

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

#### Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded 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 proposed rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A preliminary “Environmental Analysis Check List” is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision whether this rule should be categorically excluded from further environmental review.

#### List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 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(g), 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.T05–015, to read as follows:

#### § 165.T05–015 Security Zone: Jamestown Island, VA.

(a) *Location:* The following area is a security zone: All waters within a 2-nautical-mile radius of Church Point at 37–12.45N, 076–46.66W on Jamestown Island, VA.

(b) *Definition:* As used in this section; Designated Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulation.* (1) In accordance with the general regulations in § 165.33 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads, Virginia, or his designated representative.

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

(i) Stop the vessel immediately upon being directed to do so by the Captain of the Port, Hampton Roads, Virginia, or his designated representative on board a vessel displaying a U.S. Coast Guard Ensign.

(ii) Proceed as directed by the Captain of the Port, Hampton Roads, Virginia, or his designated representative on board a vessel displaying a U.S. Coast Guard Ensign.

(3) The Captain of the Port, Hampton Roads, Virginia can be contacted at telephone number (757) 668–5555.

(4) U.S. Coast Guard vessels enforcing the security zone can be contacted on VHF–FM marine band radio, channel 13 (156.65 MHz) and channel 16 (156.8 MHz).

(d) *Enforcement period:* The security zone will be enforced from 3 p.m. until 10 p.m. on May 11, 2007; from 9 a.m. to 11 p.m. on May 12, 2007; and from 9 a.m. to 10 p.m. on May 13, 2007.

(e) *Effective Date:* This regulation is effective from 3 p.m. on May 11, 2007, to 10 p.m. on May 13, 2007.

Dated: February 27, 2007.

**Patrick B. Trapp,**

*Captain, U.S. Coast Guard, Captain of the Port, Hampton Roads.*

[FR Doc. E7–4303 Filed 3–9–07; 8:45 am]

BILLING CODE 4910–15–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R09–OAR–2006–0635; FRL–8286–6]

#### Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Visible Emissions and Particulate Matter Rules

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Nevada Department of Conservation and Natural Resources portion of the Nevada State Implementation Plan. These revisions concern visible emissions and particulate matter regulations. EPA is proposing this action under the Clean Air Act obligation to take action on State submittals of revisions to state implementation plans. The intended effect is to approve updated visible emissions and particulate matter rules in the Nevada State Implementation Plan because doing so will not interfere with attainment or maintenance of the national ambient air quality standards or any other requirement of the Clean Air Act. EPA is taking comments on this proposal and plans to follow with a final action.

**DATES:** Any comments must arrive by April 11, 2007.

**ADDRESSES:** Submit comments, identified by docket number EPA–R09–OAR–2006–0635, by one of the following methods:

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

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy

location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Julie A. Rose, EPA Region IX, (415) 947-4126.

#### SUPPLEMENTARY INFORMATION:

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

#### Table of Contents

- I. The State’s Submittal
  - A. What regulations did the State submit?
  - B. What is the regulatory history of the Nevada SIP?
  - C. What is the purpose of this proposed rule?
- II. EPA’s Evaluation and Action
  - A. How is EPA evaluating the regulations?
  - B. Do the regulations meet the evaluation criteria?
  - C. EPA recommendations to further improve the regulations
  - D. Proposed action and public comment
- III. Statutory and Executive Order Reviews

#### I. The State’s Submittal

##### A. What regulations did the State submit?

The State of Nevada’s Department of Conservation and Natural Resources,

Division of Environmental Protection (NDEP) submitted a large revision to the applicable Nevada State Implementation Plan (SIP) on January 12, 2006. The January 12, 2006 SIP revision submittal includes new and amended statutes and rules as well as requests for rescission of certain rules in the existing SIP. The January 12, 2006 SIP revision submittal supersedes the regulatory portion of an earlier submittal dated February 16, 2005.<sup>1</sup> On March 26, 2006, we found that the Nevada SIP submittal dated January 12, 2006 satisfied the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

The primary purpose of this SIP revision is to clarify and harmonize the provisions approved by EPA into the applicable SIP with the current provisions adopted by the State. Because this revision incorporates so many changes from the 1970s and 1980s vintage SIP regulations, EPA has decided to review and act on the submittal in a series of separate actions. The first such action, related to various definitions, sulfur emission rules, and restrictions on open burning and use of incinerators, was proposed in the **Federal Register** on September 13, 2005 (70 FR 53975) and finalized on March 27, 2006 (71 FR 15040). The second

such action, related to statutory authority, was proposed in the **Federal Register** on June 9, 2006 (71 FR 33413) and finalized on August 31, 2006 (71 FR 51766). A third action, related to most of the State’s requests for rescission, and fourth action, related to monitoring and VOC rules, were proposed on August 28, 2006 (71 FR 50875) and August 31, 2006 (71 FR 51793), respectively, and finalized on January 3, 2007 (72 FR 11) and December 11, 2006 (71 FR 71486), respectively.

In today’s notice, we are taking another step in the process of acting on the State’s January 12, 2006 SIP revision submittal by proposing action on the State’s request for approval of six amended rules related to visible emissions and particulate matter and for rescission of two related rules. The remaining portions of the submittal will be acted on in future **Federal Register** actions.

The following two tables list the provisions of the Nevada Air Quality Regulations (NAQR) or Nevada Administrative Code (NAC) addressed by this proposal. Table 1 list the amended rules submitted by NDEP for approval into the SIP and addressed herein. If approved, the submitted rules in table 1 would replace existing rules in the applicable SIP.

TABLE 1.—AMENDED RULES SUBMITTED FOR APPROVAL INTO THE SIP

| NAC No.          | NAC Title                                                                                           | Adopted  | Submitted |
|------------------|-----------------------------------------------------------------------------------------------------|----------|-----------|
| 445B.22017 ..... | Visible emissions: Maximum opacity; determination. (Effective April 1, 2006.) .....                 | 10/04/05 | 01/12/06  |
| 445B.2202 .....  | Visible emissions: Exceptions for stationary sources. (Effective April 1, 2006.) .....              | 10/04/05 | 01/12/06  |
| 445B.22027 ..... | Emissions of particulate matter: Maximum allowable throughput for calculating emissions rates ..... | 01/22/98 | 01/12/06  |
| 445B.2203 .....  | Emissions of particulate matter: Fuel-burning equipment .....                                       | 09/09/99 | 01/12/06  |
| 445B.22033 ..... | Emissions of particulate matter: Sources not otherwise limited .....                                | 01/22/98 | 01/12/06  |
| 445B.22037 ..... | Emissions of particulate matter: Fugitive dust. ....                                                | 10/03/95 | 01/12/06  |

Table 2 lists two related rules in the existing SIP for which NDEP has

requested rescission. If we approve the rescission requests, the two rules listed

in table 2 would be deleted from the applicable SIP.

TABLE 2.—RELATED SIP RULES FOR WHICH THE STATE HAS REQUESTED RESCISSION

| SIP provision               | Title                    | Submittal date | Approval date |
|-----------------------------|--------------------------|----------------|---------------|
| NAQR Article 16.3.3.1 ..... | Opacity from kilns ..... | 12/29/78       | 06/18/82      |
| NAC 445.535 .....           | Kilogram-calorie .....   | 10/26/82       | 03/27/84      |

<sup>1</sup> The February 16, 2005 SIP submittal also includes documentation of public notice and hearing for certain new or amended rules for which EPA is proposing approval. The January 12, 2006 SIP submittal was not a complete re-submittal of the earlier submittal in that it did not include this documentation. Our consideration of the rules submitted on January 12, 2006 and evaluated herein takes into account the public participation

documentation contained in the earlier submittal. Public participation documentation for the rescission of NAC 445.535, also evaluated herein, was also included in the February 16, 2005 SIP submittal and is taken into account in this proposed action. NAC 445.535 (which had been recodified as NAC 445B.089) was repealed for the purposes of State law by the Nevada State Environmental Commission effective March 5, 1998. NDEP has also

provided documentation of public process for rescission of NAQR article 16.3.3.1 (re-codified as NAC 445.828), which was repealed by the commission for purposes of State law effective October 15, 1985. CAA section 110(l) requires reasonable notice and public hearing prior to adoption of SIP revisions by States for subsequent submittal to EPA for approval or disapproval under CAA section 110(k)(3).

### *B. What is the regulatory history of the Nevada SIP?*

In January 1972, pursuant to the Clean Air Amendments of 1970, the Governor of Nevada submitted the original Nevada SIP to EPA. EPA approved certain portions of the original SIP and disapproved other portions under section 110(a) of the Clean Air Act (Act or CAA). See 37 FR 10842 (May 31, 1972). For some of the disapproved portions of the original SIP, EPA promulgated substitute provisions under CAA section 110(c).<sup>2</sup> This original SIP included various rules, codified as articles within the Nevada Air Quality Regulations (NAQR), and various statutory provisions codified in chapter 445 of the Nevada Revised Statutes (NRS). In the early 1980's, Nevada reorganized and re-codified its air quality rules into sections within chapter 445 of the Nevada Administrative Code (NAC). Today, Nevada codifies its air quality regulations in chapter 445B of the NAC and codifies air quality statutes in chapter 445B ("Air Pollution") of title 40 ("Public Health and Safety") of the NRS.

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

### *C. What is the purpose of this proposed rule?*

The purpose of this proposal is to present EPA's conclusions and rationale with respect to the State's January 12, 2006 submittal of amended visible emissions and particulate matter rules and requests for rescission of two related rules from the applicable SIP.

<sup>2</sup> Provisions that EPA promulgates under CAA section 110(c) in substitution of disapproved State provisions are referred to as Federal Implementation Plans.

The technical support document (TSD) that we prepared for this proposed rulemaking provides additional detail concerning these amended rules and rescission requests and our evaluation of them.

## **II. EPA's Evaluation and Action**

### *A. How is EPA evaluating the regulations?*

Under CAA section 110(k)(2), EPA is obligated to take action on submittals by States of SIPs and SIP revisions. CAA section 110(k)(3) authorizes EPA to approve or disapprove, in whole or in severable part, such submittals.

EPA has reviewed the visible emissions and particulate matter rules and related rescission requests submitted on January 12, 2006 by NDEP for compliance with the CAA requirements for SIPs in general set forth in CAA section 110(a)(2) and 40 CFR part 51 and also for compliance with CAA requirements for SIP revisions in CAA sections 110(l) and 193.<sup>3</sup> Relevant EPA guidance and policy documents that we used to help evaluate enforceability include "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency," dated September 23, 1987, from J. Craig Potter, Assistant Administrator for Air and Radiation, *et al.* As described below, EPA is proposing approval of the submitted visible emissions and particulate matter rules and related rescission requests.

### *B. Do the regulations meet the evaluation criteria?*

We believe that all six of the submitted rules evaluated herein (see table 1, above) are consistent with the relevant statutory and regulatory provisions, as well as policy and guidance regarding enforceability and SIP relaxations and that proposed approval of the six submitted rules provides the basis to approve the rescission requests for the two related rules in the applicable SIP (see table 2, above). A short discussion of our rationale is provided in the following paragraphs.

1. *NAC 445B.22017 (Visible emissions: Maximum opacity; determination)*, *NAC 445B.2202 (Visible*

<sup>3</sup> CAA section 110(l) prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. CAA section 193 prohibits modifications in control requirements that were in effect before the Clean Air Act Amendments of 1990 in any nonattainment area unless the modification insures equivalent or greater emission reductions of the nonattainment pollutant.

*emissions: Exceptions for stationary sources*), *NAC 445B.22027 (Emissions of particulate matter: Maximum allowable throughput for calculating emissions rates)*, and *NAC 445B.22037 (Emissions of particulate matter: Fugitive dust)*. Generally, these submitted rules retain or enhance the requirements set forth in the corresponding rules in the current applicable SIP. Compared to the current applicable SIP rules, the amended rules include a different, but acceptable, formulation defining the basic 20% opacity standard and a lower (*i.e.*, more stringent) project-size exemption threshold (from 20 acres to 5 acres) for the requirement to implement a dust control program and obtain a surface area disturbance permit from NDEP.

The January 12, 2006 SIP submittal contained multiple versions of the two visible emissions rules, *NAC 445B.22017* and *445B.2202*, reflecting the contingent effective dates adopted by the State Environmental Commission for amendments to these rules. The amendments adopted by the commission (but made effective at an indefinite future date) removed an exemption to the application of the opacity limit that we otherwise would have found unapprovable. In adopting the amendments to the rules (and associated contingent effective dates), the State Environmental Commission committed to publishing a notice when the amendments (removing the unapprovable exemption) become effective. On April 1, 2006, the State Environmental Commission issued such a notice and thus the unobjectionable (and approvable) versions of the two visible emissions rules are now in effect and form the basis for our proposed action on these rules herein.

2. *NAQR Article 16.3.3.1 (Opacity from kilns)*. Based on our findings above concerning the two visible emissions rules, *i.e.*, *NAC 445B.22017* and *NAC 445B.2202*, we find retention of *NAQR Article 16.3.3.1 (Opacity from kilns)* in the SIP to be unnecessary and thus we propose to approve NDEP's request for rescission of that rule.

3. *NAC 445B.2203 (Emissions of particulate matter: Fuel-burning equipment)* and *NAC 445B.22033 (Emissions of particulate matter: Sources not otherwise limited)*. These submitted rules contain the same basic emissions limits and exemptions as the corresponding current applicable SIP rules, but the limits in the submitted rules apply to "PM<sub>10</sub>" as opposed to "particulate matter." "PM<sub>10</sub>" refers to particles with diameters equal to or less than a nominal 10 microns and is the basis for a NAAQS, while "particulate matter" (PM) refers more inclusively to

any material (except uncombined water) that exists in a finely divided form as a liquid or solid at reference conditions. Thus, except for sources whose "PM" consists only of particles of a size that are "PM<sub>10</sub>", simple replacement of "PM" with "PM<sub>10</sub>" without any downward adjustment in the formula that establishes the allowable emission limit represents a relaxation in the limit with respect to PM<sub>10</sub> emissions.

Given the hypothetical nature of this relaxation, we reviewed in detail the permit conditions for four major sources to determine whether the change from PM to PM<sub>10</sub> in the allowable limit would in effect result in an increase in PM<sub>10</sub> emissions. Based on this review and for a variety of reasons, we have determined that no such increase would occur. For certain emission units at these sources, the PM emissions subject to NAC 445B.731 and/or 445B.732 are comprised entirely of particles that are also PM<sub>10</sub>. For certain other emissions units, the potentials to emit are less than the allowable limits under either the existing SIP rules NAC 445B.731 and 445B.732 or the submitted rules NAC 445B.2203 or 445B.22033. Lastly, other emissions sources are subject to other federally enforceable emission limits (e.g., limits established under PSD requirements or NSPS) that would be unaffected by our action proposed herein and that are more stringent, in some cases by an order of magnitude, than the allowable limits under either the existing SIP rules or submitted rules. Therefore, we have determined that replacement of the existing SIP rules NAC 445B.731 and NAC 445B.732 with submitted rules NAC 445B.2203 and NAC 445B.22033 would not interfere with attainment or maintenance of the NAAQS for the purposes of CAA section 110(l).

Because submitted rules NAC 445B.2203 and 445B.22033 would apply to a major stationary source (Sunrise power plant) in the Las Vegas PM<sub>10</sub> nonattainment area, we reviewed these two submitted rules for compliance with applicable nonattainment area requirements in part D of title I of the Act. Based on review of the EPA-approved PM<sub>10</sub> attainment plan for Las Vegas Valley, we have concluded that neither NAC 445B.2203 nor 445B.22033 need be made more stringent at this time to meet nonattainment planning requirements although the rules may need to be revised if we determined that Las Vegas Valley has failed to meet the 2006 attainment date for the PM<sub>10</sub> NAAQS. We also have concluded that approval of NAC 445B.2203 and 445B.22033 would be consistent with CAA section 193 because the Sunrise

power plant normally runs on natural gas and all of the PM generated using natural gas is also PM<sub>10</sub>. The same is true for the cooling tower at the Sunrise power plant. Thus, approval of NAC 445B.2203 and 445B.22033 would not result in an increase in PM<sub>10</sub> emissions which otherwise would have been required to be offset by equivalent emissions reductions to satisfy CAA section 193.

4. *NAC 445.535, Kilogram-calorie.* This rule is one of the current applicable SIP rules for which NDEP requested rescission in its January 12, 2006 SIP revision submittal. NAC 445.535 defines a measurement unit used in current applicable SIP rule NAC 445B.731, which would be superseded in the applicable SIP if we finalize our proposed approval of submitted rule NAC 445B.2203. As such, we find that retention of NAC 445.535 in the applicable SIP is unnecessary, and as such, we propose to approve NDEP's request for rescission of NAC 445.535 from the applicable SIP.

#### *C. EPA Recommendations To Further Improve the Regulations*

In connection with NAC 445B.22017, an amended rule for which we are proposing approval herein, we note that the term "6-minute period" is used [see NAC 445B.22017(3)] and that the term "six-minute period" is specifically defined in NAC 445B.172, a provision that has not been submitted to EPA for approval. Assuming that "6-minute period" is intended to be the same as "six-minute period" as defined in NAC 445B.172, NDEP should submit NAC 445B.172 to EPA for approval into the applicable SIP to assure correct and consistent interpretation of NAC 445B.22017(3).

#### *D. Proposed Action and Public Comment*

Pursuant to section 110(k)(3) of the Act and for the reasons set forth above, EPA is proposing approval of the following provisions submitted to EPA on January 12, 2006:

- NAC 445B.22017 (Visible emissions: Maximum opacity; determination) (effective April 1, 2006),
- NAC 445B.2202 (Visible emissions: Exceptions for stationary sources) (effective April 1, 2006),
- NAC 445B.22027 (Emissions of particulate matter: Maximum allowable throughput for calculating emissions rates),
- NAC 445B.2203 (Emissions of particulate matter: Fuel-burning equipment),

- NAC 445B.22033 (Emissions of particulate matter: Sources not otherwise limited), and

- NAC 445B.22037 (Emissions of particulate matter: Fugitive dust).

Based on our proposed approval of these submitted rules, we are also proposing to approve the State's request to rescind NAQR Article 16.3.3.1 (Opacity from kilns) and NAC 445.535 (Kilogram-calorie). If finalized as proposed, this action would incorporate the six submitted rules into the federally-enforceable SIP<sup>4</sup> and rescind NAQR Article 16.3.3.1 and NAC 445.535 therefrom.

We will accept comments from the public on this proposed approval for the next 30 days.

#### **III. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposes to approve state rules as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed 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

<sup>4</sup> Final approval of these rules would supersede the following rules in the applicable SIP (superseding rule shown in parentheses) when sources come into compliance with the new rule: NAC 445B.721 (NAC 445B.22017); NAQR Article 4.3, 4.3.1, 4.3.2, 4.3.3 and 4.3.5 (NAC 445B.2202); NAC 445B.731 (NAC 445B.2203), NAC 445B.732 (NAC 445B.22033), and NAC 445B.734 (NAC 445B.22037). NAC 445B.729 would not be superseded by the corresponding submitted rule NAC 445B.22027 because the former is relied upon by certain SIP rules (e.g., NAC 445B.730) that are being retained in the SIP.

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 proposed 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 proposes to approve state rules implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed 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 proposed 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.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: February 15, 2007.

**Wayne Nastri,**

*Regional Administrator, Region IX.*

[FR Doc. E7-4428 Filed 3-9-07; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

#### 48 CFR Parts 5, 10, 12, 25

[FAR Case 2006-016; Docket 2007-0001; Sequence 4]

**RIN: 9000-AK70**

#### Federal Acquisition Regulation; FAR Case 2006-016, Numbered Notes for Synopsis

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to update and clarify policy for synopses of proposed contract actions and to delete all references to Numbered Notes.

**DATES:** Interested parties should submit written comments to the FAR Secretariat on or before May 11, 2007 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit comments identified by FAR case 2006-016 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for any document by first selecting the proper document types and selecting "Federal Acquisition Regulation" as the agency of choice. At the "Keyword" prompt, type in the FAR case number (for example, FAR Case 2006-001) and click on the "Submit" button. Please include any personal and/or business information inside the document. You may also search for any document by clicking on the "Advanced search/document search" tab at the top of the screen, selecting from the agency field "Federal Acquisition Regulation", and typing the FAR case number in the keyword field. Select the "Submit" button.

- Fax: 202-501-4067.

- Mail: General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW., Room 4035, ATTN: Laurieann Duarte, Washington, DC 20405.

Instructions: Please submit comments only and cite FAR case 2006-016 in all correspondence related to this case. All

comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Ernest Woodson, Procurement Analyst, at (202) 501-3775 for clarification of content. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAR case 2006-016.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

The use of Numbered Notes originally provided a method to expedite publicizing synopses in the Commerce Business Daily (CBD). The data transmission for this defunct publication was cumbersome and time-consuming. The use of Numbered Notes simplified the inclusion of repetitive information. In addition, use of these Notes reduces the size of the publication (and, therefore, the cost to publish and distribute this hardcopy periodical.)

During the transition period from the CBD periodical for publishing synopses to the electronic postings of synopses on the Federal Business Opportunities (FedBizOpps) Web site, the Numbered Notes were moved from the CBD to FedBizOpps. At the same time, the prescriptions for the Numbered Notes were generally deleted from the FAR.

Electronic posting of synopses allows contracting officers to easily insert text, as needed. Electronic posting also places the full text of synopses in easy-to-read, stand-alone documents that may be individually printed hardcopy or saved as data files by interested parties. This differs sharply from the earlier CBD periodical which printed a hardcopy of all synopses for a particular day.

Since the prescriptions for the Numbered Notes were deleted from the FAR, the Numbered Notes have not been maintained and many of the Numbered Notes do not accurately reflect current FAR requirements or have been made obsolete by the functionality of FedBizOpps. Also, without prescriptions in the FAR, contracting officers are not required to use the Numbered Notes. The content of each Numbered Note and a discussion of the Note follows:

1. The proposed contract is 100 percent set-aside for small business concerns.

Contracting officers identify set-asides via a drop-down box in FedBizOpps. Therefore, the Note is redundant.

2. A portion of the acquisition is set-aside for small business concerns.