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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2007-1079; FRL-8509-2]

Approval and Promulgation of Air Quality Implementation Plans; Nevada; Washoe County 8-Hour Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Washoe County portion of the Nevada State Implementation Plan. Submitted by the State of Nevada on May 30, 2007, this plan revision consists of a maintenance plan prepared for the purpose of providing for continued attainment of the 8-hour ozone standard in Washoe County through the year 2014 and thereby satisfying the related requirements under section 110(a)(1) of the Clean Air Act and EPA's phase 1 rule implementing the 8-hour ozone national ambient air quality standard. 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 and plan revisions.

DATES: This rule is effective on *March 18, 2008* without further notice, unless EPA receives relevant adverse comment by February 19, 2008. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by EPA-R09-OAR-2007-1079, by one of the following methods:

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

- E-mail: Eleanor Kaplan at kaplan.eleanor@epa.gov. Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- Fax: Eleanor Kaplan, Planning Office (AIR-2), at fax number (415) 947-4147.

- Mail or deliver: Eleanor Kaplan, Air Planning Office, (AIR-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901. Hand or

courier deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

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 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 www.regulations.gov or e-mail. The 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 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.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Planning Office (AIR-2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. 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.

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SUPPLEMENTARY INFORMATION:

Throughout this document, the terms "we," "us," and "our" refer to EPA. This supplementary information is organized as follows:

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I. Summary of Action

On May 30, 2007, the Governor's designee, the Nevada Division of Environmental Protection (NDEP), submitted the *Maintenance Plan for the Washoe County 8-Hour Ozone Attainment Area (April 2007)* ("Washoe County Ozone Maintenance Plan" or "Ozone Maintenance Plan") to EPA for approval as a revision to the Washoe County portion of the Nevada State Implementation Plan (SIP). The Washoe County Ozone Maintenance Plan was developed by the Washoe County District Health Department, Air Quality Management Division (Washoe County AQMD) and adopted by the Washoe County District Board of Health (District Board of Health) on April 26, 2007. Washoe County AQMD prepared the plan to provide for continued attainment of the 8-hour ozone national ambient air quality standard (NAAQS) through 2014 and to thereby satisfy the requirements of section 110(a)(1) of the Clean Air Act (CAA or "Act") and EPA's phase 1 rule implementing the 8-hour ozone NAAQS. The May 30, 2007 SIP revision submittal includes the maintenance plan and related technical appendices, as well as documentation of notice, public hearing, and adoption by the District Board of Health.

For the reasons set forth in this document, and pursuant to section 110(k) of the Act, we are approving the Washoe County Ozone Maintenance Plan as a revision to the Washoe County portion of the Nevada SIP. In so doing, we find that the submitted ozone

maintenance plan meets all of the applicable requirements of CAA section 110(a)(1) and our phase 1 rule implementing the 8-hour ozone NAAQS.

II. Background

A. Ozone Facts, Effects, and Ambient Standard

Ozone is a gas composed of three oxygen atoms. It is not usually emitted directly into the air, but at ground level is created by a chemical reaction between oxides of nitrogen (NO_x) and volatile organic compounds (VOC) in the presence of sunlight. Ozone has the same chemical structure whether it occurs miles above the earth or at ground-level and can be "good" or "bad," depending on its location in the atmosphere.

In the earth's lower atmosphere, ground-level ozone is considered "bad." Motor vehicle exhaust and industrial emissions, gasoline vapors, and chemical solvents as well as natural sources emit NO_x and VOC that help form ozone. Ground-level ozone is the primary constituent of smog. Sunlight and hot weather cause ground level ozone to form in harmful concentrations in the air. As a result it is known as a summertime air pollutant. Many urban areas tend to have high levels of "bad" ozone, but even rural areas are also subject to increased ozone levels because wind carries ozone and pollutants that form it hundreds of miles away from their original source. "Good" ozone occurs naturally in the stratosphere approximately 10 to 30 miles above the earth's surface and forms a layer that protects life on earth from the sun's harmful rays.

Breathing ozone can trigger a variety of health problems including chest pain, coughing, throat irritation, and congestion. It can worsen bronchitis, emphysema, and asthma. Ground-level ozone also can reduce lung function and inflame the linings of the lungs. Repeated exposure may permanently scar lung tissue. People with lung disease, children, older adults, and people who are active can be affected when ozone levels are unhealthy.

The CAA requires EPA to set national ambient air quality standards (NAAQS) to protect public health and public welfare. EPA has established a NAAQS for ozone at 0.08 parts per million (ppm), daily maximum 8-hour average. The 8-hour ozone NAAQS is met at an ambient air quality monitoring site when the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less

than or equal to 0.08 ppm. See 40 CFR 50.10 and appendix I.

B. General Description of Washoe County, Nevada

Washoe County is located in the northwest portion of Nevada and is bounded by California, Oregon, and the counties of Humboldt, Pershing, Storey, Churchill, Lyon and Carson City. Washoe County is a long, narrow strip, between 30 and 50 miles wide, 190 miles long north and south, and encompasses a land area of 6,608 square miles.

Population density in the county is concentrated for the most part in the eight valleys adjacent to the Truckee River, in the southern one-third of the county. The principal city, Reno (the county seat), is situated in the southern part of the county and is the business and transportation center for northern and western Nevada. Washoe County has experienced rapid growth over the past several decades and has seen its population roughly double since 1980 (from approximately 190,000 in 1980 to approximately 360,000 in 2002). The Washoe County AQMD is the designated agency responsible for air quality management throughout the entire county with the exception of certain types of power plants, which are subject, under Nevada law, to the jurisdiction of NDEP.

C. Regulatory Context

Under the Clean Air Act (CAA) as amended in 1970, EPA established national ambient air quality standards (NAAQS) for certain pervasive air pollutants, such as photochemical oxidant, carbon monoxide, and particulate matter. The NAAQS represent concentration levels below which public health and welfare are protected. The 1970 Act also required States to adopt and submit State Implementation Plans (SIPs) to implement, maintain, and enforce the NAAQS. The original Nevada SIP was submitted and approved by EPA in 1972. SIP revisions are required from time-to-time to account for new or amended NAAQS or to meet other changed circumstances.

The CAA was significantly amended in 1977, and under the 1977 Amendments, EPA promulgated attainment status designations for all areas of the country with respect to the NAAQS. The Truckee Meadows portion of Washoe County (hydrographic area #87) was designated as a nonattainment area for the NAAQS for photochemical oxidant. See 43 FR 8962, at 9012 (March 3, 1978). The Clean Air Act provides for periodic review and revision of the

NAAQS by EPA, and in 1979, EPA established a new NAAQS for ozone of 0.12 ppm, one-hour average, to replace the oxidant standard of 0.08 ppm. See 44 FR 8202 (February 8, 1979). Areas designated nonattainment for oxidant were considered to be nonattainment for ozone as well, but States could request redesignation to attainment if monitoring data showed that an area met the ozone NAAQS.

To satisfy the requirements for oxidant/ozone nonattainment areas under the 1977 Amended Act, Washoe County District Board of Health adopted five stationary source rules regulating emissions of volatile organic compounds (VOC): Section 040.070 ("Storage of Petroleum Products"), section 040.075 ("Gasoline Loading into Tank Trucks and Trailers"), section 040.080 ("Gasoline Unloading from Tank Trucks and Trailers into Storage Tanks"), section 040.085 ("Organic Solvents"), and section 040.090 ("Cut-back Asphalt"). On July 24, 1979, the State of Nevada submitted these five rules to EPA as a revision to the Nevada SIP. EPA approved them as such on April 14, 1981 (46 FR 21758). Meanwhile, late in 1980, the State of Nevada requested that EPA redesignate Truckee Meadows as an attainment area for the then-new ozone NAAQS based on available ozone monitoring data, and in the following year, EPA approved the redesignation of Truckee Meadows from nonattainment for oxidant to attainment for the ozone NAAQS. See 46 FR 37896 (July 23, 1981).

Congress significantly amended the Clean Air Act again in 1990, and under the 1990 Act Amendments, because of an ozone episode in 1990, EPA designated all of Washoe County as a "marginal" ozone nonattainment area, effective January 6, 1992. See 56 FR 56694 (November 6, 1991). Under the CAA, as amended in 1990, States with marginal ozone nonattainment areas were required to submit SIP revisions providing for changes to the program for review of new major sources and major modifications ("new source review" or NSR), base year (1990) inventories of ozone precursor emissions and periodic inventory updates, rules requiring owners of larger stationary sources to submit annual emissions statements, and rules establishing procedures for determining conformity of certain types of projects to the SIP. See CAA sections 182(a) and 176(c).

NDEP has submitted various revisions to the Washoe County portion of the Nevada SIP over the past 15 years to meet these requirements. Specifically, NDEP submitted a SIP revision related to the Washoe County NSR program on

April 7, 1994, SIP revisions related to ozone precursor emission inventories on November 13, 1992 (year 1990 inventory), January 19, 1996 (year 1993), April 14, 1999 (year 1996), February 5, 2002 (year 1999), and February 3, 2005 (year 2002), a SIP revision related to emission statements (Washoe County District Board of Health section 030.219) on November 13, 1992, and a SIP revision related to general and transportation conformity on July 31, 1995.¹

Improvements to the State's vehicle inspection and maintenance (I/M) program for the Truckee Meadows planning area to meet EPA's "basic" I/M performance standard, though adopted to meet CAA nonattainment planning requirements for carbon monoxide rather than ozone, also provide VOC emissions reductions.² NDEP submitted the upgraded I/M program on June 3, 1994 and submitted updated I/M-related statutes and rules on May 11, 2007. We expect to take action on the I/M submittals for Truckee Meadows in the near future in the context of taking action on NDEP's request for redesignation of Truckee Meadows to attainment for the carbon monoxide NAAQS.

NDEP, on behalf of Washoe County, submitted a maintenance plan for the 1-hour ozone NAAQS and a redesignation request to EPA on July 31, 1995. The Washoe County 1-hour ozone maintenance plan and redesignation request was revised and re-submitted by NDEP on April 2, 1997 but withdrawn from further consideration at the

county's request on September 12, 1997 in the wake of EPA's revision of the ozone NAAQS during the summer of 1997.

In July 1997, subsequent to a periodic review of the ozone NAAQS, EPA established a new ozone NAAQS (0.08 ppm, eight-hour average) to replace the 1-hour ozone standard. See 62 FR 38856 (July 18, 1997). In 1998, we found that Washoe County was attaining the 1-hour ozone NAAQS based on 1994–1996 monitoring data and listed it as one of the areas in the country where the 1-hour ozone NAAQS no longer applied. See 63 FR 31014, at 31065 (June 5, 1998). In 2000, in response to continuing litigation over the 8-hour ozone NAAQS, we reinstated the 1-hour ozone NAAQS in those areas in which we had found the standard to no longer apply, such as Washoe County. See 65 FR 45182, at 45244 (July 20, 2000). In that 2000 action, we also reinstated Washoe County's classification as a "marginal" nonattainment area for the 1-hour ozone NAAQS, effective January 16, 2001, see 65 FR 45829 (July 25, 2000). In 2005, we made a second finding of attainment for Washoe County with respect to the 1-hour ozone NAAQS. See 70 FR 22803 (May 3, 2005). An attainment finding is but one of the criteria necessary to qualify for redesignation to "attainment."

Meanwhile, in 2004, following years of delay associated with court challenges, EPA promulgated area designations for the new 8-hour ozone NAAQS. See 69 FR 23858 (April 30, 2004). Washoe County was designated as an "unclassifiable/attainment" area, effective June 15, 2004. See 69 FR 23858 at 23919–23920. In another EPA rule published on April 30, 2004 (69 FR 23951), which is referred to as the "Phase 1 8-Hour Ozone Implementation Rule" or "Phase 1 Rule," EPA revoked the one-hour ozone NAAQS effective June 15, 2005 and established certain requirements to prevent backsliding in those areas that were designated as nonattainment for the 1-hour ozone standard (or that were "attainment" but subject to a maintenance plan) at the time of designation for the 8-hour ozone standard. EPA codified these requirements at 40 CFR 51.905.

Because Washoe County's designations as of June 15, 2004 (i.e., the date of designation for the 8-hour NAAQS) were "nonattainment" for the 1-hour ozone NAAQS and "unclassifiable/attainment" for 8-hour ozone NAAQS, a maintenance plan was required for the area under CAA section 110(a)(1) and the Phase 1 Rule. See 40 CFR 51.905(a)(3). States were required to submit CAA section 110(a)(1) ozone

maintenance plans by June 15, 2007. WCAQMD prepared the *Maintenance Plan for the Washoe County 8-Hour Ozone Attainment Area (April 2007)* to meet the requirements of section 110(a)(1) and EPA's Phase 1 Rule. In today's action, we are approving the Washoe County Ozone Maintenance Plan as a revision to the Washoe County portion of the Nevada SIP.

D. Ambient Ozone Conditions

Generally, we will determine whether an area's air quality is meeting the NAAQS based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring sites (NAMS) and entered into the Air Quality System (AQS) database. Data entered into AQS has been determined to meet Federal monitoring requirements (see 40 CFR 50.6; 40 CFR part 50, appendix J; 40 CFR part 53; 40 CFR part 58, appendices A and B) and may be used to determine the attainment status of areas. Also, we also take into account data from other air monitoring stations, such as Special Purpose Monitors (SPMs), if the data is collected using a Federal reference method or Federal equivalent method, unless the air monitoring agency demonstrates that the data came from a particular period during which EPA requirements concerning quality assurance, methods, or siting criteria were not met in practice. See 71 FR 61236, at 61302 (October 17, 2006) and 40 CFR 58.20. All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, appendix I.

Washoe County AQMD measures ambient ozone concentration at six monitoring sites located in southern Washoe County, including Lemmon Valley, downtown Reno, Sparks, south Reno, Toll Road (Geiger Grade), and Incline Village. All of Washoe County AQMD's ozone monitoring sites are NAMS or SLAMS except for Incline Village, which is a SPM for ozone.

The current ozone NAAQS is met at an ambient air quality monitoring site when the three-year average of the annual fourth-highest daily maximum 8-hour ozone concentration (also referred to as the "design value") is less than or equal to 0.08 ppm, and the standard is met within an air quality planning area when the standard is met at all of the monitoring stations. A review of the data gathered at the various ozone monitoring sites in Washoe County and entered into AQS confirms that Washoe County is in attainment of the 8-hour ozone NAAQS. Since 1999, the highest design value at any of the ozone monitoring sites is 0.075 ppm, a value

¹ The submittal of the attainment inventory (year 2002) in the Washoe County Ozone Maintenance Plan supersedes all of the previously-submitted ozone precursor inventories with the exception of the February 3, 2005 inventory submittal, which provides technical support and documentation for all of the source categories listed in the Ozone Maintenance Plan for year 2002 with the exception of nonroad and on-road vehicles. The NSR and conformity submittals are no longer necessary for ozone purposes, but remain relevant for the purposes of the carbon monoxide and particulate matter (PM₁₀) NAAQS in the Truckee Meadows area of Washoe County. The State may withdraw the District's emission statements rule because it is no longer an "applicable requirement" for the Washoe County portion of the Nevada SIP given the county's designation as "unclassifiable/attainment" for the 8-hour ozone NAAQS and the revocation of the 1-hour ozone NAAQS. See 40 CFR 51.900(f).

² "Marginal" ozone nonattainment areas that had, or were required to have, I/M programs in their ozone SIPs prior to the passage of the 1990 CAAA were required to maintain and upgrade their programs under CAA section 182(a). Nevada implemented an I/M program in Truckee Meadows prior to the 1990 CAAA, but the EPA-approved version of the program at that time did not include emissions testing of hydrocarbons (i.e., the corresponding cutpoints in the approved program had been deleted). As such, the pre-1990 I/M program in Truckee Meadows is not considered a part of the ozone SIP for that area.

calculated for the Sparks monitor over the 2001–2003 period. For the purposes of comparison, due to rounding conventions, no design values less than 0.085 ppm violate the ozone NAAQS. More recently, the highest design value for both 2003–2005 and 2004–2006 periods is 0.071 ppm, the value calculated for the downtown Reno, south Reno, and Sparks monitoring sites.

III. Evaluation of State’s Submittal

As noted above, EPA promulgated the 8-hour ozone NAAQS in 1997 and designated and classified areas for this standard in 2004. In 2004, we also published the Phase 1 Ozone Implementation Rule. Code of Federal Regulations, title 40, part 51, § 51.905(a)(3) and (4), established in that rulemaking, set forth requirements for anti-backsliding purposes for areas designated unclassifiable/attainment for the 8-hour standard. These provisions required States with such areas to submit 10-year maintenance plans under section 110(a)(1) of the CAA if these areas were also nonattainment areas (or were attainment areas subject to a CAA section 175A maintenance plan) under the 1-hour ozone standard.³ Such plans are to be submitted as revisions to SIPs. Washoe County AQMD prepared the Washoe County Ozone Maintenance Plan in response to these requirements.

A. CAA Procedural Requirements

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.

On March 23, April 5, and April 20, 2007, the District Board of Health published a notice in the *Reno Gazette-Journal*, a newspaper of general circulation in the Reno area, of a public hearing to consider the Washoe County Ozone Maintenance Plan. A public hearing was held on April 26, 2007 at District Health Department offices in Reno. On April 26, 2007, the District Board of Health adopted the maintenance plan and forwarded the plan to NDEP. On May 30, 2007, in accordance with Nevada law, the Administrator of NDEP submitted the Ozone Maintenance Plan to EPA. NDEP’s May 30, 2007 SIP submittal package includes evidence of public notice, public hearing, and District Board of Health adoption as described above. No public comments were received on the draft maintenance plan. Based on review of these materials, we find that NDEP and the District Board of Health have met the procedural requirements of CAA section 110 and 40 CFR part 51, subpart F.

B. Evaluation of Ozone Maintenance Plan

The 8-hour ozone 110(a)(1) maintenance plan must provide for continued maintenance of the 8-hour ozone NAAQS in the area for 10 years from the effective date of the area’s designation as unclassifiable/attainment for the 8-hour ozone NAAQS. At a minimum, the maintenance plan for such areas must include the five following components: Attainment inventory, maintenance demonstration, ambient air quality monitoring, verification of continued attainment, and contingency plan. As explained below, we find that the Washoe County

Ozone Maintenance Plan includes all five components, that each component is acceptable, and that the overall plan provides for continued maintenance of the 8-hour ozone NAAQS in Washoe County through 2014 (i.e., 10 years beyond 2004, the year of the county’s designation for the 8-hour ozone NAAQS).

1. Attainment Inventory

The attainment inventory should be based on actual “typical summer day” emissions of VOC and NO_x. EPA’s Phase 1 8-Hour Ozone Implementation Rule provides that the 10-year maintenance period begins as of the effective date of designation for the 8-hour ozone standard for the area. For purposes of an attainment emissions inventory, the State may use one of any of the three years on which the 8-hour attainment designation was based (i.e., 2001, 2002, and 2003). The inventory should be consistent with EPA’s most recent emissions inventory methods, models, and factors and should be based on the latest planning assumptions regarding population, employment, and motor vehicle activity.

For the Washoe County Ozone Maintenance Plan, Washoe County AQMD prepared an attainment inventory of “typical summer day” VOC and NO_x emissions for year 2002. Washoe County AQMD’s attainment inventory is comprehensive and includes essentially all point, area, mobile and biogenic sources within the county. Table 1 below summarizes the plan’s attainment inventory, as well as the plan’s inventories for projected VOC and NO_x emissions for years 2010 and 2014.

TABLE 1.—WASHOE COUNTY OZONE PRECURSORS EMISSION INVENTORY, 2002, 2010 AND 2014
[Pounds per typical summer day]

Source category	Pollutant	Emissions (lb per summer day)		
		2002	2010	2014
VOC EMISSIONS:				
Point Sources	VOC	2,971	3,419	3,658
Area Sources	VOC	16,912	19,259	20,451
Biogenic Sources	VOC	104,618	104,618	104,618
Nonroad Mobile	VOC	30,299	22,032	20,890
On-road Mobile	VOC	31,244	29,645	15,471
Buffer Zone Sources	VOC	1,480	1,703	1,822
Total—VOC	VOC	187,524	180,676	166,910
Change Relative to 2002	VOC	0	–6,848	–20,614
NO_x EMISSIONS:				
Point Sources	NO _x	231	266	284

³ We provided guidance to States regarding section 110(a)(1) ozone maintenance plans in a memorandum from Lydia N. Wegman, Director, Air Quality Strategies and Standards Division, EPA Office of Air Quality Planning and Standards,

entitled, “Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of the Clean Air Act,” dated May 20, 2005. For the contingency plan element of section 110(a)(1) maintenance plans, our May 20, 2005

guidance cites an EPA policy memorandum from John Calcagni, entitled, “Procedures for Processing Requests to Redesignate Areas to Attainment,” dated September 4, 1992.

TABLE 1.—WASHOE COUNTY OZONE PRECURSORS EMISSION INVENTORY, 2002, 2010 AND 2014—Continued
[Pounds per typical summer day]

Source category	Pollutant	Emissions (lb per summer day)		
		2002	2010	2014
Area Sources	NO _x	3,576	4,109	4,393
Biogenic Sources	NO _x	25,480	25,480	25,480
Nonroad Mobile	NO _x	27,404	24,847	22,312
On-road Mobile	NO _x	54,869	57,258	24,838
Buffer Zone Sources	NO _x	24,153	27,794	29,738
Total—NO _x	NO _x	135,713	139,754	107,045
Change Relative to 2002	NO _x	0	4,041	−28,668

Note.—“Buffer zone” refers to major sources within 25 miles of Washoe County.
Source: Washoe County Ozone Maintenance Plan (April 2007), tables 2, 3 and 4; EPA.

On February 3, 2005, NDEP submitted Washoe County AQMD's emissions inventories of VOC and NO_x for year 2002 as the latest in a series of periodic inventory updates that the county has prepared since 1990 to meet 1-hour ozone planning requirements. To develop the attainment inventory for the Washoe County Ozone Maintenance Plan, Washoe County AQMD relied upon the previously-submitted inventory information for year 2002 for point and area sources but updated certain source categories, such as nonroad equipment and on-road motor vehicles, for which new EPA emissions estimation models had become available.

As a general matter, for the point source portion of the attainment inventory, Washoe County AQMD used data collected from permitted sources during the annual permit renewal process or from emission statements. For area sources, Washoe County AQMD used EPA emission factor and methods or material balance calculations, except for structural and automobile fires for which Washoe County AQMD used emissions factors and methods developed by the California Air Resources Board. Aircraft and railroad emissions were estimated using EPA emissions factors and methods and local activity data provided by Washoe County Airport Authority and Union Pacific Railroad, respectively. Biogenic source emissions were determined using EPA's Biogenic Emissions Inventory System, version 2.3 (BEIS2.3). Documentation for the emissions developed for these various source categories is provided in Washoe County AQMD's *Washoe County, Nevada Ozone Non-Attainment Area, 2002 Periodic Emissions Inventory of Ozone Precursors (May 2004)*, and related appendices A, B, and C, submitted by NDEP on February 3, 2005.

As noted above, for nonroad vehicles and on-road motor vehicles, Washoe County AQMD re-calculated the emissions that had previously been calculated for 2002 to reflect updated EPA factors and models. For nonroad vehicles, Washoe County AQMD re-calculated emissions for 2002 using the EPA model NONROAD2005, and for on-road motor vehicles, Washoe County AQMD re-calculated emissions using the EPA model MOBILE6.2.03. The on-road vehicle category incorporated the most recent planning assumptions for the transportation network including vehicle miles traveled and vehicle speeds. These planning assumptions were consistent with those used by the metropolitan planning organization (MPO), which, in Washoe County, is the Regional Transportation Commission. Documentation for the emissions estimates for nonroad and on-road vehicles is provided in appendices A, B, and C of the Washoe County Ozone Maintenance Plan.

As shown in table 1, above, biogenic sources represent the largest source of VOC emissions during a typical summer day in Washoe County at approximately 56 percent of the inventory. Among the anthropogenic source categories, on-road and nonroad mobile sources contribute the most to the overall VOC inventory at 17 and 16 percent, respectively. With respect to NO_x emissions, the largest contributing sources are on-road and nonroad mobile sources at 40 percent and 20 percent, respectively.

Based on our review of the documentation submitted with the 2002 periodic inventory and the Washoe County Ozone Maintenance Plan, we conclude that the attainment inventory has been developed for the appropriate season of an acceptable attainment year, is comprehensive and based on appropriate factors and methods, and thus is acceptable for the purposes of a

section 110(a)(1) ozone maintenance plan.

2. Maintenance Demonstration

The key element of a section 110(a)(1) ozone maintenance plan is a demonstration of how the area will remain in compliance with the 8-hour ozone standard for the 10-year period following the effective date of designation as unclassifiable/attainment. The end projection year is 10 years from the effective date of the attainment designation, which for Washoe County was June 15, 2004. Therefore, this plan must demonstrate attainment through 2014.

The typical method that areas have used in the past to demonstrate that an area will maintain the 1-hour ozone standard has been to identify the level of ozone precursor emissions in the area which is sufficient to attain the NAAQS and to show that future emissions of ozone precursors will not exceed the attainment levels. To perform this analysis, for the 8-hour maintenance plan, the State needs to develop emission inventories for the attainment year and for the projection year. Also, because the plan must demonstrate maintenance throughout the applicable 10-year period, not just in the projection year, the State should develop an emission inventory for an interim year between the attainment inventory year and the projection inventory year to show a trend analysis for maintenance of the standard.

For its maintenance demonstration, the Washoe County Ozone Maintenance Plan includes emissions inventories of ozone precursors in an interim year (2010) and the projection year (2014). To develop the emissions projections for these two future years, Washoe County AQMD used several different methods to project data from year 2002 to the years 2010 and 2014. For most point and area sources, Washoe County AQMD used Washoe County's 2010 and

2014 population and employment forecasts adopted by the Truckee Meadows Regional Planning Commission (which are consistent with those used by the local MPO) to project emissions into the future. Population forecasts were also used to project buffer zone source emissions and locomotive emissions. Emissions from fires and biogenic sources were assumed to remain constant over the 2002–2014 period. For nonroad vehicles and on-road vehicles, Washoe County AQMD used EPA models, NONROAD2005 and MOBILE6.2.03, respectively to project emissions for 2010 and 2014 using the latest vehicle activity projections used by the local MPO. Aircraft emissions projections were based on aviation activity forecasts provided by the local airport authority. We find that the methods and assumptions used by Washoe County AQMD to project emissions to 2010 and 2104 are acceptable.

Table 1, above, summarizes the emissions projections for 2010 and 2014 developed by Washoe County AQMD for the Washoe County Ozone Maintenance Plan and compares those estimates with the corresponding estimates for the attainment year (2002). Washoe County AQMD concludes in the Ozone Maintenance Plan, based on the comparison of emissions in 2014 with those in 2002, that the 8-hour ozone NAAQS will be maintained through the 10-year maintenance period. We agree with Washoe County AQMD's conclusion for the reasons given below.

As shown in table 1 above, decreases in VOC emissions from nonroad and on-road vehicle categories (relative to 2002) are expected to more-than-offset increases in the other source categories. With respect to NO_x, overall emissions are expected to increase through 2010 but then to decrease over the next four years as the benefits from new EPA emissions and fuels standards for diesel vehicles begin to take effect. We note, however, that the NO_x emissions increase in 2010 is less in absolute terms than the VOC emissions decrease in that same year. Thus, based on the inventory projections in the Washoe County Ozone Maintenance Plan, we believe that maximum daily 8-hour ozone concentrations in Washoe County through 2010 will most likely remain similar to those monitored in the 2001–2003 period (during which the area was in attainment of the standard) and then drop slightly afterwards in rough proportion to the decrease in ozone precursor emissions predicted from 2010 through 2014. As such, we find that the Washoe County Ozone Maintenance Plan demonstrates

continued attainment of the 8-hour ozone standard through 2014.

3. Ambient Air Quality Monitoring

The State should continue to operate air quality monitors in accordance with 40 CFR part 58 to verify maintenance of the 8-hour ozone standard in the area. In 2006, Washoe County AQMD operated six ozone monitoring stations in southern Washoe County. In the maintenance plan, Washoe County AQMD commits to the continued operation of an appropriate ozone monitoring network in accordance with 40 CFR part 58 to verify the attainment status of the area. See page 9 of the Ozone Maintenance Plan. This is acceptable.

4. Verification of Continued Attainment

A section 110(a)(1) ozone maintenance plan should indicate how the State will track the progress of the maintenance plan. This is necessary due to the fact that emissions projections made for the maintenance demonstration depend on assumptions of point, area and mobile source activity and turn-over rates. One option for tracking the progress of the maintenance demonstration would be for the State to periodically update the emissions inventory.

To track the progress of the Washoe County Ozone Maintenance Plan, Washoe County AQMD has committed to prepare, and submit to EPA, comprehensive periodic ozone emissions inventories on a triennial basis through at least 2014. The plan's stated purpose for the triennial inventory updates is to screen for significant increases in actual ozone precursor emissions. See page 10 of the Ozone Maintenance Plan. This is acceptable.

5. Contingency Plan

EPA's Phase 1 8-Hour Ozone Implementation Rule requires section 110(a)(1) maintenance plans to include contingency provisions to promptly correct any violation of the ozone NAAQS that occurs. Generally, contingency plans should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific timeline for action by the State. Also, the State should identify specific indicators or triggers, which will be used to determine when the contingency measures need to be implemented.

The Washoe County Ozone Maintenance Plan includes a contingency plan that establishes a triggering mechanism, and identifies

specific measures to be adopted, a schedule and procedure for adoption and implementation, and a specific timeline for action by the District Board of Health. The triggering mechanism is a confirmed violation of the 8-hour ozone NAAQS at one of the air monitoring stations operated by Washoe County AQMD.

The Washoe County Ozone Maintenance Plan identifies a list of potential contingency measures that are to be considered by the District Board of Health for implementation in the event that the triggering event occurs. The identified measures focus on the two of the largest anthropogenic source categories of ozone precursor emissions in Washoe County: On-road motor vehicles and nonroad gasoline-powered vehicles. With respect to on-road motor vehicles, the potential contingency measures include: (1) Increase the I/M waiver repair rate, (2) establish/enhance trip reduction programs, and (3) establish an early vehicle retirement program. With respect to nonroad gasoline engines, the potential contingency measures include: (1) Portable gas container emission controls, (2) construction fleet modernization, and (3) establish a fund program to electrify existing gasoline lawn and garden equipment. See page 12 of the Ozone Maintenance Plan. The Ozone Maintenance Plan indicates that the list of potential measures will be reviewed and updated at least once every three years in coordination with the periodic ozone emissions inventory update process.

With regard to adoption and implementation of measures, the contingency plan includes a commitment by Washoe County AQMD to make recommendations to the Washoe County District Board of Health at their next regularly scheduled meeting, but no later than 45 days after the trigger has been reached. The contingency plan then indicates that the District Board of Health's contingency measure adoption and implementation schedule shall be as expeditious as practicable, but not longer than 24 months.

Given that the contingency plan included in the Washoe County Ozone Maintenance Plan establishes a triggering mechanism, and identifies specific measures to be adopted, a schedule and procedure for adoption and implementation, and a specific timeline for action, we find that the Washoe County Ozone Maintenance Plan includes contingency provisions to promptly correct any violation of the 8-hour ozone NAAQS that occurs in Washoe County and thus is acceptable.

6. Conclusion

Based on the review presented above of the various elements of the submitted plan, we are approving the Washoe County Ozone Maintenance Plan as a revision to the Washoe County portion of the Nevada SIP. In so doing, we find that the Washoe County Ozone Maintenance Plan, adopted on April 26, 2007 by the Washoe County District Board of Health and submitted to EPA by NDEP on May 30, 2007, satisfies the requirements of CAA section 110(a)(1) and EPA's phase 1 rule implementing the 8-hour ozone standard.

IV. Final Action and Request for Comment

Under section 110(k) of the Clean Air Act, EPA is approving a revision to the Washoe County portion of the Nevada SIP that was submitted to EPA on May 30, 2007 and that consists of the *Maintenance Plan for the Washoe County 8-Hour Ozone Attainment Area (April 2007)* ("Washoe County Ozone Maintenance Plan"). As described in more detail above, we are approving the Washoe County Ozone Maintenance Plan because we find that it provides for continued attainment of the 8-hour ozone standard in Washoe County through the year 2014 and thereby satisfies the related requirements under section 110(a)(1) of the Clean Air Act and EPA's phase 1 rule implementing the 8-hour ozone NAAQS. Our approval of the Washoe County Ozone Maintenance Plan as a revision to the Nevada SIP makes the commitments included therein, such as those related to ambient air quality monitoring, verification of continued attainment, and the contingency plan, federally enforceable.

EPA is publishing this rule without prior proposal because we view this as a non-controversial action and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on *March 18, 2008* without further notice unless we receive adverse comment by *February 19, 2008*. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we

receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. 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 a state plan 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 plan implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 CAA. 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. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *March 18, 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 29, 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)(65) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(65) The following plan was submitted on May 30, 2007 by the Governor's designee.

(i) Incorporation by reference.

(A) Washoe County District Health Department, Air Quality Management Division.

(1) Maintenance Plan for the Washoe County 8-Hour Ozone Attainment Area (April 2007), Washoe County District Health Department, excluding appendices.

* * * * *

[FR Doc. E8-743 Filed 1-17-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R09-OAR-2006-0214; FRL-8514-7]

Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Arizona; San Manuel Sulfur Dioxide State Implementation Plan and Request for Redesignation to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action under the Clean Air Act to approve the *Final State Implementation Plan Revision, San Manuel Sulfur Dioxide Nonattainment Area, March 2007* as a revision to the Arizona state implementation plan. The Arizona Department of Environmental Quality developed this plan to maintain the sulfur dioxide national ambient air quality standards in the San Manuel, Arizona area and to request

redesignation of the area to attainment. The maintenance plan contains various elements, including contingency provisions that will be implemented if measured ambient concentrations of sulfur dioxide are above certain trigger levels. EPA is also approving the State of Arizona's request for redesignation of the San Manuel area from nonattainment to attainment for the sulfur dioxide standards.

EPA is taking these actions consistent with provisions in the Clean Air Act that obligate the Agency to approve or disapprove submittals of revisions to state implementation plans and requests for redesignation. The intended effect is to redesignate the San Manuel, Arizona sulfur dioxide nonattainment area to attainment, and to provide for maintenance of the standard for the ten-year period following redesignation.

DATES: This rule is effective on March 18, 2008 without further notice, unless EPA receives adverse comments by February 19, 2008. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2006-0214, by one of the following methods:

1. *Federal eRulemaking Portal:*

www.regulations.gov. Follow the on-line instructions.

2. *E-mail:* robin.marty@epa.gov.

3. *Mail or deliver:* Marty Robin (Air-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, 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 the 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: Marty Robin, Air Planning Office, (415) 972-3961 or by e-mail at robin.marty@epa.gov.

SUPPLEMENTARY INFORMATION: Elsewhere in this **Federal Register**, we are proposing approval and soliciting written comment on this action.

Throughout this document, the words "we," "us," or "our" mean U.S. EPA.

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I. Summary of Today's Direct Final Action

On June 7, 2007, the Arizona Department of Environmental Quality ("ADEQ" or "State") submitted to EPA Region IX its *Final Arizona State Implementation Plan Revision, San*