

minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.ID and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (34)(g), of the Instruction, an "Environmental Analysis Check List" is required for this rule. A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under ADDRESSES.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 Subpart C as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–123, to read as follows:

§ 165.T05–123 Safety Zone: Motts Channel/ Banks Channel, Wrightsville Beach, North Carolina

(a) *Location.* The following area is a safety zone: All waters of Motts Channel/Banks Channel within 1000 feet of Bird Island at Wrightsville Beach, NC, approximate position latitude 34°12'41" N, longitude 077°48'26" W in the Captain of the Port Sector North Carolina zone as defined in 33 CFR 3.25–20.

(b) *Definition.* As used in this section the "on scene representative" means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his behalf.

(c) *Regulation.* (1) In accordance with the general regulations in 165.23 of this

part, entry into this zone is prohibited unless authorized by the Captain of the Port or the on scene representative.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign;

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(3) Persons or vessels requiring entry into or passage within the safety zone must request authorization from the Captain of the Port, Sector North Carolina or his on scene representative by telephone at (252) 247–4570 or (252) 247–4571 or by marine band radio on VHF channel 16 (156.8 MHz).

(d) *Enforcement period:* This regulation will be enforced from 6 p.m. to 8 p.m. on November 24, 2007.

Dated: October 10, 2007.

William D. Lee,

Captain, U.S. Coast Guard, Sector North Carolina.

[FR Doc. E7–21589 Filed 11–1–07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2006–0590; FRL–8489–4]

Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Requests for Rescission

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the Nevada State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on August 28, 2006 and include certain regulations and statutes for which the State of Nevada is requesting rescission. The intended effect is to rescind unnecessary provisions from the applicable plan.

DATES: *Effective Date:* This rule is effective on December 3, 2007.

ADDRESSES: EPA has established docket number EPA–R09–OAR–2006–0590 for this action. The index to the docket 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: Andrew Steckel, EPA Region IX, (415) 947-4115, steckel.andrew@epa.gov.

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

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I. Proposed Action

On August 28, 2006 (71 FR 50875), under the Clean Air Act (CAA or “Act”),

EPA proposed approval of certain revisions to the Nevada SIP and disapproval of certain other revisions. These revisions involve rules and statutory provisions previously approved in the Nevada SIP for which the State of Nevada is requesting rescission.

In our August 28, 2006 proposed rule, we made final approval of those rescission requests that we proposed to approve contingent upon the receipt of certain public notice and hearing documentation from the State of Nevada. On January 3, 2007 (72 FR 11), based on public notice and hearing documentation provided by the State for most of the requested rescission, we finalized the rescissions for most of the subject rules and statutory provisions. On June 13, 2007 (72 FR 32529), we published a second final rule related to our August 28, 2006 proposed rule. In our June 2007 final rule, we rescinded a Federal Implementation Plan (FIP)

that we promulgated in the 1970’s to regulate emissions of sulfur oxides from a now defunct smelter that had operated within White Pine County, Nevada.

In our January 3, 2007 final rule, we listed 12 provisions for which the State had yet to provide documentation of public participation and for which, therefore, we were deferring final action. See 72 FR 11, at 16. On June 26, 2007, the Governor’s designee, the Nevada Division of Environmental Protection (NDEP), submitted the necessary public participation documentation for 11 of the 12 provisions for which final action had been deferred in our January 3, 2007 final rule.¹ The 11 provisions are listed in the table below. Based on the documentation provided by NDEP on June 26, 2007, we now take final action to approve the requested rescission of the 11 provisions listed below.

SIP PROVISIONS FOR WHICH THE STATE’S RESCISSION REQUEST IS APPROVED

SIP provision	Title	Submittal date	Approval date
NAC 445.477	Confidential information	10/26/82	03/27/84
NAC 445.554	Nuisance	10/26/82	03/27/84
NAC 445.596	Ringelmann chart	10/26/82	03/27/84
NAC 445.662	Confidential information	10/26/82	03/27/84
NAC 445.695	Schedules for compliance	10/26/82	03/27/84
NAC 445.698	Appeal of director’s decision: Application forms	10/26/82	03/27/84
NAC 445.700	Violations: Manner of paying fines	10/26/82	03/27/84
NAC 445.844	Odors	10/26/82	03/27/84
NRS 445.401	Declaration of public policy	12/29/78	07/10/80
NRS 445.466	Commission regulations: Notice and hearing	12/29/78	07/10/80
NRS 445.497	Notice of regulatory action; Requirement; method; contents of notice	12/29/78	07/10/80

The majority of the provisions in the table above represent defined terms that are not used by any other provisions in the applicable SIP or represent provisions that are not required for SIPs and thus are unnecessary and appropriate for rescission. Our proposed action and related technical support document (TSD) contain more information on the rules and statutory provisions cited above and our evaluation.

II. Public Comments and EPA Responses

EPA’s August 28, 2006 proposed rule provided a 30-day public comment period. During this period, we received comments from Jennifer L. Carr and Michael Elges, NDEP, by letter dated

September 25, 2006. In our January 3, 2007 final rule (72 FR 11), we summarized the comments from NDEP’s letter and provided our responses. With respect to the 11 provisions for which final action is taken herein, NDEP indicated in its September 25, 2006 letter that it would be conducting the necessary public notice and hearing. NDEP’s June 26, 2007 submittal provides the necessary public participation documentation and provides the basis for EPA to take this final action to approve the State’s request to rescind the 11 provisions listed in the table above from the applicable Nevada SIP.

III. EPA Action

No comments were submitted that change our assessment of our proposed action. Therefore, as authorized in section 110(k) of the Act, EPA is finalizing the approval of the State’s request to rescind the provisions listed in the table above from the applicable SIP.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That

¹ NAC 445.617 (“Six-minute period”) is the lone rescission request among the 12 cited in the January 2007 final rule that is not being finalized today. In the submittal dated June 26, 2007, NDEP requests withdrawal of the rescission request for NAC 445.617 and, instead, replacement of NAC 445.617

in the SIP with approval of the current codification of the rule (i.e., NAC 445B.172). We will be taking action on submitted rule NAC 445B.172 in a separate document. Also, in the submittal dated June 26, 2007, NDEP provides public participation documentation for rescission of NAC 445.667

(“Excess emissions: Schedule maintenance; testing; malfunctions”), a rule covered by our proposal dated December 18, 2006 (71 FR 75690). We will take final action on rescission of NAC 445.667 in a separate document.

Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves rescissions of state law that are unnecessary to meet Federal requirements and imposes no additional requirements. 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 rescinds requirements under state law and does not impose any additional enforceable duty, 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 rescissions of state law that are unnecessary to implement 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 January 2, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: October 16, 2007.

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 paragraph (c)(14)(xi) and (c)(25)(ii) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(14) * * *

(xi) Previously approved on July 10, 1980 in paragraph (14)(ii) and now deleted without replacement: Nevada Revised Statutes (NRS) sections: 445.401, 445.466, and 445.497.

* * * * *

(25) * * *

(ii) Previously approved on March 27, 1984, in paragraph (25)(i)(A) and now deleted without replacement: Nevada Administrative Code (NAC) sections: 445.447, 445.554, 445.596, 445.662, 445.695, 445.698, 445.700, and 445.844.

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[FR Doc. E7-21447 Filed 11-1-07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 65

[Docket No. FEMA-B-7745]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the Base (1% annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

DATES: These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Maps (FIRMs) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Mitigation Assistant Administrator of FEMA reconsider the changes. The modified BFEs may be changed during the 90-day period.

ADDRESSES: The modified 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 Branch, Mitigation Directorate, Federal Emergency