

Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You may also see copies of the partial Delegation Agreement at the following location: Nevada Division of Environmental Protection, Bureau of Air Pollution Control, 333 West Nye Lane, Carson City, NV 89706.

**FOR FURTHER INFORMATION CONTACT:** Gerardo Rios, EPA Region IX, (415) 972-3974, or send email to [rios.gerardo@epa.gov](mailto:rios.gerardo@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

**I. Background**

In 1978, EPA published final regulations at 40 CFR 52.21, implementing the PSD program required under part C of the Clean Air Act, 42 U.S.C. 7475-7479. See 43 FR 26403 (June 19, 1978). The PSD regulations provide authority to EPA to delegate the responsibility for conducting PSD source review to a State or local air pollution control agency. 40 CFR 52.21(u). In general, delegations are implemented through agreements between EPA Regions and State or local air pollution control agencies. These agreements between the Agency and permitting agencies set out the responsibilities of each in carrying out the federal PSD program for that jurisdiction. The specific elements of delegation agreements vary to take into consideration particular circumstances, such as legal restrictions that may apply in a specific jurisdiction.

Pursuant to its authority under § 52.21(u), Region 9 entered into a PSD delegation agreement with the Nevada Division of Environmental Protection (NDEP) on May 27, 1983. Region 9 published a notice of the delegation agreement in the **Federal Register**, (see 48 FR 28269, June 21, 1983).

On December 31, 2002, EPA published its Final Rule significantly revising 40 CFR 52.21. 67 FR 80186 (December 31, 2002). The revised rules were effective on March 3, 2003.

Since publication of the revised PSD rules, Region 9 has consulted with NDEP, who indicated that changes to Nevada law would be necessary for them to fully implement the revisions to 40 CFR 52.21.

As NDEP did not believe that current law would allow it to fully implement revised 40 CFR 52.21, Region 9 withdrew the 1983 delegation agreement for issuing Federal PSD permits on March 3, 2003.

NDEP has advised EPA that it is on schedule to adopt State regulations consistent with the revised Federal PSD

regulations and intends to submit those to EPA for approval into the Nevada State Implementation Plan (SIP) as a SIP revision. NDEP expects to have adopted such State regulations by January 2004.

NDEP and EPA desire to continue to have NDEP implement and enforce the Federal PSD regulations to the extent possible while NDEP proceeds with adopting State regulations to fully implement the revised PSD regulations. Accordingly, on June 3, 2003, the EPA and NDEP entered into the partial Delegation Agreement to issue Federal Prevention of Significant Deterioration (PSD) permits. A copy of the agreement delegating partial PSD permitting authority is available for inspection and copying at the addresses provided above.

As part of the transition process for implementing the new provisions, NDEP and EPA intend to allow permit applicants the opportunity to re-evaluate their projects in light of the new Federal PSD requirements if they so choose.

**II. EPA Action**

Pursuant to 40 CFR 52.21(u), EPA delegates to NDEP responsibility for implementing and enforcing part of the Federal PSD regulations for all sources located in the State of Nevada under NDEP jurisdiction. NDEP is delegated to implement and enforce the Federal PSD regulations for any new major stationary source and for any modification of a major source that is a major modification. Region 9 has retained the authority to make applicability determinations under the revised PSD provisions effective March 3, 2003. Both EPA and NDEP acknowledge that under certain circumstances the State PSD regulations and Federal PSD regulations have different applicability criteria and that obtaining an exemption under one set of PSD regulations does not relieve a facility from compliance with the other PSD regulations.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental regulations, Reporting and recordkeeping requirements.

Dated: August 21, 2003.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*  
[FR Doc. 03-22648 Filed 9-5-03; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[NV 045-0070a; FRL-7547-9]

**Revisions to the Nevada State Implementation Plan, Clark County Air Quality Management Board**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Clark County Air Quality Management Board (CCAQMB) portion of the Nevada State Implementation Plan (SIP). The revisions concern the emission of particulate matter (PM-10) from residential wood combustion. We are approving the local rules (building code provisions) that regulate this emission source under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on November 7, 2003 without further notice, unless EPA receives adverse comments by October 8, 2003. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Mail or e-mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

You can inspect a copy of the submitted rules (building code provisions) and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted rules (building code provisions) and TSD at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, (Mail Code 6102T), Room B-102, 1301 Constitution Avenue, NW., Washington, DC 20460.  
Nevada Division of Environmental Protection, 333 West Nye Lane, Room 138, Carson City, NV 89706.  
Clark County Air Quality Management Board, 500 South Grand Central Parkway, Las Vegas, NV 89155.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

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**I. The State's Submittal**

*A. What Rules Did the State Submit?*

Table 1 lists the rules we are approving with the date they were revised by the local air agencies and submitted by the Nevada Division of Environmental Protection (NDEP).

TABLE 1.—SUBMITTED RULES

Local agency	Rule (building code section #)	Rule (building code provision) title	Adopted	Submitted
Clark County .....	(3708) .....	Fireplaces in New Construction and New Fireplaces in Existing Construction (Ordinance No. 1249).	11/20/90 .....	11/19/02
City of Las Vegas .....	(3708) .....	Fireplaces in New Vegas Construction and New Fireplaces in Existing Construction (Ordinance No. 3538).	11/21/90 .....	11/19/02
City of North Las Vegas .....	(13.16.150) .....	Fireplaces in New Construction and New Fireplaces in Existing Construction (Ordinance No. 1020).	09/18/91 .....	11/19/02
City of Henderson .....	(15.40.010) .....	Fireplaces in New Construction and New Fireplaces in Existing Construction (Ordinance No. 1697).	10/15/96 .....	11/19/02

On May 18, 2003, this submittal was deemed complete by operation of law in accordance with 40 CFR part 51, appendix V.

*B. Are There Other Versions of These Rules?*

There are no previous versions of these rules (building code provisions) approved into the SIP.

*C. What Is the Purpose of the Submitted Rule Revisions?*

The purpose of the building code provisions is to require that fireplaces being constructed in new or existing dwelling units be fuelled with natural gas, conform to EPA emission requirements, contain an insert that meets EPA emission requirements, or their equivalent, or be decorative electrical appliances.

**II. EPA's Evaluation and Action**

*A. How Is EPA Evaluating the Rules?*

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). Section 189(b) of the CAA requires serious PM-10 nonattainment areas with significant or major PM-10 sources to adopt best available control measures (BACM), including best available control technology (BACT). Clark County is a serious PM-10 nonattainment area. See 40 CFR 81.330.

EPA's guidance for serious PM-10 nonattainment areas provides that BACM/BACT is required to be implemented for all source categories unless the State demonstrates that a particular source category does not contribute significantly to PM-10 levels in excess of the NAAQS. See 57 FR 13498, 13540 (April 16, 1992) ("General

Preamble") and 59 FR 41998 (August 16, 1994) ("Addendum"). The activities regulated by the above rules (building code provisions) contribute an insignificant (*de minimis*) 0.02% of the total PM-10 emissions in Clark County according to the *PM-10 State Implementation Plan for Clark County for the Las Vegas Valley Nonattainment Area*, Nevada Division of Environmental Protection (June 19, 2001). Therefore, the rules (building code provisions) need not fulfill the requirements of BACM/BACT. We are evaluating these rules (building code provisions) only to ensure that they do not relax the SIP in violation of CAA sections 110(l) and 193, and that they meet enforceability and other general SIP requirements of section 110.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *PM-10 Guideline Document*, EPA-452/R-93-008.
- *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 57 FR 13498, 13540 (April 16, 1992).
- *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 59 FR 41998, 42011 (August 16, 1994).
- *PM-10 State Implementation Plan for Clark County for the Las Vegas Valley Nonattainment Area*, Nevada Division of Environmental Protection (June 19, 2001).

*B. Do the Rules Meet the Evaluation Criteria?*

The submitted rules (building code provisions) are consistent with the

relevant policy and guidance regarding enforceability and stringency and should be approved. The TSD has more information on our evaluation.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) and 110(k)(6) of the CAA, EPA is fully approving the submitted rules (building code provisions) because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval 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 (building code provisions). If we receive adverse comments by October 8, 2003, 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 November 7, 2003. This will incorporate these rules (building code provisions) into the federally-enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final 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. Background Information**

*Why Were These Rules Submitted?*

PM-10 harms human health and the environment. Section 110(a) of the CAA

requires States to submit regulations that control PM-10 emissions. Table 2 lists some of the national milestones leading to the submittal of local agency PM-10 rules.

TABLE 2.—PM-10 NONATTAINMENT MILESTONES

Date	Event
March 3, 1978 .....	EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the Clean Air Act, as amended in 1977. 43 FR 8964; 40 CFR 81.305.
July 1, 1987 .....	EPA replaced the TSP standards with new PM standards applying only up to 10 microns in diameter (PM-10). 52 FR 24672.
November 15, 1990 .....	Clean Air Act Amendments of 1990 were enacted, Pub. L. 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671 <i>q</i> .
November 15, 1990 .....	PM-10 areas meeting the qualifications of section 107(d)(4)(B) of the CAA were designated nonattainment by operation of law and classified as moderate pursuant to section 188(a). States are required by section 110(a) to submit rules regulating PM-10 emissions in order to achieve the attainment dates specified in section 188(c).

**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 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 rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 7, 2003. 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: July 29, 2003.

**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 paragraph (c)(41) to read as follows:

**§ 52.1470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(41) Regulations for the following agencies were submitted on November 19, 2002 by the Governor’s designee.

(i) Incorporation by reference.

(A) Clark County Air Quality Management Board.

(1) Clark County Building Code, section 3708, adopted on November 20, 1990.

(2) City of Las Vegas Building Code, section 3708, adopted on November 21, 1990.

(3) City of North Las Vegas Building Code, section 13.16.150, adopted on September 18, 1991.

(4) City of Henderson Building Code, section 15.40.010, adopted on October 15, 1996.

[FR Doc. 03-22647 Filed 9-5-03; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 82**

[FRL-7553-3]

RIN 2060-AJ27

**Protection of Stratospheric Ozone: Phaseout of Chlorobromomethane Production and Consumption**

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** The Environmental Protection Agency published in the **Federal Register** of July 18, 2003, a document that adds chlorobromomethane (CBM) to the list of substances subject to production and consumption controls under the Clean Air Act (CAA) and EPA's implementing regulations. This

document corrects the numbering for a provision added in that document.

**EFFECTIVE DATE:** September 8, 2003.

**FOR FURTHER INFORMATION CONTACT:** Jabeen Akhtar, 202-564-3514; E-mail: [akhtar.jabeen@epa.gov](mailto:akhtar.jabeen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. What Does This Correction Do?**

The EPA published a document in the Federal Register of July 18, 2003 (68 FR 42883), which added a paragraph of trade restrictions of CBM to 40 CFR 82.4. This paragraph is incorrectly numbered as 40 CFR 82.4(l)(5). This correction amends the paragraph numbering from 40 CFR 82.4(l)(5) to 40 CFR 82.4(l)(6).

**II. Does This Action Apply to Me?**

Categories and entities potentially regulated by this action include:

Category	SIC	NAICS	Examples of potentially regulated entities
1. Industrial organic chemicals, NEC .....	2869	325199	Producers, importers, or exporters of CBM.
2. Pharmaceutical preparations .....	2834	325412	Transformers of CBM.
3. Pesticides and agricultural chemicals, NEC .....	2879	32532	Transformers of CBM.
4. Chemicals and allied products, NEC .....	5169	42269	Lab suppliers of CBM.
5. Testing laboratories, except veterinary .....	8734	54138	Lab users of CBM.
6. Medical and diagnostic laboratories .....	8071	6215	Lab users of CBM.
7. Research and development in the physical, engineering and life sciences .....	8731, 8733	54171	Lab users of CBM.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be affected. To determine whether your facility, company, business organization, etc., could be regulated by this action, you should carefully examine the applicability criteria in § 82.1(b) of Title 40 of the Code of Federal Regulations (CFR). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

**III. How Can I Get Copies of This Document and Other Related Information?**

1. *Docket.* Materials relevant to this action are contained in Docket No. A-92-13, Section XII. The EDOCKET number is OAR-2003-0077, with the legacy identifier noted as A-2000-49. The docket is located at U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution

Avenue, NW., Room: B108, Mail Code 6102T, Washington, DC 20004. The materials may be inspected from 8 am until 5:30 pm, Monday through Friday. The telephone number is (202) 566-1742. The fax number is (202) 566-1741. The docket may charge a reasonable fee for copying docket materials. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedregstr>. An electronic version of the public docket is also available through EPA's new electronic public docket, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/rpas/> to access the index listing of the contents of the official public docket for this action, as well as access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the docket identification number that EPA has established for this action. Certain types of information will not be placed in the EPA Docket.

Information claimed as CBI, and other information whose disclosure is restricted by statute which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket, either. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available supporting materials for this action will be made available in EPA's electronic public docket. When a document is selected from the index list in the EPA Docket, the system will identify whether the document is available for viewing the EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the Docket Center identified in this notice. The EPA intends to work toward providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.