0–46: 0.1–0.24, 0.26–0.32, 0.34, 0.35, 0.38–0.42, 0.44, 0.49, 0.50, 0.52–0.57, 0.59–0.64, 0.66–0.69, 0.71–0.80, 0.82, 0.83, 0.85–0.109, 0.112, 0.113, 0.115, 0.116, 0.118, 0.119, 0.121–0.126, 0.128–0.131, 0.134–0.139, 0.142–0.146, 0.148–0.161, 0.163, 0.165, and 0.167–0.172), Appendix J, and Appendices L through N adopted on June 19, 2001.

(43) The following regulations were submitted on October 24, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Clark County Department of Air Quality Management.

(1) Sections 90, 91, 92 and 93 adopted on November 20, 2001.

(44) The following plan amendments were submitted on November 19, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Clark County Department of Air Quality Management.

(1) Pages 4–125 and 4–126 and Appendix R adopted on November 19, 2002.

\* \* \* \* \*

[FR Doc. 04–12918 Filed 6–8–04; 8:45 am]

BILLING CODE 6560–50–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[VA149–5076a; FRL–7671–6]

#### Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; VOC Emission Standards for Solvent Metal Cleaning Operations in the Metropolitan Washington, DC Ozone Nonattainment Area

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Commonwealth of Virginia State Implementation Plan (SIP). The revision establishes regulations for the control of volatile organic compound (VOC) emissions from solvent metal cleaning operations in the Northern Virginia portion of the Metropolitan Washington, D.C. Ozone Nonattainment Area (Northern Virginia Area). EPA is approving this revision to the Commonwealth of Virginia SIP in

accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on August 9, 2004 without further notice, unless EPA receives adverse written comment by July 9, 2004. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by VA149–5076 by one of the following methods:

A. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

C. *Mail:* Makeba Morris, Chief, Air Quality Planning Branch Name, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. VA149–5076. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. The Federal [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.