

shall be provided with at least two permanently secured crossrails in accordance with § 1910.23.

\* \* \* \* \*

(5) \* \* \*

(i) All pulpers having the top or any other opening of a vessel less than 42 inches from the floor or work platform shall have such openings guarded by railed or other enclosures. For manual charging, openings shall be sufficient to permit the entry of stock, and shall be provided with at least two permanently secured crossrails in accordance with § 1910.23.

\* \* \* \* \*

(k) \* \* \*

(6) *Steps.* Steps of uniform rise and tread with nonslip surfaces shall be provided at each press in accordance with § 1910.23.

\* \* \* \* \*

(13) \* \* \*

(i) A guardrail shall be provided at broke holes in accordance with § 1910.23.

\* \* \* \* \*

(15) *Steps.* Steps or ladders of uniform rise and tread with nonslip surfaces shall be provided at each calendar stack. Handrails and hand grips shall be provided at each calendar stack in accordance with § 1910.23.

\* \* \* \* \*

[FR Doc. E7-24182 Filed 12-13-07; 8:45 am]

BILLING CODE 4510-26-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2007-1155; FRL-8506-7]

#### Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Updated Statutory and Regulatory Provisions; Rescissions

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

**ACTION:** Proposed rule.

**SUMMARY:** Under the Clean Air Act, EPA is proposing to approve certain revisions, and to disapprove certain other revisions, to the Nevada State Implementation Plan submitted by the Nevada Division of Environmental Protection on January 12, 2006 and June 26, 2007. The provisions that are proposed for approval include certain definitions; prohibitory rules; provisions related to legal authority and enforcement; rules establishing opacity, sulfur and volatile organic compound limits; and rescission of abbreviations.

The proposed approval of a certain statutory provision related to legal authority is contingent upon receipt of public process documentation of adoption of the provision as a revision to the state implementation plan. The proposed disapproval relates to rescission of a certain definition and rescission of a rule related to emission discharge information. EPA is proposing this action under the Clean Air Act obligation to take action on submittals of revisions to state implementation plans. The intended effect is to update the Nevada state implementation plan with amended or recodified rules and with an amended statutory provision and to rescind a provision found to be unnecessary for further retention in the plan.

**DATES:** Written comments must be received at the address below on or before January 14, 2008.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2007-1155, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

*Docket:* The index to the docket for this action is available electronically at <http://www.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:**

Andrew Steckel, EPA Region IX, (415) 947-4115, [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, "we," "us" and "our" refer to EPA. This supplementary information section is arranged as follows:

- I. The State's Submittal
  - A. Which SIP revisions did the State submit?
  - B. What is the regulatory history of the Nevada SIP?
  - C. What is the purpose of this proposed rule?
- II. EPA's Evaluation and Action
  - A. Amended Rules and Statutory Provision
  - B. Rule Rescissions
  - C. Rule Recodifications
- III. Public Comment and Proposed Action
- IV. Statutory and Executive Order Reviews

#### I. The State's Submittal

*A. Which SIP revisions did the State submit?*

On February 16, 2005, the Governor's designee, the Nevada Division of Environmental Protection (NDEP), submitted a large revision to the applicable Nevada State Implementation Plan (SIP) to EPA for approval under section 110 of the Clean Air Act (CAA or "Act"). The February 16, 2005 SIP submittal includes new and amended statutory provisions and rules as well as rescissions of certain statutory provisions and rules approved by EPA into the applicable SIP. The statutes, rules and rescissions submitted by NDEP on February 16, 2005 relate to definitions, administrative requirements, prohibitory rules, and permitting-related requirements and procedures. The February 16, 2005 SIP submittal also contains documentation of public participation (i.e., notice and public hearing) and adoption for all rule amendments up to and including those adopted by the State Environmental Commission on November 30, 2004.

On January 12, 2006, NDEP re-submitted most of the earlier submittal as modified to reflect new or amended rules adopted by the State Environmental Commission on October 4, 2005. The January 12, 2006 SIP revision submittal supersedes the regulatory portion of the earlier SIP submittal but is not a complete re-submittal in that it did not include the documentation of public notice and

hearing previously submitted. The January 12, 2006 SIP submittal does include such documentation for amendments adopted by the commission on October 4, 2005.

The primary purpose of these SIP submittals is to clarify and harmonize the provisions approved by EPA under section 110 of the Act with the current provisions adopted by the State. Because these SIP submittals incorporate so many changes from 1970s and 1980s vintage SIP regulations, EPA has decided to review and act on them in a series of separate actions.

The first such action, related to various definitions, sulfur emission rules, and restrictions on open burning and use of incinerators was proposed in the **Federal Register** on September 13, 2005 (70 FR 53975) and finalized on March 27, 2006 (71 FR 15040). The second such action, related to statutory authority, was proposed on June 9, 2006 (71 FR 33413) and finalized on August 31, 2006 (71 FR 51766). A third action, related to most of the State's rescission requests, was proposed on August 28, 2006 (71 FR 50875); EPA finalized action on most of the rescissions covered by the August 28th proposal on January 3, 2007 (72 FR 11), finalized rescission of a Federal Implementation Plan (FIP) for regulation of fugitive sulfur oxides emissions from a defunct copper smelter on June 13, 2007 (72 FR 32529), and finalized action on the rest of the rescissions covered by the August 28th proposal on November 2, 2007 (72 FR 62119). A fourth action, related to monitoring and volatile organic compound (VOC) rules, was proposed on August 31, 2006 (71 FR 51793) and

finalized on December 11, 2006 (71 FR 71486). A fifth action, related to excess emissions provisions, was proposed on December 18, 2006 (71 FR 75690) but has not yet been finalized. A sixth action, related to visible emissions and particulate matter rules, was proposed on March 12, 2007 (72 FR 10960) and finalized on May 8, 2007 (72 FR 25971). A seventh action, related to permitting-related rules, was proposed on April 17, 2007 (72 FR 19144) but has not been finalized.

Upon publication of the seventh action cited above, we have at least proposed action on all of the new or amended rules submitted by NDEP on January 12, 2006, except for Nevada Administrative Code (NAC) NAC 445B.227 ("Prohibited conduct: Operation of source without required equipment; removal or modification of required equipment: modification of required procedure") and NAC 445B.200 ("Violation defined"). We include NAC 445B.227 in today's proposed rule. We will take action on NAC 445B.200, which is a permitting-related definition, in a separate rulemaking.

Also, upon publication of the seventh action cited above, we have at least proposed action on all of the rescissions submitted by NDEP on January 12, 2006 except for rule 25 of general order number 3 of the Nevada Public Service Commission, NAC 445.655 ("Abbreviations"), NAC 445.694 ("Emission discharge information"), and Nevada Revised Statutes (NRS) 704.820 to 704.900 ("Construction of utility facilities: utility environmental protection act"). We include the rescissions of NAC 445.655

("Abbreviations") and NAC 445.694 ("Emission discharge information") in today's proposed rule. We will take action NDEP's rescissions of rule 25 of general order number 3 and NRS 704.820 to 704.900, which are permitting-related provisions, in a separate rulemaking.

NDEP has submitted a number of SIP revisions supplementing or superseding portions of the January 12, 2006 SIP submittal, but the only relevant supplemental SIP revision for the purposes of this rulemaking is the one submitted on June 26, 2007. NDEP organized the June 26, 2007 SIP submittal into four parts. The first part contains public participation documentation for 11 rescissions that we proposed to approve in our August 28, 2006 proposed rule. We took final action on the 11 rescissions on November 2, 2007 (72 FR 62119). The second part contains amended rules and an amended statutory provision that would replace corresponding existing provisions in the Nevada SIP. In the third part, NDEP requests rescission of existing rule NAC 445.436 ("Air contaminant defined") from the SIP. The fourth part contains recodifications of rules recently approved by EPA into the SIP. We include the second, third, and fourth parts of NDEP's June 26, 2007 SIP submittal in this rulemaking.

Table 1 lists amended rules or statutory provisions intended to replace early 1980's versions of these provisions. The provisions listed in table 1 include NAC 445B.227, which was submitted on January 12, 2006, and the seven amended rules and one amended statutory provision submitted by NDEP on June 26, 2007.

TABLE 1.—SUBMITTED RULES AND STATUTORY PROVISION

Submitted NAC or NRS	Title	Adoption date	Submittal date
NAC 445B.172 .....	"Six-Minute Period" defined .....	09/16/76 .....	06/26/07
NAC 445B.190 .....	"Stop order" defined .....	11/03/93 .....	06/26/07
NAC 445B.220 .....	Severability .....	09/06/06 .....	06/26/07
NAC 445B.225 .....	Prohibited conduct: Concealment of emissions .....	10/03/95 .....	06/26/07
NAC 445B.227 .....	Prohibited conduct: Operation of source without required equipment; removal or modification of required equipment: Modification of required procedure.	10/03/95 .....	01/12/06
NAC 445B.229 .....	Hazardous emissions: Order for reduction or discontinuance.	10/03/95 .....	06/26/07
NAC 445B.275 .....	Violations: Acts constituting; notice .....	03/08/06 .....	06/26/07
NAC 445B.277 .....	Stop orders .....	03/08/06 .....	06/26/07
NRS 445B.310 .....	Limitations on enforcement of federal and state regulations concerning indirect sources.	No adoption date.	06/26/07

Table 2 lists three rules that NDEP seeks to rescind from the existing SIP. NDEP's rescission of NAC 445.655 and

NAC 445.694 are included in the January 12, 2006 SIP submittal, and NDEP's rescission of NAC 445.436 is

included in the June 26, 2007 SIP submittal.

TABLE 2.—REQUESTED RESCISSIONS

SIP rule	Title	Submittal date	Approval date
NAC 445.436 .....	“Air contaminant” defined .....	10/26/82 .....	06/26/84
NAC 445.655 .....	Abbreviations .....	10/26/82 .....	06/26/84
NAC 445.694 .....	Emission discharge information .....	10/26/82 .....	06/26/84

Table 3 lists rule recodifications submitted by NDEP to EPA on June 26, 2007 to replace corresponding SIP rules

recently approved by EPA in the Nevada SIP. The recodified rules reflect the January 2007 update to chapter 445B of

the Nevada Administrative Code (NAC), as published by the Nevada Legislative Counsel Bureau.

TABLE 3.—SUBMITTED RULE RECODIFICATIONS

Recodified rule	Title	Submittal date
NAC 445B.001 .....	Definitions .....	06/26/07
NAC 445B.063 .....	“Excess emissions” defined .....	06/26/07
NAC 445B.153 .....	“Regulated air pollutant” defined .....	06/26/07
NAC 445B.22017 .....	Visible emissions: Maximum opacity; determination and monitoring of opacity .....	06/26/07
NAC 445B.2202 .....	Visible emissions: Exceptions for stationary sources .....	06/26/07
NAC 445B.22043 .....	Sulfur emissions: Calculation of total feed sulfur .....	06/26/07
NAC 445B.2205 .....	Sulfur emissions: Other processes which emit sulfur .....	06/26/07
NAC 445B.22093 .....	Organic solvents and other volatile compounds .....	06/26/07

#### B. What is the regulatory history of the Nevada SIP?

Pursuant to the Clean Air Amendments of 1970, the Governor of Nevada submitted the original Nevada SIP to EPA in January 1972. EPA approved certain portions of the original SIP and disapproved other portions under CAA section 110(a). See 37 FR 10842 (May 31, 1972). For some of the disapproved portions of the original SIP, EPA promulgated substitute provisions under CAA section 110(c).<sup>1</sup> This original SIP included various rules, codified as articles within the Nevada Air Quality Regulations (NAQR), and various statutory provisions codified in chapter 445 of the Nevada Revised Statutes (NRS). In the early 1980's, Nevada reorganized and recodified its air quality rules into sections within chapter 445 of the Nevada Administrative Code (NAC). Today, Nevada codifies its air quality regulations in chapter 445B of the NAC and codifies air quality statutes in chapter 445B (“Air Pollution”) of title 40 (“Public Health and Safety”) of the NRS.

Nevada adopted and submitted many revisions to the original set of regulations and statutes in the SIP, some of which EPA approved at various times between 1975 and 1984. Since 1984, EPA had approved very few revisions to Nevada's applicable SIP despite numerous changes that have been

<sup>1</sup> Provisions that EPA promulgates under CAA section 110(c) in substitution of disapproved State provisions are referred to as Federal Implementation Plans (FIPs).

adopted by the State Environmental Commission. As a result, the version of the rules enforceable by NDEP was often quite different from the SIP version enforceable by EPA. The difference between the two sets of rules is sometimes referred to as the “SIP gap,” and closing the gap was one of the primary motivations behind NDEP's comprehensive SIP update that produced the February 16, 2005 and January 12, 2006 SIP submittals followed by supplemental SIP submittals such as the June 26, 2007 SIP submittal.

#### C. What is the purpose of this proposed rule?

The purpose of this proposed rule is to present our evaluation under the Clean Air Act and EPA's regulations of certain provisions, rescissions, and recodifications contained in NDEP's January 12, 2006 and June 26, 2007 SIP revision submittals. The provisions submitted for approval include updated definitions; updated administrative, enforcement, and prohibitory rules; and a statutory provision related to legal authority. The rescissions relate to a certain definition, abbreviations, and a rule involving emission discharge information. The rule recodifications involve minor changes to rule titles and historical notes in certain definitions, particulate matter rules, sulfur emission rules, and a volatile organic compound rule. We provide our reasoning in general terms below but provide a more detailed analysis in the technical support document (TSD) that has been prepared for this proposed rulemaking.

## II. EPA's Evaluation and Action

We reviewed the provisions, rescissions, and recodifications submitted by NDEP that are listed in the three tables above for compliance with CAA requirements for SIPs in general as set forth in CAA section 110(a)(2) and 40 CFR part 51 and also for compliance with requirements for SIP revisions under CAA section 110(l).<sup>2</sup> Our consideration of the rules submitted on January 12, 2006 and June 26, 2007, and evaluated herein, takes into account the public participation documentation contained in the February 16, 2005 and January 12, 2006 SIP submittals. For the submitted rule recodifications, our review is cursory in nature consistent with EPA memorandum, “Review of State Regulation Recodifications,” from Johnnie L. Pearson, Chief, Regional Activities Branch, EPA Office of Air Quality Planning and Standards, dated February 12, 1990.

#### A. Amended Rules and Statutory Provision

Based on a review of applicable CAA and EPA regulatory requirements and a comparison with the corresponding existing SIP provisions that they would replace, we propose to approve all of the

<sup>2</sup> CAA section 110(l) states: “Each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter.”

provisions listed in table 1 above. In general, the submitted provisions mirror the corresponding provisions in the existing SIP or would strengthen the SIP by eliminating exceptions, deleting limitations, or expanding legal authority, and thereby would not interfere with attainment or maintenance of the NAAQS.

With respect to public participation requirements under CAA section 110(l), we find that adequate documentation has been submitted by NDEP (or otherwise acquired by EPA) to show compliance with CAA procedural requirements for SIP revisions under CAA section 110(l) except for NRS 445B.310. Thus, our proposed approval of NRS 445B.310 is contingent upon receipt of documentation of notice and opportunity for public hearing on adoption of NRS 445B.310 as a revision to the Nevada SIP.<sup>3</sup>

Our TSD provides additional background information and a more detailed rationale for our proposed approval of the provisions listed in table 1 above.

#### B. Rule Rescissions

We have reviewed the rescissions listed in table 2 to determine whether any of them should be retained to comply with CAA or EPA requirements for SIPs, whether rescission of any of them would interfere with attainment or maintenance of the NAAQS, or whether any of them should be retained as a practical matter because of reliance on them by other SIP rules.

Based on this review, we have found that NAC 445.436 (“Air contaminant’ defined”) should be retained because it is relied upon by certain SIP rules that remain in the applicable SIP. We find that NAC 445.655 (“Abbreviations”) may be rescinded because the abbreviations listed therein that are not simply superseded by our approval of the current version of the rule (i.e., NAC 445B.211 (“Abbreviations”), approved on March 27, 2006 at 71 FR 15040) are not relied upon by any rules in the applicable SIP. Lastly, with respect to

<sup>3</sup>In so doing, we recognize that we have not consistently required the State of Nevada to submit public participation documentation for SIP revisions involving statutory provisions and should have done so. With Nevada rules, we typically consider the public process conducted by the relevant State administrative agency (usually the State Environmental Commission) in adopting new or amended rules as adequate to comply the procedural requirements for SIP revisions under CAA section 110(l). In contrast to rules, however, Nevada statutory provisions are typically submitted to EPA without an analogous public process, and thus NDEP must conduct a public process specifically for the purpose of adopting statutory provisions as a revision to the SIP to comply with section 110(l).

NAC 445.694 (“Emission discharge information”), we find that the rule should be retained to comply with requirements under 40 CFR 51.116(c).

Therefore, we propose to disapprove the rescission requests for NAC 445.436 and NAC 445.694 and to approve the rescission request for NAC 445.655. Our TSD provides additional background information and a more detailed rationale for our proposed actions on the rescissions listed in table 2 above.

#### C. Rule Recodifications

We have compared the rule recodifications submitted by NDEP and listed in table 3 above with the corresponding SIP rules to ensure that the changes are administrative in nature. Based on this comparison, we find all of the changes, which include revised titles and updates to internal rule references and historical notes, to be administrative in nature and acceptable. Therefore, we propose to approve the rule recodifications listed in table 3, above. Our TSD provides additional background information and discussion for our proposed approval of the rule recodifications listed in table 3 above.

#### III. Public Comment and Proposed Action

Under section 110(k) of the Clean Air Act and for the reasons set forth above, EPA is proposing to approve certain revisions, and to disapprove certain other revisions, to the Nevada SIP submitted by NDEP on January 12, 2006 and June 26, 2007. The provisions that are proposed for approval include certain definitions; prohibitory rules; provisions related to legal authority and enforcement; rules establishing opacity, sulfur and volatile organic compound limits; and rescission of abbreviations. The proposed approval of a certain statutory provision related to legal authority is contingent upon receipt of public process documentation of adoption of the provision as a revision to the state implementation plan. The proposed disapproval relates to rescission of a certain definition and rescission of a rule related to emission discharge information.

Unless we receive convincing new information during the comment period, we intend to publish a final rule that will approve the new or amended rules shown in table 1, above, approve the rescission of existing SIP rule NAC 445.655 (“Abbreviations”), approve the rule recodifications shown in table 3, above, as revisions to the Nevada SIP, but retain existing SIP rules NAC 445.436 (“Air contaminant’ defined”) and

and NAC 445.694 (“Emission discharge information”) in the SIP.<sup>4 5</sup>

#### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed 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 proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed 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 proposed 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

<sup>4</sup>The approval of submitted statutory provision NRS 445B.310 is contingent upon receipt of public process documentation from NDEP adopting this provision as a revision to the Nevada SIP.

<sup>5</sup>Final approval of the provisions listed in table 1 of this notice would supersede the following provisions in the applicable SIP (superseding rules shown in parentheses) upon the established compliance date for any new or amended requirements in the superseding provisions: NAC 445.617 (NAC 445B.172), NAC 445.630 (NAC 445B.190), NAC 445.660 (NAC 445B.220), NAC 445.663 (NAC 445B.225), NAC 445.664 (NAC 445B.227), NAC 445.665 (NAC 445B.229), NAC.696 (NAC 445B.275), NAC 445.697 (NAC 445B.277), and NRS 445.493 (NRS 445B.310). Final approval of the rule recodifications listed in table 3 of this notice would supersede rules with the same section number in NAC chapter 445B.

levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve 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 proposed 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 proposes to approve 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.*).

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

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

Dated: November 30, 2007.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. E7-24243 Filed 12-13-07; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CG Docket No. 02-278, FCC 07-203]

#### Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission tentatively concludes that it should amend the Commission's rules under the Telephone Consumer

Protection Act (TCPA) to require telemarketers to honor registrations with the National Do-Not-Call Registry so that registrations will not automatically expire based on the five year registration period. The Commission proposes extending this requirement indefinitely to minimize the inconvenience to consumers of having to re-register their preferences not to receive telemarketing calls and to further the underlying goal of the National Registry to protect consumer privacy rights. Also in this document, the Commission seeks comment on this tentative conclusion and on how best to coordinate this rule change with the Federal Trade Commission (FTC).

**DATES:** Comments are due on or before January 14, 2008. Reply comments are due on or before January 28, 2008.

**ADDRESSES:** You may submit comments identified by CG Docket No. 02-278 and/or FCC Number 07-203, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting electronic filings.
- *Federal Communications Commission's Web site:* <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting electronic filings.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: [FCC504@fcc.gov](mailto:FCC504@fcc.gov) or phone (202) 418-0539 or TTY: (202) 418-0432.

For detailed instructions for submitting electronic filings and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:**

Lynne Montgomery, Consumer & Governmental Affairs Bureau, Policy Division, at (202) 418-2229 (voice), or e-mail [Lynne.Montgomery@fcc.gov](mailto:Lynne.Montgomery@fcc.gov).

**SUPPLEMENTARY INFORMATION:** On July 3, 2003, the Commission released the *Rules and Regulations Implementing the TCPA of 1991*, Report and Order (2003 TCPA Order), CG Docket No. 02-278, FCC 03-153, published at 68 FR 44144, July 25, 2003, revising the TCPA rules, and adopted new rules to provide consumers with several options for avoiding unwanted telephone solicitations. These new rules established a national do-not-call registry, set a maximum rate on the number of abandoned calls, required telemarketers to transmit caller ID information, and modified the

Commission's unsolicited facsimile advertising requirements. This is a summary of the Commission's document *Rules and Regulations Implementing the TCPA of 1991, Notice of Proposed Rulemaking (Do-Not-Call Registry NPRM)*, CG Docket No. 02-278, FCC 07-203, adopted November 27, 2007, and released December 4, 2007, seeking comment on its tentative conclusion to amend its rules to eliminate the five-year registration period for the Do-Not-Call Registry and require telemarketers to honor registrations indefinitely, unless the consumer has cancelled the registration or the database administrator removes the telephone number because it was disconnected or reassigned. The *Do-Not-Call Registry NPRM* does not contain new or modified information collection requirements subject to the PRA of 1995, Public Law 104-13. In addition, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506 (c)(4).

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998.

• *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

• *ECFS filers* must transmit one electronic copy of the comments for CG Docket No. 02-278. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the docket number, CG Docket No. 02-278. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in response.

• *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than