

| State regulation                                                                          | State effective date        | EPA approved date                             | Comments                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-------------------------------------------------------------------------------------------|-----------------------------|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| * *<br>Subchapter 19, "Control and Prohibition of Air Pollution from Oxides of Nitrogen." | *<br>October 17, 2005 ..... | *<br>July 31, 2007 [Insert FR page citation]. | *<br>Subchapter 19 is approved into the SIP except for the following provisions: (1) Open Market Emissions Trading (OMET) provisions at 19.3(g), 19.3(h), 19.27 and 19.27 Appendix; and (2) New amendments to phased compliance plan through repowering in §19.21 that allow for implementation beyond May 1, 1999; and (3) New amendments to phased compliance plan through the use of innovative control technology in §19.23 that allow for implementation beyond May 1, 1999. |
| * *                                                                                       | * *                         | * *                                           | * *                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

[FR Doc. E7-14480 Filed 7-30-07; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2007-0295, FRL-8443-5]

#### Approval and Promulgation of Implementation Plans; States of Arizona and Nevada; Interstate Transport of Pollution

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve state implementation plans submitted by the States of Arizona and Nevada that address interstate transport with respect to the 8-hour ozone and fine particulate matter national ambient air quality standards. In so doing, EPA has determined that the plans submitted by Arizona and Nevada and approved herein satisfy requirements under Clean Air Act section 110(a)(2)(D)(i) for each State to submit a plan containing adequate provisions to prohibit interstate transport with respect to the standards for 8-hour ozone and fine particulate matter. EPA is taking this action pursuant to those provisions of the Clean Air Act that obligate the Agency to take action on submittals of state implementation plans. The effect of this action is to approve the Arizona and Nevada state implementation plans addressing interstate transport with respect to the 8-hour ozone and fine particulate standards and to eliminate obligations on the Agency to promulgate Federal implementation plans for these States addressing this same requirement.

**DATES:** This rule is effective on October 1, 2007, without further notice, unless

EPA receives adverse comments by August 30, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R09-OAR-2007-0295 by one of the following methods:

- *Federal eRulemaking portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *E-mail:* [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov).
- *Fax:* (415) 947-3579 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- *Mail:* Wienke Tax, Office of Air Planning, Environmental Protection Agency (EPA), Region IX, Mailcode AIR-2, 75 Hawthorne Street, San Francisco, California 94105-3901.
- *Hand Delivery:* Wienke Tax, Office of Air Planning, Environmental Protection Agency (EPA), Region IX, Mailcode AIR-2, 75 Hawthorne Street, San Francisco, California 94105-3901. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R09-OAR-2007-0295. EPA's policy is that all comments received 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 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> Web site is an "anonymous access" system, which

means 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 docket 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, 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 form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Office of Air Planning, Environmental Protection Agency (EPA), Region IX, Mailcode AIR-2, 75 Hawthorne Street, San Francisco, California 94105-3901. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket

Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For Arizona issues, contact Wienke Tax, EPA Region IX, (520) 622-1622, [tax.wienke@epa.gov](mailto:tax.wienke@epa.gov); for Nevada issues, contact Karina O'Connor, EPA Region IX, (775) 833-1276, [occonnor.karina@epa.gov](mailto:occonnor.karina@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, wherever "we," "us," or "our" is used, we mean the EPA.

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#### I. Background

On July 18, 1997, EPA issued new standards for the 8-hour ozone and particulate matter (PM) national ambient air quality standards (NAAQS). For ozone, EPA revised the NAAQS by adding an 8-hour averaging period (versus 1 hour for the previous NAAQS), and the level of the standard was changed from 0.12 ppm to 0.08 ppm (62 FR 38856). For the PM NAAQS, EPA added a new 24-hour standard and a new annual standard for fine particles (generally referring to particles less than or equal to 2.5 micrometers ( $\mu\text{m}$ ) in diameter,  $\text{PM}_{2.5}$ ). Section 110(a)(1) of the Clean Air Act (CAA or "Act") requires States to submit new state implementation plans (SIPs) that provide for the implementation, maintenance, and enforcement of a new or revised standard within three years after promulgation of such standard, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, including section

110(a)(2)(D)(i), which applies to interstate transport of certain emissions. Section 110(a)(1) imposes the obligation upon States to make a SIP submission for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances of each State.

On April 25, 2005, EPA made a finding that States had failed to submit SIPs to satisfy the requirements of section 110(a)(2)(D)(i) of the Act for the 8-hour ozone and  $\text{PM}_{2.5}$  NAAQS. See 70 FR 21147. This finding started a 2-year clock for promulgation by EPA of a Federal Implementation Plan (FIP), in accordance with section 110(c)(1), for any State that did not submit a SIP meeting the requirements of section 110(a)(2)(D)(i) for the 8-hour ozone and  $\text{PM}_{2.5}$  NAAQS, unless prior to that time, each State makes a submission to meet the requirements of section 110(a)(2)(D)(i) and EPA approves such submission. On August 15, 2006, EPA issued a guidance memorandum ("Interstate Transport Guidance") concerning the SIP submissions under CAA section 110(a)(2)(D)(i).<sup>1</sup>

On February 7, 2007, the Nevada Division of Environmental Protection (NDEP) submitted a SIP entitled Nevada State Implementation Plan for Interstate Transport to Satisfy the Requirements of Clean Air Act 110(a)(2)(D)(i) for the 8-Hour Ozone and  $\text{PM}_{2.5}$  NAAQS Promulgated in July 1997 (January 31, 2007) ("Nevada Interstate Transport SIP"). On May 24, 2007, the Arizona Department of Environmental Quality (ADEQ) submitted a SIP entitled Revision to the Arizona State Implementation Plan under Clean Air Act Section 110(a)(2)(D)(i)—Regional Transport (May 2007) ("Arizona Interstate Transport SIP"). For the reasons provided in sections III and IV of this rule, we are approving Arizona's and Nevada's interstate transport SIPs in this action thereby eliminating the requirement under CAA Section 110(c)(1) for EPA to promulgate interstate transport FIPs for these States.

#### II. Applicable Clean Air Act Requirements

As noted above, EPA promulgated new NAAQS for 8-hour ozone and  $\text{PM}_{2.5}$  in 1997, and under section 110(a)(1), within three years thereafter, States were to submit SIPs to address the

<sup>1</sup> See memorandum from William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards, U.S. EPA, entitled "Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and  $\text{PM}_{2.5}$  National Ambient Air Quality Standards," dated August 15, 2006.

various SIP elements listed under section 110(a)(2) for the new NAAQS, including the "good neighbor" provisions of section 110(a)(2)(D)(i) of the Act. Under the "good neighbor" provisions of section 110(a)(2)(D)(i), each State must submit a SIP that contains adequate provisions:

(i) Prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will—

(I) Contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or

(II) Interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility.

Under section 110 of the Act and EPA regulations (at 40 CFR part 51, subpart F), each State must provide reasonable notice and public hearing prior to adoption of SIPs and SIP revisions for subsequent submittal to EPA.

#### III. Arizona's Interstate Transport SIP

##### A. CAA Procedural Provisions

On March 29 and 30, 2007, ADEQ published a notice in the *Arizona Republic*, a newspaper of general circulation in the Phoenix area, of a public hearing on proposed revisions to the Arizona SIP to address the requirements of section 110(a)(2)(D)(i). A public hearing was held on April 30, 2007 in Phoenix. On May 24, 2007, in accordance with Arizona law, the Director of ADEQ adopted the Arizona Interstate Transport SIP and submitted the SIP to EPA for approval. ADEQ's section 110(a)(2)(D)(i) SIP submittal package includes evidence of public notice, public hearing, and ADEQ adoption as described above. No public comments were received on the draft SIP. Based on review of these materials, we find that ADEQ has met the procedural requirements of CAA section 110 and 40 CFR part 51, subpart F.

##### B. "Significant Contribution" and "Interference With Maintenance" Requirements

As noted above, CAA section 110(a)(2)(D)(i)(I) requires States to prohibit emissions that contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to the NAAQS. ADEQ's Arizona Interstate Transport SIP concludes that emissions from air pollution sources in Arizona do not significantly contribute to nonattainment of the 8-hour ozone or

PM<sub>2.5</sub> NAAQS or interfere with maintenance of those standards in another state. In support of this negative declaration, the Arizona Interstate Transport SIP identifies the following factors and provides the following analysis:

- *Boundary designations and locations.* Nonattainment boundaries are intended to include areas where NAAQS violations are occurring as well as areas that contribute to those violations and in the case of Arizona and the 8-hour ozone NAAQS, the only 8-hour ozone nonattainment area (the Phoenix-Mesa Nonattainment Area) is located within the central portion of the State. The Phoenix-Mesa Nonattainment Area includes much of eastern Maricopa County as well as Apache Junction in Pinal County. There are no nonattainment areas in Arizona for the PM<sub>2.5</sub> NAAQS. The Maricopa Association of Governments (MAG) is currently developing a SIP revision for the area which will demonstrate attainment of the 8-hour ozone standard by its statutory attainment date of 2009.

- *Spatial distribution of emissions.* Emissions of pollutants contributing to 8-hour ozone and PM<sub>2.5</sub> formation are highest in the Phoenix metropolitan area, which as noted above, is located in the central portion of the State. The most recently available emissions inventories from EPA's AirData for Arizona counties show that Maricopa County sources emit approximately 50 percent of the state's volatile organic compounds (VOC) and 36 percent of the nitrogen oxides (NO<sub>x</sub>), known precursors to ozone, and approximately 30 percent of the state's total PM<sub>2.5</sub> emissions. No other county emits the level of emissions generated by Maricopa County.

- *Monitoring data.* An examination of historic monitored ambient air quality data demonstrates that Maricopa County is the only county in the state where monitors have recorded violations of the 8-hour ozone standard. Data collected from 2004–2006 show that all monitored areas are currently meeting the 8-hour ozone and PM<sub>2.5</sub> standards. The highest recorded ambient concentrations from this period are from Maricopa County monitoring sites or from those of nearby sites in Gila and Pinal Counties.

- *Topography.* The Phoenix-Mesa 8-hour Ozone Nonattainment Area is located primarily in the broad and mostly flat Salt River Valley and is separated from other areas of the State by mountainous, complex terrain on the north, northeast, east, and southwest.

- *Meteorology/Climatology.* Wind patterns in the Phoenix-Mesa

Nonattainment Area are greatly influenced by local topography. Because of its valley location, backed by high terrain to the north and east, the Phoenix-Mesa Nonattainment Area is subject to distinct up-valley/down-valley wind patterns. The prevailing winds and high elevation blocking terrain to the east of the area were two of the factors that helped determine the impacts of transported emissions and the eastern extent of the Phoenix-Mesa Nonattainment Area. Similar patterns are repeated across Arizona's many airsheds and areas of complex terrain.

- *Location of Nonattainment Areas in Neighboring States.* Nonattainment areas for 8-hour ozone in states neighboring Arizona are located in southern Nevada (40 CFR 81.329), southern California (40 CFR 81.305), and north-central Colorado (40 CFR 81.306). First, in designating the 8-hour ozone nonattainment area in southern Nevada (*i.e.*, a portion of Clark County), EPA concurred in Arizona's conclusion that sources in neighboring Mojave County did not contribute to nonattainment in the Las Vegas area. Second, the closest 8-hour ozone nonattainment area in California is located in Imperial County, more than 80 miles west of the Phoenix-Mesa Nonattainment Area and more than 200 miles from large point sources in Apache, Coconino, and Navajo Counties. Based on regional and local air flow patterns, California nonattainment areas are upwind of Arizona emissions sources. Third, the 8-hour ozone nonattainment area in Colorado is separated from Arizona by the Rocky Mountains, with elevations greater than 14,000 feet and are more than 200 miles from the Arizona-Colorado border and more than 400 miles from the Phoenix-Mesa Nonattainment Area. With respect to PM<sub>2.5</sub>, as noted, California nonattainment areas are upwind of Arizona emissions sources. All other states that border Arizona are designated unclassifiable/attainment for PM<sub>2.5</sub>.

- *Modeling.* With respect to the PM<sub>2.5</sub> NAAQS, ADEQ also points to modeling that EPA conducted in connection with EPA's promulgation of the Clean Air Interstate Rule (CAIR), which purportedly shows Arizona's contribution to nonattainment in downwind states to be minimal. The information that EPA provided ADEQ concerning EPA's modeling for the CAIR rule, however, was in error. The State of Arizona was not included in the modeling. We believe that ADEQ has presented sufficient support for the negative declaration in its discussion of

the other factors and need not rely on CAIR modeling results.

### *C. Prevention of Significant Deterioration (PSD) and Visibility*

As noted above, CAA section 110(a)(2)(D)(i)(II) requires States to prohibit emissions that interfere with measures required to be included in the SIP for any other State to prevent significant deterioration of air quality or to protect visibility.

The Arizona Interstate Transport SIP explains that non-interference with CAA PSD measures in other states is achieved through preconstruction review and permitting procedures for stationary sources. Specifically, all new sources and modifications to existing sources in Arizona are subject to state requirements for preconstruction review and permitting pursuant to Arizona Administrative Code (AAC), Title 18, Chapter 2, Articles 2 and 4 or relevant county rules. All new major sources and major modifications to existing major sources in Arizona are subject to the nonattainment New Source Review (NSR) provisions of these rules (including 8-hour ozone nonattainment areas) or Prevention of Significant Deterioration (PSD) for attainment areas. ADEQ indicates that Arizona will update the NSR rules when EPA's PM<sub>2.5</sub> implementation guidance is finalized and that Arizona will implement the current rules in accordance with EPA's interim guidance using PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub> in the PSD and NSR programs.

The Arizona Interstate Transport SIP explains that non-interference with CAA visibility measures in other states is achieved with respect to 8-hour ozone and PM<sub>2.5</sub> through implementation and enforcement of the State's reasonably attributable visibility impairment (RAVI) rule (codified at Arizona Administrative Code Sections R18–2–1601 through R18–2–1606), which requires Arizona to analyze and implement control strategies where applicable should a source be certified and found attributable for causing or contributing to visibility impairment.

The Arizona Interstate Transport SIP notes that Arizona Administrative Code Section R18–2–410 provides additional protection of visibility by requiring new major sources or major modifications to complete an analysis of the anticipated impacts on visibility to any Class I area that may be affected by the emissions from the source. Federal Land Managers (FLMs) may also submit a visibility impact analysis for additional consideration during the permitting process.

Regarding visibility impairment caused by regional haze, the Arizona Interstate Transport SIP concurs with EPA in concluding that it is currently premature to determine whether or not SIPs for 8-hour ozone or PM<sub>2.5</sub> contain adequate provisions to prohibit emissions that interfere with measures in other States' SIPs designed to address regional haze.<sup>2</sup> Under EPA's regional haze regulations, regional haze SIPs are not due until December 17, 2007, and until these SIPs are submitted, accurate assessments regarding the impact of emissions and control measures on other States' SIPs cannot be made.

#### D. Evaluation and Conclusion

We find that ADEQ's selection of factors and accompanying analysis (see section III.B., above) provide a reasonable basis with which to evaluate the impacts of emissions from within Arizona on other states. We also find that ADEQ's conclusion that emissions from Arizona do not significantly contribute to nonattainment or interfere with maintenance of the 8-hour ozone or PM<sub>2.5</sub> standard in any other state is adequately supported by the information in the Arizona Interstate Transport SIP.

We also find that the Arizona Interstate Transport SIP adequately provides for non-interference with CAA PSD and visibility (not including regional haze) measures in other states with respect to 8-hour ozone and PM<sub>2.5</sub> and reasonably concludes that a determination of whether or not the Arizona SIP for 8-hour ozone or PM<sub>2.5</sub> contains adequate provisions to prohibit emissions that interfere with measures in other States' SIPs designed to address regional visibility impairment caused by regional haze must wait for the submittal of regional haze SIPs.

Based on these findings, we are approving the Arizona Interstate Transport SIP as meeting the requirements of CAA section 110(a)(2)(D)(i), and as a result of our approval of this SIP, we are no longer obligated to promulgate a FIP for Arizona addressing the CAA section 110(a)(2)(D)(i) requirement.

### IV. Nevada's Interstate Transport SIP

#### A. CAA Procedural Provisions

On December 18, 2007, NDEP's Bureau of Air Quality Planning (BAQP) published a notice on their Web site of a comment period on a proposed SIP to address the requirements of section 110(a)(2)(D)(i). Notice of the comment period was also sent via the State

Environmental Commission's (SEC's) electronic mailing list as well as the BAQP's lists of interested persons. The comment period was open until January 19, 2007. No public comments were received on the proposed SIP. The notice provided the opportunity for members of the public to request a public hearing, but no such request was made. On February 5, 2007, in accordance with Nevada law, the Administrator of NDEP adopted the Nevada Interstate Transport SIP and submitted the SIP to EPA for approval. NDEP's section 110(a)(2)(D)(i) SIP submittal package includes evidence of public notice and opportunity for public hearing, and NDEP adoption, and, based on review of these materials, we find that NDEP has met the procedural requirements of CAA section 110 and 40 CFR part 51, subpart F.

#### B. "Significant Contribution" and "Interference With Maintenance" Requirements

As noted above, CAA section 110(a)(2)(D)(i)(I) requires States to prohibit emissions that contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to the NAAQS. NDEP's Nevada Interstate Transport SIP concludes that emissions from air pollution sources in Nevada do not significantly contribute to nonattainment of the 8-hour ozone or PM<sub>2.5</sub> NAAQS or interfere with maintenance of those standards in another state. In support of this negative declaration, the Nevada Interstate Transport SIP identifies the following factors and provides the following analysis:

- *Prevailing Winds and Location of PM<sub>2.5</sub> Nonattainment Areas in Neighboring States.* There are no PM<sub>2.5</sub> nonattainment areas in Nevada. Moreover, prevailing winds are from the south to west, and PM<sub>2.5</sub> nonattainment areas in neighboring states are located to the east, i.e., upwind, in California.

- *Prevailing Winds and Location of 8-Hour Ozone Nonattainment Areas in Neighboring States.* There is one nonattainment area in Nevada, the Las Vegas area. Data from McCarran International Airport in Las Vegas indicate that prevailing winds are from the southwest. Thus, 8-hour ozone nonattainment areas in southern California lie upwind of the Las Vegas area. The Phoenix metropolitan area, the only 8-hour ozone nonattainment area in Arizona, lies 300 miles south of Las Vegas and is characterized by east-west winds and thus is not downwind of Las Vegas.

- *Nonattainment Plans.* Clark County Department of Air Quality and Environmental Management (Clark County) is currently required to develop a SIP revision for the Las Vegas area which will demonstrate attainment of the 8-hour ozone standard by 2009.

In the Nevada Interstate Transport SIP, NDEP commits to continue to review new air quality information as it becomes available to ensure that the negative declaration based on the above factors and analysis is still supported by such information.

#### C. Prevention of Significant Deterioration (PSD) and Visibility

As noted above, CAA section 110(a)(2)(D)(i)(II) requires States to prohibit emissions that interfere with measures required to be included in the SIP for any other State to prevent significant deterioration of air quality or to protect visibility.

The Nevada Interstate Transport SIP explains that non-interference with CAA PSD measures in other states is achieved through preconstruction review and permitting procedures for major new sources and major modifications under the State's PSD program (delegated from EPA) and under the State's regulations for nonattainment New Source Review (NNSR). NDEP notes that EPA has established or will establish schedules for SIP submissions that incorporate revisions to EPA's preconstruction permitting regulations that are specific to the 8-hour ozone and PM<sub>2.5</sub> NAAQS and that Nevada intends to revise the Nevada SIP consistent with such schedules. In the meantime, NDEP will implement the current rules and PSD delegation in accordance with EPA's interim guidance using PM<sub>10</sub> as a surrogate for PM<sub>2.5</sub> in the PSD and NNSR programs.

For showing non-interference with CAA visibility measures in other states, the Nevada Interstate Transport SIP notes that EPA has made no determination that the emissions from any State interfere with measures required to be included in a plan to address reasonably attributable visibility impairment. With respect to regional haze, NDEP notes in the Nevada Interstate Transport SIP that Nevada is working on a SIP to address visibility impairment due to regional haze and is required to submit a regional haze SIP by December 17, 2007.

#### D. Evaluation and Conclusion

We find that NDEP's selection of factors and accompanying analysis (see section IV.B., above) provide a reasonable basis with which to evaluate

<sup>2</sup> See pages 9 and 10 in EPA's Interstate Transport Guidance, referenced in Footnote 1.

the impacts of emissions from within Nevada on other states. We also find that NDEP's conclusion that emissions from Nevada do not significantly contribute to nonattainment or interfere with maintenance of the 8-hour ozone or PM<sub>2.5</sub> standard in any other state is adequately supported by the information in the Nevada Interstate Transport SIP.

We also find that the Nevada Interstate Transport SIP adequately provides for non-interference with CAA PSD and visibility (not including regional haze) measures in other states with respect to 8-hour ozone and PM<sub>2.5</sub>. A determination of whether or not the Nevada SIP for 8-hour ozone or PM<sub>2.5</sub> contains adequate provisions to prohibit emissions that interfere with measures in other States' SIPs designed to address regional visibility impairment caused by regional haze must wait for the submittal of regional haze SIPs.

Based on these findings, we are approving the Nevada Interstate Transport SIP as meeting the requirements of CAA section 110(a)(2)(D)(i), and as a result of our approval of this SIP, we are no longer obligated to promulgate a FIP for Nevada addressing the CAA section 110(a)(2)(D)(i) requirement.

#### V. EPA's Final Action

In today's action, EPA is approving the SIPs submitted by the States of Arizona and Nevada to satisfy the requirements of section 110(a)(2)(D)(i) of the CAA for the 8-hour ozone and PM<sub>2.5</sub> NAAQS. These approvals eliminate the obligation on EPA to promulgate section 110(a)(2)(D)(i) FIPs for these States.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal should adverse comments be filed. This action will be effective October 1, 2007, without further notice unless the EPA receives relevant adverse comments by August 30, 2007.

If we receive such comments, then we will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 1,

2007 and no further action will be taken on the proposed rule.

#### VI. 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 plans 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 plans 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 State plans 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. section 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. section 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 1, 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 11, 2007.

Laura Yoshii,

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 D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(136) to read as follows:

##### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(136) The following plan was submitted on May 24, 2007 by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) Revision to the Arizona State Implementation Plan Under Clean Air Act Section 110(a)(2)(D)(i)—Regional Transport (May 2007), adopted by the Arizona Department of Environmental Quality on May 24, 2007.

#### Subpart DD—Nevada

■ 3. Section 52.1470 is amended by adding paragraph (c)(64) to read as follows:

##### § 52.1470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(64) The following plan was submitted on February 5, 2007 by the Governor's designee.

(i) Incorporation by reference.

(A) Nevada Division of Environmental Protection.

(1) Nevada State Implementation Plan for Interstate Transport to Satisfy the Requirements of Clean Air Act 110(a)(2)(D)(i) for the 8-hour Ozone and PM<sub>2.5</sub> NAAQS Promulgated in July 1997 (January 31, 2007), adopted by the Nevada Division of Environmental Protection on February 5, 2007.

[FR Doc. E7-14473 Filed 7-30-07; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

#### Final Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

**ADDRESSES:** The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

#### FOR FURTHER INFORMATION CONTACT:

William R. Blanton, Jr., Engineering Management Section, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3151.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of FEMA has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104,

and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

*National Environmental Policy Act.* This final rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. An environmental impact assessment has not been prepared.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This final rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This final rule meets the applicable standards of Executive Order 12988.

#### List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended as follows:

#### PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

##### § 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows: