

Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a State program.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), 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 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 December 29, 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, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 5, 2006.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

■ 40 CFR part 52 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 T—Louisiana**

■ 2. In § 52.970, the table in paragraph (c) entitled “EPA approved Louisiana regulations in the Louisiana SIP” under Chapter 14—Conformity, Subchapter B, section 1432 is revised to read as follows:

**§ 52.970 Identification of plan.**

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

**EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP**

State citation	Title/subject	State approval date	EPA approval date	Explanation
*	*	*	*	*
<b>Chapter 14 Conformity</b>				
Subchapter B—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded, or Approved under Title 23 U.S.C. or the Federal Transit Act				
*	*	*	*	*
Section 1432 .....	Incorporation by Reference ..	March 20, 2005, LR31:640 ...	October 30, 2006 [Insert <i>FR</i> page number where document begins].	
*	*	*	*	*

[FR Doc. E6–18050 Filed 10–27–06; 8:45 am]  
BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R09–OAR–2006–0548a; FRL–8225–5]

**Revisions to the Nevada State Implementation Plan, Clark County**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Clark County portion of the Nevada State Implementation Plan (SIP). These revisions concern particulate matter (PM) emissions from fugitive dust sources, such as open areas, unpaved roads, and construction activities. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on December 29, 2006 without further notice, unless EPA receives adverse comments by November 29, 2006. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2006–0548a, by one of the following methods:

1. *Federal eRulemaking Portal:* [www.regulations.gov](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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) 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 [www.regulations.gov](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:** Jerald S. Wamsley, EPA Region IX, at either (415) 947-4111, or [wamsley.jerry@epa.gov](mailto:wamsley.jerry@epa.gov).

**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 dates that they were adopted by Clark County and submitted by Nevada.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
Clark Co .....	Section 90 .....	Fugitive Dust from Open Areas and Vacant Lots .....	12/17/02	01/23/03
	Section 92 .....	Fugitive Dust from Unpaved Parking Lots, Material Handling & Storage Yards, & Vehicle & Equipment Storage Yards.	12/17/02	01/23/03
	Section 93 .....	Fugitive Dust from Paved Roads & Street Sweeping Equipment.	03/04/03	03/26/03
	Section 94 .....	Permitting & Dust Control for Construction Activities ... Construction Activities Dust Control Handbook .....	03/18/03 03/18/03	03/26/03 03/26/03

On September 26, 2003, these submittals from Clark County became complete by operation of law since EPA did not make a formal finding that they met the completeness criteria in 40 CFR part 51 Appendix V. These criteria must be met before formal EPA review may begin.

*B. Are there other versions of these rules?*

We approved versions of these rules into the Nevada SIP on June 9, 2004. See 69 **Federal Register** (FR) 32273. Nevada submitted the December 17, 2002 version of Clark County—Section 93 on January 23, 2003. This prior submittal of Section 93 is now superseded by the March 26, 2003 submittal that is the subject of today's action.

*C. What is the purpose of the submitted rule revisions?*

These rules help reduce fugitive dust emitted from open areas, vacant lots, unpaved parking lots, material handling and storage yards, and vehicle and equipment storage yards. PM is entrained from disturbed surfaces and storage piles. Fugitive dust is also

produced from construction activities. Section 94 provides the requirements for regulating and permitting construction activity fugitive dust emissions.

EPA's technical support document (TSD) has more information about these rules.

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

*A. How is EPA evaluating the rules?*

Generally, these SIP rules must be enforceable (see section 110(a) of the Act), must meet Reasonably Available Control Measure (RACM) requirements for PM nonattainment areas (see section 189(a)), and must not relax existing requirements (see sections 110(l) and 193). Clark County regulates a serious PM nonattainment area (see 40 CFR part 81); so, these fugitive dust rules must fulfill Best Available Control Measure (BACM) requirements of section 189(b).

We have listed below the guidance and policy documents that we used to evaluate the rules for enforceability, RACM, and BACM requirements.

1. Portions of the proposed post-1987 ozone and carbon monoxide policy that

concern RACT, 52 FR 45044, November 24, 1987.

2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** Notice," (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

4. "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," at 57 FR 13498, April 16, 1992.

5. "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," at 57 FR 18070, April 28, 1992.

6. General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," at 59 FR 41998, August 16, 1994.

The Clark County PM-10 plan made several commitments for revisions to the fugitive dust regulations. EPA adopted these commitments into the SIP with our June 9, 2004 approval of the PM-10

plan. Two of these commitments were addressed with the current submittals from Clark Co. The first commitment concerned reviewing and developing as needed an alternative fugitive dust test method for Section 94 (chapter 4.8.2.7 commitment). The second commitment concerned several revisions to Clark County fugitive dust regulations concerning Dust Mitigation Plans, prohibition of dust over property lines, and equipment prohibitions on paved roads (chapter 4.8.2.9 commitment). The TSD summarizes these commitments and the actions taken by Clark Co. to meet them.

*B. Do the rules meet the evaluation criteria?*

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACM, and SIP relaxations. We have determined that the SIP-approved versions of these rules meet the Act's BACM requirements when we approved the Clark County PM-10 Plan. See 69 FR 32273, June 9, 2004. The submitted rules do not relax their BACM requirements. Also, we find that Clark Co. met the PM-10 plan commitments described in chapters 4.8.2.7 and 4.8.2.9. The TSD provides more information on our evaluation.

*C. EPA Recommendations to Further Improve the Rules*

We have no recommendations.

*D. Public Comment and Final Action*

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by November 29, 2006, 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 December 29, 2006. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that

are not the subject of an adverse comment.

**III. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the

absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

The Congressional Review Act, 5 U.S.C. 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 December 29, 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) of the CAA.)

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

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

Dated: July 27, 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)(60) and (c)(61) to read as follows:

**§ 52.1470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(60) The following plan revision was submitted on January 23, 2003, by the Governor's designee.

(i) Incorporation by reference.

(A) Clark County Department of Air Quality and Environmental Management.

(1) Sections 90 and 92, adopted June 22, 2000 by the Clark County Board of Commissioners, and amended on December 17, 2002.

(61) The following plan revision was submitted on March 26, 2003, by the Governor's designee.

(i) Incorporation by reference.

(A) Clark County Department of Air Quality and Environmental Management.

(1) Section 93, adopted on June 22, 2000 by the Clark County Board of Commissioners and amended on March 4, 2003; Section 94, adopted on June 22, 2000 by the Clark County Board of Commissioners and amended on March 18, 2003; and, the "Construction Activities Dust Control Handbook", adopted June 22, 2000 by the Clark County Board of Commissioners and amended on March 18, 2003.

\* \* \* \* \*

[FR Doc. E6-18158 Filed 10-27-06; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 271**

[FRL-8235-5]

**Washington: Final Authorization of State Hazardous Waste Management Program Revisions**

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

**ACTION:** Immediate final rule.

**SUMMARY:** Washington has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act, as amended, (RCRA). EPA has determined that these changes

satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final rule. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it.

**DATES:** This final authorization will become effective on December 29, 2006, unless EPA receives adverse written comments on or before November 29, 2006. If we receive comments that oppose this action, EPA will publish a document in the **Federal Register** withdrawing this rule before it takes effect.

**ADDRESSES:** Submit your comments, identified by EPA-R10-RCRA-2006-0810 by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. E-mail:

[kocourek.nina@epamail.epa.gov](mailto:kocourek.nina@epamail.epa.gov).

3. Fax: 206-553-8509.

4. Mail: Nina Kocourek, U.S. EPA, Region 10, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Mail Stop AWT-122, Seattle, Washington 98101.

**Instructions:** Direct your comments to EPA-10-RCRA-2006-0810. EPA's policy is that all comments received will be included in the public file without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> website is an "anonymous access" system which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. 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. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the U.S. Environmental Protection Agency, Region 10 Library, 1200 Sixth Avenue, Seattle, Washington, 98101, phone, and (206) 553-1289. The EPA Region 10 Library is open from 9 a.m. to 12 p.m. and from 1 p.m. to 2:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Nina Kocourek, U.S. EPA, Region 10, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Mail Stop AWT-122, Seattle, Washington 98101, phone number (206) 553-6502, fax number (206) 553-8509, e-mail: [kocourek.nina@epa.gov](mailto:kocourek.nina@epa.gov); or Patricia Hervieux, Washington Department of Ecology, 300 Desmond Drive, Lacey, Washington 98503, phone (360) 407-6756, e-mail: [pher461@ecy.wa.gov](mailto:pher461@ecy.wa.gov).

**SUPPLEMENTARY INFORMATION:****I. Authorization of Revisions to State Program and of State-Initiated Changes to Washington's Hazardous Waste Program**

*A. Why Are Revisions to State Programs Necessary?*

States that have received final authorization from EPA pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in Title 40 of the Code of Federal