

thence across the bridge to the south side of East Rockaway Inlet, thence westerly along the shore and across the water to the beginning.

(b) *Regulations.* (1) Vessels carrying petroleum products as cargo, with a loaded draft greater than 5 feet, are prohibited from transiting within the regulated navigation area.

(2) Operators of vessels carrying petroleum products as cargo with a loaded draft greater than 5 feet must request to transit the regulated navigation area to the Captain of the Port, Long Island Sound (COTP). They should seek permission at least 48 hours prior to transiting the area to prevent delays and minimize the risk of denial of entry. Factors the COTP will consider before granting permission to enter or transit the RNA described in paragraph (a) of this section are: Environmental and safety factors, including, but not limited to: Weather conditions affecting transit (e.g. sea state, state of the tide, winds, and visibility,) the loaded draft of the particular vessel seeking to transit the area, and the minimum under keel clearance of the particular vessel.

(c) *Effective period.* This section is effective from December 1, 2006, until June 1, 2007.

Dated: November 27, 2006.
Timothy S. Sullivan,
Rear Admiral, U.S. Coast Guard, Commander,
First Coast Guard District.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2006-0630; FRL-8243-9]

Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Monitoring and Volatile Organic Compound Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing full approval of certain revisions and a limited approval/limited disapproval of other 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 August 31, 2006 and addresses definitions, organic solvent controls, and various monitoring provisions. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action approves seventeen provisions

and approves and simultaneously disapproves two other provisions and recommends that Nevada correct the rule deficiencies.

DATES: *Effective Date:* This rule is effective on January 10, 2007.

ADDRESSES: EPA has established docket number EPA-R09-OAR-2006-0630 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 August 31, 2006 (71 FR 51793), EPA proposed approval of the provisions of chapter 445B of the Nevada Administrative Code (NAC) listed below in Table 1.

TABLE 1.—PROVISIONS PROPOSED FOR APPROVAL

NAC No.	NAC title	Adopted	Submitted
445B.015	“Alternative method” defined	10/03/95	01/12/06
445B.062	“Equivalent method” defined	10/03/95	01/12/06
445B.063	“Excess emissions” defined	10/04/05	01/12/06
445B.084	“Hazardous air pollutant” defined	11/03/93	01/12/06
445B.134	“Person” defined	09/16/76	01/12/06
445B.153	“Regulated air pollutant” defined	10/04/05	01/12/06
445B.202	“Volatile organic compounds” defined	03/03/94	01/12/06
445B.22093	Organic solvents and other volatile organic compounds	10/04/05	01/12/06
445B.256	Monitoring systems: Calibration, operation and maintenance of equipment.	10/03/95	01/12/06
445B.257	Monitoring systems: Location	09/16/76	01/12/06
445B.258	Monitoring systems: Verification of operational status	09/16/76	01/12/06
445B.259	Monitoring systems: Performance evaluations	09/16/76	01/12/06
445B.260	Monitoring systems: Components contracted for before September 11, 1974.	09/16/76	01/12/06
445B.261	Monitoring systems: Adjustments	09/16/76	01/12/06
445B.263	Monitoring systems: Frequency of operation	09/16/76	01/12/06
445B.264	Monitoring systems: Recordation of data	08/22/00	01/12/06
445B.265	Monitoring systems: Records; reports	04/26/84	01/12/06

We proposed to approve these regulations because we determined that they complied with the relevant CAA requirements. Our proposed action

contains more information on the regulations and our evaluation. On August 31, 2006 (71 FR 51793), EPA also proposed a limited approval

and limited disapproval of the provisions listed in Table 2.

TABLE 2.—PROVISIONS PROPOSED FOR LIMITED APPROVAL/DISAPPROVAL

NAC No.	NAC title	Adopted	Submitted
445B.262	Monitoring systems: Measurement of opacity	09/18/03	01/12/06
445B.267	Alternative monitoring procedures or requirements	09/18/03	01/12/06

We proposed a limited approval because we determined that these provisions improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because, in certain respects, these provisions conflict with section 110 of the Act. Specifically, these provisions provide inappropriate Director's discretion in NAC 445B.262, paragraph 1, and NAC 445B.267, paragraph 1, which are discussed in greater detail in our proposed action.

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 and Michael Elges, Division of Environmental Protection, State of Nevada Department of Conservation & Natural Resources, by letter dated September 25, 2006. We summarize the comments and provide our responses in the paragraphs that follow. Note that some of the comments in the September 25, 2006 letter are directed only at a related EPA proposal published on August 28, 2006 (71 FR 50875), and these comments will be addressed in a separate final action we expect to publish in the near future.

Comment #1: The first comment from the Nevada Division of Environmental Protection (NDEP) indicates that our proposed rule should have identified two SIP revisions that have been submitted by NDEP in addition to the one dated January 12, 2006 and should have explained how they provide support for our proposed action on the monitoring and volatile organic compound (VOC) rules published on August 31, 2006. These two submittals include one dated February 16, 2005 and another dated March 24, 2006.

Response #1: We agree and provide a more complete discussion of the relevant SIP submittals below.

On February 16, 2005, NDEP submitted a large revision to the applicable Nevada SIP. The February 16, 2005 SIP submittal includes new and amended statutes and rules as well as requests for rescission of certain rules in the existing SIP. The February 16, 2005 SIP submittal also contains documentation of public participation (i.e., notice and public hearing) and

adoption for all of the submitted rules through the hearing on November 30, 2004 held by the State Environmental Commission.

On January 12, 2006, NDEP submitted an amended version of the February 16, 2005 SIP submittal. The January 12, 2006 SIP submittal contains updated regulatory materials including new and amended rules adopted by the State Environmental Commission on October 4, 2005 but otherwise contains the same materials as the earlier submittal with the exception of the documentation of public participation. The January 12, 2006 SIP submittal only contains documentation of public participation for rule amendments adopted by the State Environmental Commission on October 4, 2005 but did not re-submit the related documentation included in the earlier submittal. Therefore, the January 12, 2006 SIP submittal supersedes the earlier SIP revision submittal dated February 16, 2005 for all purposes except for the documentation of public participation for adoption dates from November 30, 2004 and earlier.

Our consideration of the rules submitted on January 12, 2006 and proposed for approval or limited approval on August 31, 2006 takes into account the public participation documentation contained in the earlier submittal (except, as noted, for the rules adopted on October 4, 2005 for which documentation was provided by NDEP in the January 12, 2006 SIP submittal). CAA section 110(l) requires reasonable notice and public hearing prior to adoption of SIP revisions by States for subsequent submittal to EPA for approval or disapproval under CAA section 110(k)(3). The public participation documentation provided by NDEP in the February 16, 2005 SIP submittal (and in the January 12, 2006 SIP submittal package for the October 4, 2005 rule amendments) is sufficient for the purposes of CAA section 110(l).

NDEP's SIP submittal dated March 24, 2006 includes a definition of the term "person" in section 0.039 of title 0—Preliminary Chapter—General Provisions of the Nevada Revised Statutes (NRS). The general definition of "person" in NRS 0.039 is the State's basic definition of this term, and other statutory and regulatory provisions that cite "person" need only define the term

for the specific purposes therein as necessary to add or subtract entities listed in the basic definition of "person" in NRS 0.039. We approved NRS 0.039, as submitted on March 24, 2006, and NRS 445.150 ("Person"), in a final rule published on August 31, 2006 (71 FR 51766). NDEP's submittal, and EPA's approval, of the basic definition of "person" in NRS 0.039 and the expanded definition of "person" for air pollution control purposes in NRS 445B.150, together with NDEP's submittal, and EPA's approval, of NAC 445B.134 ("Person"), which was included in the proposal finalized herein, provide the complete definition of "person" for the purposes of Nevada's air pollution regulatory program.

Comment #2: NDEP disagrees with EPA's characterization that Nevada eliminated some terms in the definition of "person" and explains that the Nevada State Legislature created a basic definition of "person" and put it in the General Provisions chapter of the State statutes and that, together with that action, the NRS definition of "person" in the air control chapter (currently NRS 445B) was revised to refer to the basic definition, not repeat it, and include only those additional terms that expanded the basic definition. NDEP also indicates that, on September 6, 2006, the State Environmental Commission adopted amendments to the term "person" in NAC 445B.134 to refer directly to the basic definition in the General Provisions of the NRS and that NDEP expects to submit the amended definition to EPA in the near future.

Response #2: EPA appreciates the distinction and understands that the complete definition of "person" for the purposes of Nevada's air pollution regulatory program and as codified at NAC 445B.134, which was proposed for approval in our August 31, 2006 notice (71 FR 51793), relies on the basic definition in NRS 0.039 as expanded by the definition of "person" in NRS 445B.150. We approved both NRS 0.039 and NRS 445B.150 as a revision to the Nevada applicable SIP in a notice also published on August 31, 2006 (71 FR 51766).

EPA also appreciates the State's effort to amend NAC 445B.134 to further clarify the reliance of the regulatory

definition of "person" on both the general definition in NRS 0.039, which NAC 445B.134 (as submitted on January 12, 2006) does not cite, as well as the air-pollution-specific definition in NRS 445B.150, which NAC 445B.134 (as submitted on January 12, 2006) does cite, and will take action on the amended definition when it is submitted.

Comment #3: NDEP comments that EPA's recommendation to revise the definition of "volatile organic compounds" in NAC 445B.202 by linking the related definition in the Code of Federal Regulations (CFR) to a particular date is unnecessary because NAC 445B.202 refers to the CFR definition as adopted by reference in NAC 445B.221, which contains a specific date for the CFR definition.

Response #3: We agree that amending NAC 445B.202 to include a specific date for the cited CFR definition is unnecessary given the link in NAC 445B.202 to NAC 445B.221 where such a date is specified.

Comments #4: NDEP indicates that several minor clarifications and editorial corrections suggested by EPA were adopted into the NAC by the State Environmental Commission on September 6, 2006 and will be submitted in the near future.

Response #4: We appreciate these revisions, and will take action when they are submitted to EPA.

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) and 301(a) of the Act, EPA is finalizing the approval of the provisions listed in Table 1 and also finalizing the limited approval of the provisions listed in Table 2. This action incorporates the submitted rules into the Nevada SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rules listed in Table 2. EPA recommends that Nevada revise the deficient provisions to exclude the director's discretion conditions. No sanctions are associated with this action because this is not a required submittal.

Note that the submitted provisions have all been adopted by the State Environmental Commission, and EPA's final limited disapproval does not prevent EPA or the state agency from enforcing them.

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 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 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 February 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 2, 2006.

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 adding paragraph (c)(56)(i) (A)(5), (6), and (7) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

- (c) * * *
- (56) * * *
- (i) * * *
- (A) * * *

(5) The following sections of the Nevada Air Quality Regulations were adopted on the dates listed below and recodified as Chapter 445B of the Nevada Administrative Code in November 1994:

(i) September 16, 1976: 445B.134, 445B.257, 445B.258, 445B.259, 445B.260, 445B.261, and 445B.263.

(6) The following sections of Chapter 445 of the Nevada Administrative Code were adopted on the dates listed below and recodified as Chapter 445B of the Nevada Administrative Code in November 1994:

- (i) April 26, 1984: 445B.265.
- (ii) November 3, 1993: 445B.084.
- (iii) March 3, 1994: 445B.202.

(7) The following sections of Chapter 445B of the Nevada Administrative Code were adopted on the dates listed below:

- (i) October 3, 1995: 445B.015, 445B.062, and 445B.256.
- (ii) August 22, 2000: 445B.264.
- (iii) September 18, 2003: 445B.262 and 445B.267.
- (iv) October 4, 2005: 445B.063, 445B.153, and 445B.22093.

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[FR Doc. E6-20895 Filed 12-8-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R01-OAR-2006-OAR-0226; FRL-8253-4]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Redesignation of the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine Ozone Nonattainment Areas to Attainment and Approval of These Areas' Maintenance Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of Maine. The Maine Department of Environmental Protection (ME DEP) is requesting that the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine (also known as the Midcoast area) ozone nonattainment areas be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the ME DEP submitted a SIP revision consisting of maintenance plans for the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine areas that provide for continued attainment of the 8-hour ozone NAAQS for the next 10 years. EPA is approving the redesignation requests and the maintenance plan as revisions to the Maine SIP in accordance with the requirements of the Clean Air Act. EPA is also approving the motor vehicle emission budgets (MVEBs) that are identified in the 8-hour maintenance plan for these areas for purposes of transportation conformity.

DATES: *Effective Date:* This rule is effective on January 10, 2007.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2006-OAR-0226. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, 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 <http://www.regulations.gov> or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Bureau of Air Quality Control, Department of Environmental Protection, First Floor of

the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333-0017.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1664, fax number (617) 918-0664, e-mail Burkhart.Richard@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 17, 2006 (71 FR 60937), EPA published a notice of proposed rulemaking (NPR) for the State of Maine. The NPR proposed approval of Maine's request to redesignate the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine 8-hour ozone nonattainment areas and a SIP revision that establishes separate maintenance plans for these areas. The maintenance plans set forth how each area will maintain attainment of the 8-hour ozone NAAQS for the next 10 years in accordance with Section 175A of the Clean Air Act (CAA). The NPR also proposed approval of the motor vehicle emission budgets (MVEBs) associated with the maintenance plans. The formal SIP revision was submitted by the ME DEP on August 3, 2006. Other specific requirements of Maine's redesignation requests, the 175A maintenance plans, and the MVEBs, and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No adverse public comments were received on the NPR, however, two commenters did discover minor typographical errors in the NPR. EPA agrees with these commenters that there were typographical errors in the NPR. Some of the values for monitored ozone levels were misstated in two tables in the NPR. These misstatements were minor, and did not affect EPA's conclusions on the redesignation requests, that the design values for these areas qualify for redesignation. A response to comments document correcting the record was placed into the docket for this action.

II. Final Action

EPA is approving the State of Maine's August 3, 2006 redesignation requests and maintenance plans for the Portland, Maine and the Hancock, Knox, Lincoln and Waldo Counties, Maine areas, because the requirements for approval have been satisfied for each area. EPA has evaluated Maine's redesignation requests, and determined that they meet the redesignation criteria set forth in