

fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by June 7, 2007, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on July 9, 2007. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

### III. Statutory and Executive Order Reviews

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 13211, "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 (Pub. L. 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 rule 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. section 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 July 9, 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) of the CAA.)

### List of Subjects in 40 CFR Part 52

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

Dated: February 15, 2007.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

**Editorial Note:** This document was received at the Office of the Federal Register on May 2, 2007.

■ 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 paragraph (c)(55)(i)(A)(2) to read as follows:

#### § 52.1470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(55) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Regulation 040.030 adopted on July 26, 2002.

\* \* \* \* \*

[FR Doc. E7-8695 Filed 5-7-07; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2006-0635; FRL-8308-2]

### Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Visible Emissions and Particulate Matter Rules

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing full approval of revisions to the Nevada Department of Conservation and Natural Resources portion of the Nevada State Implementation Plan (SIP). This action was proposed in the **Federal Register** on March 12, 2007 (72 FR 10960), and approves amended visible emissions and particulate matter regulations as well as requests for rescission of certain regulations related to visible emissions and particulate matter. The intended effect is to approve regulations for inclusion into the applicable plan and to rescind unnecessary provisions from the applicable plan. We are approving these regulations and rescissions in order to regulate emission sources under

the Clean Air Act as amended in 1990 (CAA or the Act) and to update the applicable SIP.

**DATES:** *Effective Date:* This rule is effective on June 7, 2007.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2006-0635 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.

**I. Proposed Action**

On March 12, 2007 (72 FR 10960), EPA proposed approval of the provisions of chapter 445B of the Nevada Administrative Code (NAC) listed below.

TABLE 1.—AMENDED RULES SUBMITTED FOR APPROVAL INTO THE SIP

NAC No.	NAC title	Adopted	Submitted
445B.22017 .....	Visible emissions: Maximum opacity; determination. (Effective April 1, 2006.) .....	10/04/05	01/12/06
445B.2202 .....	Visible emissions: Exceptions for stationary sources. (Effective April 1, 2006.) .....	10/04/05	01/12/06
445B.22027 .....	Emissions of particulate matter: Maximum allowable throughput for calculating emissions rates .....	01/22/98	01/12/06
445B.2203 .....	Emissions of particulate matter: Fuel-burning equipment .....	09/09/99	01/12/06
445B.22033 .....	Emissions of particulate matter: Sources not otherwise limited .....	01/22/98	01/12/06
445B.22037 .....	Emissions of particulate matter: Fugitive dust .....	10/03/95	01/12/06

Table 2 lists two related rules in the existing SIP for which the Nevada Division of Environmental Protection

(NDEP) has requested rescission. On March 12, 2007 we also proposed to

approve these rescissions, deleting these rules from the applicable SIP.

TABLE 2.—RELATED SIP RULES FOR WHICH THE STATE HAS REQUESTED RESCISSION

SIP provision	Title	Submittal date	Approval date
NAQR Article 16.3.3.1 .....	Opacity from kilns .....	12/29/78	06/18/82
NAC 445.535 .....	Kilogram-calorie .....	10/26/82	03/27/84

We proposed to approve these regulations and rescissions because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the regulations and our evaluation.

**II. Public Comments and EPA Responses**

EPA’s proposed action provided a 30-day public comment period. During this period, we received comments from Jennifer L. Carr, Chief, Bureau of Air Quality Planning, Nevada Division of Environmental Protection (NDEP), by letter dated April 10, 2007. In its comment letter, NDEP calls for correction of two specific errors found in EPA’s Technical Support Document (TSD) (dated February 9, 2007) for the proposed rule. With respect to the first error noted by NDEP, we agree that the correct effective date for the second of the three submitted versions of NAC

445B.2202 is March 1, 2006, not March 2, 2006 as incorrectly cited in the TSD. With respect to the second error, we agree that the correct units for power plant particulate matter emissions standards under the applicable NSPS are “lb/MMBtu,” not “MMBtu/hour” as incorrectly cited in the TSD. While we agree with the technical corrections identified by the commenter, they do not substantively affect the basis for our action.

**III. EPA Action**

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in sections 110(k)(3) of the Act, EPA is finalizing the approval of the provisions listed in Table 1 and also finalizing the approval of the rescission requests for the provisions listed in Table 2. This action incorporates the six submitted rules into

the federally-enforceable SIP<sup>1</sup> and rescinds NAQR Article 16.3.3.1 and NAC 445.535 therefrom.

**IV. Statutory and Executive Order Reviews**

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 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May

<sup>1</sup> Final approval of these rules supersedes the following rules in the applicable SIP (superseding rule shown in parentheses): NAC 445.721 (NAC 445B.22017); NAQR Article 4.3, 4.3.1, 4.3.2, 4.3.3 and 4.3.5 (NAC 445B.2202); NAC 445.731 (NAC 445B.2203), NAC 445.732 (NAC 445B.22033), and NAC 445.734 (NAC 445B.22037). NAC 445.729 is not superseded by the corresponding submitted rule NAC 445B.22027 because the former is relied upon by certain SIP rules (e.g., NAC 445.730) that are being retained in the SIP.

22, 2001). This action merely approves state rules 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 (Pub. L. 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 state 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 approves a state rule implementing a Federal standard.

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. section 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 July 9, 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 19, 2007.

**Jane Diamond,**

*Acting 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:
  - a. Adding paragraphs (c)(14)(x) and (c)(25)(iv);
  - b. Revising paragraphs (c)(56)(i)(A)(3)(i), (ii), and (iii); and
  - c. Adding paragraph (c)(56)(i)(A)(3)(viii) to read as follows:

#### § 52.1470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(14) \* \* \*

(x) Previously approved on June 18, 1982 in paragraph (c)(14)(viii) of this section and now deleted without replacement: Article 16: Rules 16.3.3.1.

\* \* \* \* \*

(25) \* \* \*

(iv) Previously approved on March 27, 1984 in paragraph (c)(25)(i)(A) of this section and now deleted without replacement: Nevada Administrative Code (NAC) section: 445.535.

\* \* \* \* \*

(56) \* \* \*

(i) \* \* \*

(A) \* \* \*

(3) \* \* \*

(i) October 3, 1995: 445B.005, 445B.059, 445B.077, 445B.112, 445B.116, 445B.130, 445B.145, 445B.152, 445B.177, 445B.180, and 445B.22037.

(ii) January 22, 1998: 445B.011, 445B.0425, 445B.058, 445B.22027, and 445B.22033.

(iii) September 9, 1999: 445B.2203 and 445B.22047.

\* \* \* \* \*

(vii) October 4, 2005: 445B.22017 (effective April 1, 2006) and 445B.2202 (effective April 1, 2006).

\* \* \* \* \*

[FR Doc. E7-8693 Filed 5-7-07; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2006-0827; FRL-8302-9]

### Revisions to the Arizona State Implementation Plan, Maricopa County Environmental Services Department

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP). This revision concerns particulate matter (PM-10) emissions from open burning. We are approving a local rule under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on July 9, 2007 without further notice, unless EPA receives adverse comments by June 7, 2007. If we receive such comments, we will publish a timely withdrawal in the