

## History

The FAA published a direct final rule with request for comments in the **Federal Register** February 15, 2008 (73 FR 8794), Docket No. FAA-2008-0004. The FAA uses the direct final rule procedure for non-controversial rules where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit an adverse comment, was received within the comment period, the regulation would become effective on April 10, 2008. No adverse comments were received; thus, this notice confirms that the direct final rule will become effective on this date.

\* \* \* \* \*

Issued in Fort Worth, TX, on March 31, 2008.

**Walter Tweedy,**

*Acting Manager, System Support Group, ATO Central Service Center.*

[FR Doc. E8-7248 Filed 4-8-08; 8:45 am]

**BILLING CODE 4910-13-M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2007-1155; FRL-8548-8]

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

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

**ACTION:** Final rule.

**SUMMARY:** Under the Clean Air Act, EPA is approving certain revisions, and disapproving certain other revisions, to the Nevada state implementation plan. These revisions were the subject of a proposed rule published in the **Federal Register** on December 14, 2007. The provisions that EPA is approving

include certain definitions; prohibitory rules; provisions related to legal authority and enforcement; rules establishing opacity, sulfur and volatile organic compounds limits; and rescission of abbreviations. EPA is disapproving the rescission of a certain definition and the rescission of a rule related to emission discharge information. EPA is taking this action under the Clean Air Act obligation to take action on submittals of revisions to state implementation plans. The effect of this action is to update the Nevada state implementation plan with amended or recodified rules and to rescind a provision found to be unnecessary for further retention in the plan.

**DATES:** *Effective Date:* This rule is effective on May 9, 2008.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2007-1155 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

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

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#### I. Proposed Action

On December 14, 2007 (72 FR 71095), under the Clean Air Act (CAA or “Act”), EPA proposed approval of certain

revisions, and disapproval of certain other revisions, to the Nevada state implementation plan (SIP) that had been submitted by the Nevada Division of Environmental Protection (NDEP) on January 12, 2006 and June 26, 2007.

Specifically, in our December 14, 2007 action, we proposed to approve the amended rules or statutory provisions shown in table 1. In today’s document, we are taking final action on the provisions in table 1 as we had proposed on December 14, 2007, except for NRS 445B.310 for which we take no action today, as explained below. The provisions listed in table 1 replace early 1980’s versions of these provisions. We proposed to approve the provisions in table 1 based on our review of applicable CAA and EPA regulatory requirements and a comparison of the provisions with the corresponding existing SIP provisions that they would replace. In general, we found that the submitted provisions mirror the corresponding provisions in the existing SIP or strengthen the SIP by eliminating exceptions, deleting limitations, or expanding legal authority, and on that basis, found that they would not interfere with attainment or maintenance of the national ambient air quality standards (NAAQS).

With respect to public participation requirements under CAA section 110(l), in our December 14, 2007 proposed rule, we found that adequate documentation had been submitted by NDEP (or otherwise acquired by EPA) to show compliance with CAA procedural requirements for SIP revisions under CAA section 110(l) except for NRS 445B.310. Thus, we made our proposed approval of NRS 445B.310 contingent upon receipt of documentation of notice and opportunity for public hearing on adoption of NRS 445B.310 as a revision to the Nevada SIP. We have not received this documentation and thus are not taking final action on NRS 445B.310 in this document.

TABLE 1.—SUBMITTED RULES AND STATUTORY PROVISION

Submitted NAC or NRS	Title	Adoption date	Submittal date
NAC 445B.172 .....	“Six-Minute Period” defined .....	09/16/76	06/26/07
NAC 445B.190 .....	“Stop order” defined .....	11/03/93	06/26/07
NAC 445B.220 .....	Severability .....	09/06/06	06/26/07
NAC 445B.225 .....	Prohibited conduct: Concealment of emissions .....	10/03/95	06/26/07
NAC 445B.227 .....	Prohibited conduct: Operation of source without required equipment; removal or modification of required equipment; modification of required procedure.	10/03/95	01/12/06
NAC 445B.229 .....	Hazardous emissions: Order for reduction or discontinuance .....	10/03/95	06/26/07
NAC 445B.275 .....	Violations: Acts constituting; notice .....	03/08/06	06/26/07
NAC 445B.277 .....	Stop orders .....	03/08/06	06/26/07

TABLE 1.—SUBMITTED RULES AND STATUTORY PROVISION—Continued

Submitted NAC or NRS	Title	Adoption date	Submittal date
NRS 445B.310 .....	Limitations on enforcement of federal and state regulations concerning indirect sources.	No adoption date	06/26/07

In our December 14, 2007 proposed rule, we proposed action on three rules (listed in table 2, below) that NDEP seeks to rescind from the existing SIP. NDEP's rescissions of NAC 445.655 and NAC 445.694 are included in a January 12, 2006 SIP submittal, and NDEP's rescission of NAC 445.436 is included in a June 26, 2007 SIP submittal. In our proposed rule, we proposed to disapprove the rescission of NAC

445.436 ("Air contaminant" defined) because it is relied upon by certain SIP rules that remain in the applicable SIP. We proposed to approve the rescission of NAC 445.655 ("Abbreviations") because the abbreviations listed therein that are not simply superseded by our approval of the current version of the rule (i.e., NAC 445B.211 ("Abbreviations"), approved on March 27, 2006 at 71 FR 15040) are not relied

upon by any rules in the applicable SIP. Lastly, with respect to NAC 445.694 ("Emission discharge information"), we proposed to disapprove the rescission because we found that the rule is needed to comply with requirements under 40 CFR 51.116(c). We are taking final action in today's document on the requested rescissions listed in table 2 as we had proposed on December 14, 2007.

TABLE 2.—REQUESTED RESCISSIONS

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

In our December 14, 2007 proposed rule, we proposed to approve rule recodifications submitted by NDEP to EPA on June 26, 2007 to replace corresponding SIP rules recently approved by EPA in the Nevada SIP (see table 3). The recodified rules reflect the January 2007 update to chapter 445B of

the Nevada Administrative Code (NAC), as published by the Nevada Legislative Counsel Bureau. On the basis of a comparison of the rule recodifications submitted by NDEP and listed in table 3 above with the corresponding SIP rules, we found all of the changes, which include revised titles and

updates to internal rule references and historical notes, to be administrative in nature and acceptable. Therefore, we are taking final action in today's document to approve the rule recodifications listed in table 3 as proposed on December 14, 2007.

TABLE 3.—SUBMITTED RULE RECODIFICATIONS

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

Our December 14, 2007 proposed rule and related technical support document (TSD) provide additional background information and a more detailed rationale for our actions summarized above.

## II. Public Comments

EPA's December 14, 2007 proposed rule provided a 30-day public comment period. No comments were submitted.

## III. EPA Action

As authorized under section 110(k) of the Act, and for the reasons described above and in our proposed rule, EPA is approving certain revisions, and disapproving certain other revisions, to

the Nevada SIP submitted by NDEP on January 12, 2006 and June 26, 2007. Specifically, we are approving the provisions listed in table 1, above, except for NRS 445B.310; we are approving the rescission of NAC 445.655 ("Abbreviations"); and we are approving the rule recodifications listed in table 3, above.<sup>1</sup> We are disapproving

<sup>1</sup> Upon the effective date of today's final rule, the following provisions will be superseded in the applicable SIP upon the established compliance date for any new or amended requirements in the superseding provisions (superseding rules from table 1 shown in parentheses): NAC 445.617 (NAC 445B.172), NAC 445.630 (NAC 445B.190), NAC 445.660 (NAC 445B.220), NAC 445.663 (NAC 445B.225), NAC 445.664 (NAC 445B.227), NAC 445.665 (NAC 445B.229), NAC 445.696 (NAC

the rescissions of NAC 445.436 ("Air contaminant" defined) and NAC 445.694 ("Emission discharge information"). We will take final action on our proposed approval of NRS 445B.310 in a separate document upon receipt of documentation of notice and opportunity for public hearing on

445B.275), and NAC 445.697 (NAC 445B.277). Also, upon the effective date of this final rule, the rule recodifications listed in table 3 of this document will supersede existing SIP rules with the same section number in NAC chapter 445B.

adoption of NRS 445B.310 as a revision to the Nevada 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 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. 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, 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 law implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This 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 *June 9, 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: January 24, 2008.

**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:

- a. Adding paragraph (c)(25)(v);
- b. Revising paragraph (c)(56)(i)(A)(3)(i); and
- c. Adding paragraph (c)(66) to read as follows:

#### § 52.1470 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(25) \* \* \*

(v) Previously approved on March 27, 1984, in paragraph (c)(25)(i)(A) of this section and now deleted without replacement: Nevada Administrative Code (NAC) section: 445.655.

\* \* \* \* \*

(56) \* \* \*

(i) \* \* \*

(A) \* \* \*

(3) \* \* \*

(i) October 3, 1995: 445B.005, 445B.059, 445B.077, 445B.112, 445B.116, 445B.130, 445B.145, 445B.152, 445B.177, 445B.180, 445B.22037, and 445B.227.

\* \* \* \* \*

(66) The following plan revision was submitted on June 26, 2007 by the Governor’s designee. All section citations listed below refer to the January 2007 codification of chapter 445B of the Nevada Administrative Code as published by the Nevada Legislative Counsel Bureau.

(i) Incorporation by reference.

(A) Nevada Division of Environmental Protection.

(1) The following section of the Nevada Air Quality Regulations was adopted on the date listed below and recodified as Chapter 445B of the Nevada Administrative Code in November 1994:

(i) September 16, 1976, effective date December 4, 1976: 445B.172, “Six-Minute Period defined.”

(2) The following section of Chapter 445 of the Nevada Administrative Code was adopted on the date listed below and recodified as Chapter 445B of the Nevada Administrative Code in November 1994:

(i) November 3, 1993: 445B.190, “Stop order defined.”

(3) The following sections of Chapter 445B of the Nevada Administrative Code were adopted on the dates listed below:

(i) October 3, 1995: 445B.225, “Prohibited conduct: Concealment of

emissions;" and 445B.229, "Hazardous emissions: Order for reduction or discontinuance."

(ii) August 19, 2004, effective date September 24, 2004: 445B.001, "Definitions;" 445B.22043, "Sulfur emissions: Exceptions for stationary sources;" and 445B.2205, "Sulfur emissions: Other processes which emit sulfur."

(iii) October 4, 2005: 445B.063, "Excess emissions defined;" 445B.153, "Regulated air pollutant defined;" 445B.22017, "Visible emissions: Maximum opacity; determination and monitoring of opacity;" 445B.2202, "Visible emissions: Exceptions for stationary sources;" and 445B.22093, "Organic solvents and other volatile compounds."

(iv) March 8, 2006: 445B.275, "Violations: Acts constituting; notice;" and 445B.277, "Stop orders."

(v) September 6, 2006: 445B.220, "Severability."

\* \* \* \* \*

[FR Doc. E8-7046 Filed 4-8-08; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2007-0433; FRL-8357-5]

#### 1-Methylcyclopropene; Amendment to an Exemption from the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an amendment to an exemption from the requirement of a tolerance for residues of the 1-Methylcyclopropene (1-MCP) on fruits and vegetables when applied or used outdoors for pre-harvest treatments. Agrofresh Inc., submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an amendment to the existing 1-MCP exemption from the requirement of a tolerance at 40 CFR 180.1220. This regulation eliminates the need to establish a maximum permissible level for residues of 1-Methylcyclopropene.

**DATES:** This regulation is effective April 9, 2008. Objections and requests for hearings must be received on or before June 9, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2007-0433. To access the electronic docket, go to <http://www.regulations.gov>, select "Advanced Search," then "Docket Search." Insert the docket ID number where indicated and select the "Submit" button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in [www.regulations.gov](http://www.regulations.gov). Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

#### FOR FURTHER INFORMATION CONTACT:

Driss Benmhend, Biopesticides and Pollution Prevention Division (7511P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9525; e-mail address: [benmhend.driss@epa.gov](mailto:benmhend.driss@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to

assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at <http://www.regulations.gov>, you may access this "**Federal Register**" document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr>. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at <http://www.gpoaccess.gov/ecfr>.

###### C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2007-0433 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before June 9, 2008.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2007-0433, by one of the following methods.

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One