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I. The State's Submittal**A. What Rules Did the State Submit?**

Table 1 lists the rules we are approving with the date they were revised by the local air agencies and submitted by the Nevada Division of Environmental Protection (NDEP).

TABLE 1.—SUBMITTED RULES

Local agency	Rule (building code section #)	Rule (building code provision) title	Adopted	Submitted
Clark County	(3708)	Fireplaces in New Construction and New Fireplaces in Existing Construction (Ordinance No. 1249).	11/20/90	11/19/02
City of Las Vegas	(3708)	Fireplaces in New Vegas Construction and New Fireplaces in Existing Construction (Ordinance No. 3538).	11/21/90	11/19/02
City of North Las Vegas	(13.16.150)	Fireplaces in New Construction and New Fireplaces in Existing Construction (Ordinance No. 1020).	09/18/91	11/19/02
City of Henderson	(15.40.010)	Fireplaces in New Construction and New Fireplaces in Existing Construction (Ordinance No. 1697).	10/15/96	11/19/02

On May 18, 2003, this submittal was deemed complete by operation of law in accordance with 40 CFR part 51, appendix V.

B. Are There Other Versions of These Rules?

There are no previous versions of these rules (building code provisions) approved into the SIP.

C. What Is the Purpose of the Submitted Rule Revisions?

The purpose of the building code provisions is to require that fireplaces being constructed in new or existing dwelling units be fuelled with natural gas, conform to EPA emission requirements, contain an insert that meets EPA emission requirements, or their equivalent, or be decorative electrical appliances.

II. EPA's Evaluation and Action**A. How Is EPA Evaluating the Rules?**

Generally, SIP rules must be enforceable (*see* section 110(a) of the CAA) and must not relax existing requirements (*see* sections 110(l) and 193). Section 189(b) of the CAA requires serious PM-10 nonattainment areas with significant or major PM-10 sources to adopt best available control measures (BACM), including best available control technology (BACT). Clark County is a serious PM-10 nonattainment area. *See* 40 CFR 81.330.

EPA's guidance for serious PM-10 nonattainment areas provides that BACM/BACT is required to be implemented for all source categories unless the State demonstrates that a particular source category does not contribute significantly to PM-10 levels in excess of the NAAQS. *See* 57 FR 13498, 13540 (April 16, 1992) ("General

Preamble") and 59 FR 41998 (August 16, 1994) ("Addendum"). The activities regulated by the above rules (building code provisions) contribute an insignificant (*de minimis*) 0.02% of the total PM-10 emissions in Clark County according to the *PM-10 State Implementation Plan for Clark County for the Las Vegas Valley Nonattainment Area*, Nevada Division of Environmental Protection (June 19, 2001). Therefore, the rules (building code provisions) need not fulfill the requirements of BACM/BACT. We are evaluating these rules (building code provisions) only to ensure that they do not relax the SIP in violation of CAA sections 110(l) and 193, and that they meet enforceability and other general SIP requirements of section 110.

The following guidance documents were used for reference:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *PM-10 Guideline Document*, EPA-452/R-93-008.
- *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 57 FR 13498, 13540 (April 16, 1992).
- *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, 59 FR 41998, 42011 (August 16, 1994).
- *PM-10 State Implementation Plan for Clark County for the Las Vegas Valley Nonattainment Area*, Nevada Division of Environmental Protection (June 19, 2001).

B. Do the Rules Meet the Evaluation Criteria?

The submitted rules (building code provisions) are consistent with the

relevant policy and guidance regarding enforceability and stringency and should be approved. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) and 110(k)(6) of the CAA, EPA is fully approving the submitted rules (building code provisions) because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules (building code provisions). If we receive adverse comments by October 8, 2003, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on November 7, 2003. This will incorporate these rules (building code provisions) into the federally-enforceable SIP.

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

III. Background Information**Why Were These Rules Submitted?**

PM-10 harms human health and the environment. Section 110(a) of the CAA