with regard to any matter arising out of the employee's official duties or the functions of the BBG unless testimony is being given on behalf of the United States (see also 5 CFR 2635.805).

(d) The scheduling of an employee's testimony, including the amount of time that the employee will be made available for testimony, will be subject to the BBG's approval.

§ 504.11 Restrictions that apply to released records.

(a) The General Counsel may impose conditions or restrictions on the release of official records and information, including the requirement that parties to the proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure. The terms of the protective order or of a confidentiality agreement must be acceptable to the General Counsel. In cases where protective orders or confidentiality agreements have already been executed, the BBG may condition the release of official records and information on an amendment to the existing protective order or confidentiality agreement.

(b) If the General Counsel so determines, original BBG records may be presented for examination in response to a request, but they may not be presented as evidence or otherwise used in a manner by which they could lose their identity as official BBG records, nor may they be marked or altered. In lieu of the original records, certified copies may be presented for evidentiary purposes.

§ 504.12 Procedure when a decision is not made prior to the time a response is required.

If a response to a demand or request is required before the General Counsel can make the determination referred to in § 504.9, the General Counsel, when necessary, will provide the court or other competent authority with a copy of this part, inform the court or other competent authority that the request is being reviewed, provide an estimate as to when a decision will be made, and seek a stay of the demand or request pending a final determination.

§ 504.13 Procedure in the event of an adverse ruling.

If the court or other competent authority fails to stay a demand or request, the employee upon whom the demand or request is made, unless otherwise advised by the General Counsel, will appear, if necessary, at the stated time and place, produce a copy of this part, state that the employee has been advised by counsel not to provide the requested testimony or produce documents, and respectfully decline to comply with the demand or request, citing *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951).

Subpart C—Schedule of Fees

§ 504.14 Fees.

(a) *Generally.* The General Counsel may condition the production of records or appearance for testimony upon advance payment of a reasonable estimate of the costs to the BBG.

(b) *Fees for records.* Fees for producing records will include fees for searching, reviewing, and duplicating records, costs of attorney time spent in reviewing the request, and expenses generated by materials and equipment used to search for, produce, and copy the responsive information. Costs for employee time will be calculated on the basis of the hourly pay of the employee (including all pay, allowances, and benefits). Fees for duplication will be the same as those charged by the BBG in its Freedom of Information Act regulations at 22 CFR Part 503.

(c) *Witness fees.* Fees for attendance by a witness will include fees, expenses, and allowances prescribed by the court's rules. If no such fees are prescribed, witness fees will be determined based upon the rule of the Federal district court closest to the location where the witness will appear and on 28 U.S.C. 1821, as applicable. Such fees will include cost of time spent by the witness to prepare for testimony, in travel and for attendance in the legal proceeding, plus travel costs.

(d) *Payment of fees.* A requester must pay witness fees for current BBG employees and any record certification fees by submitting to the General Counsel a check or money order for the appropriate amount made payable to the Treasury of the United States. In the case of testimony of former BBG employees, the requester must pay applicable fees directly to the former BBG employee in accordance with 28 U.S.C. 1821 or other applicable statutes.

(e) *Waiver or reduction of fees.* The General Counsel, in his or her sole discretion, may, upon a showing of reasonable cause, waive or reduce any fees in connection with the testimony, production, or certification of records.

(f) *De minimis fees.* Fees will not be assessed if the total charge would be $10.00 or less.

Subpart D—Penalties

§ 504.15 Penalties.

(a) An employee who discloses official records or information or gives testimony relating to official information, except as expressly authorized by the BBG, or as ordered by a Federal court after the BBG has had the opportunity to be heard, may face penalties as provided in any applicable enforcement statute.

(b) A current BBG employee who testifies or produces official records and information in violation of this part shall be subject to disciplinary action and, if done for a valuable consideration, may subject that person to criminal prosecution.

Dated: April 16, 2007.

Carol F. Baker,

Director, Office of Administration.

[FR Doc. E7–7559 Filed 4–19–07; 8:45 am]

BILLING CODE 8610–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2007–0197; FRL–8300–5]

Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Definition, Emergency Episode, and Monitoring Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Nevada Department of Conservation and Natural Resources portion of the Nevada State Implementation Plan (SIP). These revisions concern a definition, an emergency episode regulation, and various monitoring regulations. We are approving state provisions that regulate emission sources under the Clean Air Act as amended in 1990 (Act or CAA).

DATES: This rule is effective on June 19, 2007 without further notice, unless EPA receives adverse comments by May 21, 2007. 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–2007–0197, 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.*

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. *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 *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: Julie A. Rose, EPA Region IX, (415) 947–4126.

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

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I. The State's Submittal

A. What Regulations Did the State Submit?

The Governor's designee, the Nevada Department of Conservation and Natural Resources, Division of Environmental Protection (NDEP), submitted a revision to the applicable state implementation plan (SIP) on December 8, 2006.

Most of the provisions submitted on December 8, 2006 concern permitting regulations which are the subject of a separate **Federal Register** proposed rule. The remaining regulations are being acted on in this rulemaking and concern clarifications made to harmonize State and Federally-enforceable requirements.

The following table lists the provisions of the Nevada Administrative Code (NAC) addressed by this rulemaking with the dates they were submitted by NDEP.

SUBMITTED PROVISIONS

NAC No.	NAC title	Adopted	Submitted
445B.134	"Person" defined	09/06/06	12/08/06
445B.230	Plan for reduction of emissions	09/06/06	12/08/06
445B.258	Monitoring systems: Verification of operational status	09/06/06	12/08/06
445B.259	Monitoring systems: Performance evaluations	09/06/06	12/08/06
445B.260	Monitoring systems: Components contracted for before September 11, 1974	09/06/06	12/08/06

The Nevada SIP includes previous versions of these regulations. We approved NAC 445B.134, 445B.258, 445B.259, and 445B.260 on December 11, 2006 (71 FR 71486) and approved NAC 445B.230 on March 27, 2006 (71 FR 15040). The amended regulations submitted by NDEP on December 8, 2006 were included as sections 2, 5, 6, 7, and 8 of Regulation R151–06, which was adopted by the State Environmental Commission on September 6, 2006.

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 § 110(c).[1] 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 re-codified 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.

Nevada adopted and submitted many revisions to the original set of regulations and statutes in the SIP, some of which EPA approved on February 6, 1975 at 40 FR 5508; on March 26, 1975 at 40 FR 13306; on January 9, 1978 at 43 FR 1341; on January 24, 1978 at 43 FR 3278; on August 21, 1978 at 43 FR 36932; on July 10, 1980 at 45 FR 46384; on April 14, 1981 at 46 FR 21758; on August 27, 1981 at 46 FR 43141; on March 8, 1982 at 47 FR 9833; on April 13, 1982 at 47 FR 15790; on June 18, 1982 at 47 FR 26386; on June 23, 1982 at 47 FR 27070; on March 27, 1984 at 49 FR 11626. Between 1984 and 2005, EPA approved very few revisions to Nevada's applicable SIP despite numerous changes that have been 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.

Recently, Nevada submitted revisions to their SIP on February 16, 2005, January 12, 2006, and March 24, 2006. EPA approved various portions of these submittals on March 27, 2006 at 71 FR 15040; on August 31, 2006 at 71 FR 51766; on December 11, 2006 at 71 FR 71486; and on January 3, 2007 at 72 FR 11.

C. What Is the Purpose of this Rulemaking?

The purpose of this rulemaking is to bring the applicable SIP up to date. The regulations that are the subject of this rulemaking include a definition, a general rule for emergency episodes, and various monitoring regulations.

[1] Provisions that EPA promulgated under CAA section 110(c) in substitution of disapproved State provisions are referred to as Federal Implementation Plans (FIPs).

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Regulations?

Generally, SIP regulations must be enforceable (see section 110(a) of the Act) and must not relax existing requirements (see sections 110(l) and 193). Relevant EPA guidance and policy documents that we used to help evaluate enforceability include ''Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency,'' dated September 23, 1987, from J. Craig Potter, Assistant Administrator for Air and Radiation, *et al.*

B. Do the Regulations Meet the Evaluation Criteria?

We believe the following provisions are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations: NAC 445B.134, NAC 445B.230, NAC 445B.258, NAC 445B.259, and NAC 445B.260. Generally, these provisions have been revised by the addition of certain clarifications and enhancements. The Technical Support Document (TSD) dated March 5, 2007 has more information on our evaluation.

C. 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 May 21, 2007, 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 June 19, 2007. 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 approves 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.*).

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 June 19, 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, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: April 4, 2007.

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)(62) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(62) The following plan revision was submitted on December 8, 2006, by the Governor's designee.

(i) Incorporation by reference.

(A) Nevada Division of Environmental Protection.

(*1*) The following sections of Chapter 445B of the Nevada Administrative Code were adopted on September 6, 2006: 445B.134, 445B.230, 445B.258, 445B.259, and 445B.260.

[FR Doc. E7–7546 Filed 4–19–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA–R09–OAR–2007–0090; FRL–8303–5]

Clean Air Act Full Approval of Revisions to the State of Hawaii Operating Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the State of Hawaii's (''Hawaii'' or ''State'') operating permit program that amend Hawaii's regulations for insignificant emissions units (IEUs). In an April 1, 2002 Notice of Deficiency published in the **Federal Register**, EPA notified Hawaii of EPA's finding that Hawaii's provisions for IEUs did not meet minimum Federal requirements. Hawaii has revised its program to correct the deficiency identified in the Notice of Deficiency and this action fully approves of those revisions.

DATES: This operating permits program rule is effective on June 19, 2007 without further notice, unless EPA receives adverse comments by May 21, 2007. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that these revisions will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2007–0090, by one of the following methods:

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

2. E-mail: *Rios.Gerardo@epa.gov*.

3. Mail or deliver to Gerardo Rios, Permits Office Chief, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at 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 or e-mail. 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 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: Robert Baker, EPA Region IX, at (415) 972–3979, (*Baker.Robert@epa.gov*).

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

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I. What Is the Operating Permit Program?

The Clean Air Act Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tons per year or more of any single hazardous air pollutant (HAP) listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs.

Hawaii's operating permits program was submitted to EPA in response to this directive. EPA granted interim approval to Hawaii's air operating permits program on December 1, 1994 (59 FR 61549). After Hawaii revised its program to address the conditions of the interim approval, EPA promulgated final full approval of Hawaii's title V operating permits program on November 26, 2001 (66 FR 62945).

II. What Is Being Addressed in This Document?

When an operating permit program does not fully meet the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA may withdraw part 70 program approval if the permitting authority fails to take corrective action. 40 CFR 70.10(b) sets forth the procedures for program withdrawal, and requires as a prerequisite to withdrawal that the permitting authority be notified of any finding of deficiency by the Administrator and that the notice be published in the **Federal Register**.

Deficiencies involving the provisions in the State's program that exempt insignificant activities from part 70 permitting requirements came to light as a result of the court decision in *Western States Petroleum Association (WSPA)* v.