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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2006-0464; FRL-8210-2]

Revisions to the Nevada State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing approval of revisions to the Nevada State Implementation Plan (SIP). These revisions were proposed in the **Federal**

Register on June 9, 2006, and include the air pollution sections of the Nevada Revised Statutes (NRS). We are approving these statutes in order to regulate emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: *Effective Date:* This rule is effective on October 2, 2006.

ADDRESSES: EPA has established docket number EPA-R09-OAR-2006-0464 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.

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

I. Proposed Action

On June 9, 2006, (71 FR 33413), EPA proposed to approve into the Nevada SIP those statutes that are listed in the table below. These statutes were submitted on January 12, 2006 and March 24, 2006.

STATUTES SUBMITTED FOR APPROVAL

Nevada revised statutes (NRS)	Title	Submittal date
445B.105	Definitions	01/12/06
445B.110	Air contaminant	01/12/06
445B.115	Air pollution	01/12/06
445B.120	Commission	01/12/06
445B.125	Department	01/12/06
445B.130	Director	01/12/06
445B.135	Federal Act	01/12/06
445B.140	Hazardous air pollutant	01/12/06
445B.145	Operating permit	01/12/06
445B.150	Person	01/12/06
0.039	Person	03/24/06
445B.155	Source and indirect source	01/12/06
445B.210	Powers of Commission	01/12/06
445B.220	Additional powers of Commission	01/12/06
445B.225	Power of Commission to require testing of sources	01/12/06
445B.235	Additional powers of Department	01/12/06
445B.245	Power of Department to perform or require test of emissions from stacks	01/12/06
445B.275	Creation; members; terms	01/12/06
445B.280	Attendance of witnesses at hearing; contempt; compensation	01/12/06
445B.300	Operating permit for source of air contaminant; notice and approval of proposed construction; administrative fees; failure of Commission or Department to act.	01/12/06
445B.320	Approval of plans and specifications required before construction or alteration of structure	01/12/06
445B.500	Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and smaller counties; regulation of certain electric plants prohibited.	01/12/06
445B.510	Commission may require program for designated area	01/12/06
445B.520	Commission may establish or supersede county program	01/12/06
445B.530	Commission may assume jurisdiction over specific classes of air contaminants	01/12/06
445B.540	Restoration of superseded local program; continuation of existing local program	01/12/06
445B.560	Plan or procedure for emergency	01/12/06
445B.595	Governmental sources of air contaminants to comply with state and local provisions regarding air pollution; permit to set fire for training purposes; planning and zoning agencies to consider effects on quality of air.	01/12/06

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

II. Public Comments and EPA Responses

EPA’s proposed action provided a 30-day public comment period. We did not receive any comments on the proposed action.

III. EPA Action

No comments were submitted that change our assessment that the submitted statutes comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the

Act, EPA is fully approving these statutes into the Nevada SIP.¹

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 (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

¹ Final approval of the submitted statutes supersedes the following statutes in the applicable SIP (superseding statute or statutes are shown in parentheses): NRS 445.406 (NRS 445B.105); NRS 445.411 (NRS 445B.110); NRS 445.416 (NRS 445B.115); NRS 445.421 (NRS 445B.120); NRS 445.424 (NRS 445B.125); NRS 445.427 (NRS 445B.130); NRS 445.431 (NRS 445B.135); NRS 445.441 (NRS 445B.150 and NRS 0.039); NRS 445.446 (NRS 445B.155); NRS 445.461 (NRS 445B.210); NRS 445.471 (NRS 445B.220); NRS 445.472 (NRS 445B.225); NRS 445.474 (NRS 445B.235); NRS 445.477 (NRS 445B.245); NRS 445.481 (NRS 445B.275); NRS 445.486 (NRS 445B.280); NRS 445.491 (NRS 445B.300); NRS 445.496 (NRS 445B.320); NRS 445.546 (NRS 445B.500); NRS 445.551 (NRS 445B.510); NRS 445.556 (NRS 445B.520); NRS 445.561 (NRS 445B.530); NRS 445.566 (NRS 445B.540); NRS 445.571 (NRS 445B.560); and NRS 445.586 (NRS 445B.595). NRS 445B.140 (“Hazardous air pollutant”) and NRS 445B.145 (“Operating permit”) are new to the SIP.

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 law 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 October 30, 2006. 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: August 2, 2006.

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)(56)(i)(A)(4) and (c)(59) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(56) * * *

(i) * * *

(A) * * *

(4) Title 40, Chapter 445B of Nevada Revised Statutes (2003): Sections 445B.105, 445B.110, 445B.115, 445B.120, 445B.125, 445B.130, 445B.135, 445B.140, 445B.145, 445B.150, 445B.155, 445B.210, 445B.220, 445B.225, 445B.235, 445B.245, 445B.275, 445B.280, 445B.300, 445B.320, 445B.500, 445B.510, 445B.520, 445B.530, 445B.540, 445B.560, and 445B.595.

* * * * *

(59) The following statute was submitted on March 24, 2006, by the Governor’s designee.

(i) Incorporation by reference.

(A) Nevada Division of Environmental Protection.

(1) Title 0, Preliminary Chapter-General Provisions, of Nevada Revised Statutes: Section 0.039, effective April 29, 1985.

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