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**The Nevada Division of Environmental
Protection Portion of the Nevada State
Implementation Plan for the
2010 Sulfur Dioxide Primary NAAQS:
Demonstration of Adequacy**

PUBLIC COMMENT DRAFT

April 19, 2013

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Acronyms and Abbreviations

BART	Best available retrofit technology
CAA	Clean Air Act
CFR	Code of Federal Regulations
FIP	Federal implementation plan
FR	Federal Register
NAAQS	National ambient air quality standard
NDEP	Nevada Division of Environmental Protection
NAC	Nevada Administrative Code
NRS	Nevada Revised Statute
NSR	New source review
PM _{2.5}	Particulate matter less than or equal to a nominal 2.5 microns in aerodynamic diameter
PM ₁₀	Particulate matter less than or equal to a nominal 10 microns in aerodynamic diameter
PSD	Prevention of significant deterioration
RH	Regional haze
SIP	State implementation plan
SO ₂	Sulfur dioxide
US EPA	U.S. Environmental Protection Agency

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Introduction and Background

Sections 110(a)(1) and 110(a)(2), which are generally called the “infrastructure” state implementation plan (SIP) requirements of the Clean Air Act (CAA), require states to submit a plan to the U.S. Environmental Protection Agency (US EPA) demonstrating their ability and authority to implement, maintain, and enforce each newly promulgated or revised national ambient air quality standard (NAAQS). Section 110(a)(1) addresses the timing requirement for the submission of infrastructure SIPs. States are required to submit a statewide infrastructure SIP to the US EPA not later than 3 years after promulgation of a new or revised NAAQS.

Section 110(a)(2) lists the elements, (A) through (M), that generally must be addressed in an infrastructure SIP. Many of the section 110(a)(2) elements relate to the general information and authorities that constitute the infrastructure of a state’s air quality management program. The required elements include: enforceable emission limitations, an ambient air monitoring program, an enforcement program, air quality modeling capabilities, and confirmation of adequate personnel, resources and legal authority.

The federally enforceable applicable SIP for Nevada is compiled in 40 CFR Part 52 Subpart DD. This *Demonstration of Adequacy* addresses the Nevada Division of Environmental Protection’s (NDEP) authority to implement, maintain and enforce the 2010 primary sulfur dioxide (SO₂) NAAQS for the NDEP’s jurisdiction. The following table demonstrates how the NDEP, through its SIP and state programs, addresses each of the applicable requirements of section 110(a)(2). Although some of the SIP provisions cited may not be in state regulation, they are incorporated into title V operating permits and are federally enforceable.

Per US EPA direction, the NDEP has developed the table in accordance with US EPA’s October 14, 2011 guidance for the 2008 lead NAAQS (US EPA, Memorandum to Regional Air Division Directors, 10/14/11. *Guidance on Infrastructure State Implementation Plan (SIP) Elements Required Under Sections 110(a)(1) and 110(a)(2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS)*. Stephen D. Page). The description of each required element is taken from the guidance. We have also relied on US EPA’s recent action on Nevada’s ozone and fine particulate matter infrastructure SIPs (77 FR 64737). The statutory and regulatory provisions of the applicable SIP referenced in the table were previously submitted to US EPA with Nevada’s nitrogen dioxide infrastructure SIP (January 18, 2013).

The following support documents are appended:

APPENDIX A:	Non-SIP Provisions Cited in Elements A and J
APPENDIX B:	Ambient Air Monitoring Network Plan 2012
APPENDIX C:	Interstate Transport Analysis for the 2010 SO ₂ Primary NAAQS
APPENDIX D:	May 30, 2007 Letter to the US EPA Region 9 Administrator
APPENDIX E:	Evidence of Public Participation (in progress)

Nevada Applicable State Implementation Plan Provisions for the 2010 SO₂ Primary NAAQS: Nevada Division of Environmental Protection Jurisdiction

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
(A)	<p><u>Emission limits and other control measures:</u> Each such plan shall [. . .] include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this chapter.</p> <p><i>The dominant source sector for sulfur dioxide (SO₂) emissions is fossil fuel combustion at power plants and other industrial facilities. Smaller sources of SO₂ emissions include industrial processes such as extracting metal from ore as well as the burning of high sulfur containing fuels by locomotives, large ships, and nonroad equipment. The Nevada applicable SIP includes enforceable emission limits and other control measures, means, or techniques, as well as schedules for compliance to support element (A) in Nevada Administrative Code (NAC):</i></p> <ul style="list-style-type: none"> • <i>Article 8.2.1 “No person shall cause, suffer, allow or permit the emission of sulfur compounds cause by the combustion of fuel in excess of...”</i> • <i>Article 8.2.2 “For the purpose of Article 8, “sulfur emission” means the sulfur portion of the sulfur compounds emitted.”</i> • <i>445B.2204 “Sulfur emission” defined.</i> • <i>445B.22043 Sulfur emissions: Calculation of total feed sulfur.</i> • <i>445B.22047 Sulfur emissions: Fuel-burning equipment.</i> • <i>445B. 2205 Sulfur emissions: Other processes which emit sulfur.</i> • <i>445B.22067 Open burning.</i> • <i>445B.2207 Incinerator burning.</i> • <i>445B. 22083 Construction, major modification or relocation of plants to generate electricity using steam produced by burning of fossil fuels.</i> • <i>445B.22095 Emission limitation for BART.</i> • <i>445B.22096 Control measures constituting BART; limitations on emissions.</i> • <i>445B.22097 Standards of quality for ambient air.</i>

¹ The NDEP requests that as provisions in Nevada’s current applicable SIP are replaced or removed through subsequent approvals by US EPA of updated provisions submitted by the NDEP, US EPA also replace or remove those provisions in this SO₂ infrastructure SIP.

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
	<ul style="list-style-type: none"> • 445B.308 Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan. • 445B.310 Environmental evaluation: Applicable sources and other subjects; exemption. • 445B.311 Environmental evaluation: Contents; consideration of good engineering practice stack height. <p>The following provisions have not been submitted as part of Nevada’s SIP, but are in the NAC and further support this element requirement (see Appendix A):</p> <ul style="list-style-type: none"> • 445B.22057 Allowable emissions of sulfur from specific sources: Units Numbers 1, 2 and 3 of Reid Gardner Power Station • 445B.2206 Allowable emissions of sulfur from specific sources: Unit Number 4 of Reid Gardner Power Station • 445B.22063 Allowable emissions of sulfur from specific sources: North Valmy Power Station • 445B.2208 Emission of hydrogen sulfide from certain facilities for generating electricity from geothermal brine). • 445B.221 Adoption by reference and applicability of certain provisions of federal law and regulations <p>Finally, the NDEP does not have a SIP-based program to prevent significant deterioration of air quality; however, pursuant to 40 CFR 52.21(u), the US EPA has delegated its responsibility for implementation of the federal prevention significant deterioration (PSD) program to the NDEP as it existed on July 20, 2011. The PSD program provides a permitting review system to assure that the best controls available are selected before construction of a new major stationary source or modification of an existing major stationary source.</p>
(B)	<p><u>Ambient air quality monitoring/data system:</u> Each such plan shall [. . .] provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to (i) monitor, compile, and analyze data on ambient air quality, and (ii) upon request, make such data available to the Administrator.</p>
	<p>The NDEP commits to an ambient air quality monitoring program in its CAA section 105 grant work plan. The NDEP operates an air quality monitoring network that collects ambient air quality data that are compiled, analyzed, and reported to US EPA in accordance with 40 CFR 58. The network comprises federally-approved monitors that measure PM₁₀, PM_{2.5} and ozone. The NDEP submitted its 2012 Annual Monitoring Network Plan to US EPA on June 30, 2012 (Appendix B). US EPA indicated in a letter received by the NDEP on February 28, 2013 that the details of the NDEP’s monitoring network, except for five items that they did not act on, meet the requirements set forth under 40 CFR Part 58.10</p>

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP¹
<p><i>US EPA's new monitoring requirements for SO₂ (75 FR 35520, June 22, 2010) do not require monitoring for SO₂ within the NDEP's jurisdiction, as no areas within NDEP's jurisdiction meet the requirements for monitors to be placed in Core Based Statistical Areas based on a population weighted emissions index for the areas.</i></p>	
(C)	<p><u>Programs for enforcement, PSD, and NSR:</u> Each such plan shall [. . .] include a program to provide for the enforcement of the measures described in subparagraph [element] (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D of this subchapter.</p>
<p><i>The Nevada applicable SIP contains the following provisions that provide enforcement authority.</i></p> <p>NRS:</p> <ul style="list-style-type: none"> • <i>445B.210 Powers of Commission.</i> • <i>445B.230 Powers and duties of Department.</i> • <i>445B.450 Notice and order by Director; hearing; alternative procedures.</i> • <i>445B.460 Injunctive relief.</i> • <i>445B.640 Levy and disposition of administrative fines; additional remedies available; penalty.</i> <p>NAC:</p> <ul style="list-style-type: none"> • <i>445B.225 Prohibited conduct: Concealment of emissions.</i> • <i>445B.227 Prohibited conduct: Operation of source without required equipment; removal or modification of required equipment; modification of required procedure.</i> • <i>445B.229 Hazardous emissions: Order for reduction of emissions.</i> • <i>445.667 Excess emissions: Scheduled maintenance; testing; malfunctions.</i> • <i>445B.250 Notification of planned construction or reconstruction.</i> • <i>445B.252 Testing and sampling.</i> • <i>445.694 Emission discharge information.</i> • <i>445B.275 Violations: Acts constituting; notice.</i> • <i>445B.277 Stop orders.</i> • <i>445B.308 Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan.</i> 	

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
	<ul style="list-style-type: none"> • 445B.310 Environmental evaluation: Applicable sources and other subjects; exemption. • 445B.311 Environmental evaluation: Contents; consideration of good engineering practice stack height. • Article 13 General Provisions for the Review of New Sources. <p>In addition, the NDEP has full delegation from the US EPA of the federal PSD program as it existed on July 20, 2011 at 40 CFR 52.21.</p>
(D)(i)	<p><u>Interstate transport provisions:</u> Each such plan shall [...] contain adequate provisions: (i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will, (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or (II) interfere with measures required to be included in the applicable implementation plan for any other State under part C of this subchapter to prevent significant deterioration of air quality or to protect visibility.</p>
(D)(i)(I)	<p><i>Gina McCarthy, Assistant Administrator of the US EPA issued a memo on November 19, 2012 to EPA Air Division Directors, Regions 1-10, regarding states' and US EPA's obligations with respect to the requirements of (D)(i)(I). Ms. McCarthy notes:</i></p> <p><i>"I would also like to note that the recent CSAPR decision made certain holdings regarding the requirement for states to submit SIPs addressing the provisions of Clean Air Act section 110(a)(2)(D)(i)(I), the good neighbor provision that addresses upwind emissions linked to NAAQS attainment problems in downwind states. The decision states that a SIP cannot be deemed deficient for failing to meet the good neighbor obligation before the EPA quantifies that obligation. Although we have filed a petition for rehearing of the Court's decision, including this element of the decision, and although the mandate for that decision has not yet been issued, we intend to act in accordance with the decision during the pendency of the appeal. Therefore, at this time the EPA does not intend to make findings that states failed to submit SIPs to comply with section 110(a)(2)(D)(i)(I). To the extent that states may inquire about their obligations to submit SIPs addressing this provision, we believe it would be appropriate to convey that at this time we do not intend to make such findings with respect to section 110(a)(2)(D)(i)(I)."</i></p> <p><i>Because US EPA has not informed Nevada of its contribution to any SO₂ NAAQS attainment problem in downwind states, the NDEP concludes that it is not obligated to address this requirement at this time. Nevertheless, the NDEP did conduct an interstate transport analysis, which is presented in Appendix C. Based on this analysis, the State of Nevada concludes that sulfur dioxide</i></p>

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
	<p><i>emissions from Nevada do not contribute to nonattainment or interfere with maintenance of the 2010 SO₂ standard or the previous SO₂ standards in any other state. Nevada commits to continue to review new air quality information as it becomes available to ensure that this negative declaration is still supported by such information.</i></p> <p><u>(D)(i)(II)</u> <i>New major sources and major modifications in Nevada are subject to PSD. The NDEP does not have a SIP-based program to prevent significant deterioration of air quality; however, pursuant to 40 CFR 52.21(u), the US EPA has delegated its responsibility for implementation of the federal PSD program to the NDEP as it existed on July 20, 2011 thus meeting the requirements of (D)(i)(II). The visibility requirements of subsection (D)(i)(II) are addressed by the “Nevada Regional Haze State Implementation Plan.” US EPA finalized approval of most of the Nevada regional haze SIP on March 26, 2012 (77 FR 17334). US EPA approved in part and disapproved in part the remaining portion of the regional haze SIP on August 23, 2012 (77 FR 50936). In the same action, US EPA promulgated a FIP replacing the disapproved provisions of the State plan.</i></p>
(D)(ii)	<p><u>Interstate and international transport provisions:</u> Each such plan shall [. . .] contain adequate provisions: (ii) insuring compliance with the applicable requirements of CAA sections 115 or 126 that involve SO₂ emissions (relating to interstate and international pollution abatement).</p>
	<p><u>CAA section 115</u> <i>The requirements of section 115 do not apply, because there are no actions pending against Nevada.</i></p> <p><u>CAA section 126</u> <i>The requirements of section 126 (b) and (c) do not apply, because there are no petitions pending against Nevada. The following provisions (NAC) of the Nevada applicable SIP address the CAA section 126(a) requirements regarding notification to affected nearby states of major proposed new or modified sources. [see also elements (J) and (M)]:</i></p> <ul style="list-style-type: none"> • <i>445B.325 Operating permits: Termination, reopening and revision, revision, or revocation and reissuance.</i> • <i>445B.3364 Operating permit to construct: Action by Director on application; notice; public comment and hearing.</i> • <i>445B.3395 Action by Director on application; notice; public comment and hearing; objection by Administrator; expiration of permit.</i> • <i>445B.3425 Minor revision of permit.</i> • <i>445B.344 Significant revision of permit.</i> • <i>445B.3441 Administrative revision of permit to incorporate conditions of certain permits to construct.</i>

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
	<ul style="list-style-type: none"> 445B.3457 Action by Director on application; notice; public comment and hearing; expiration of permit. <p><i>In addition, although the NDEP does not have a SIP-based program to prevent significant deterioration of air quality, pursuant to 40 CFR 52.21(u), the US EPA has delegated its responsibility for implementation of the federal prevention significant deterioration (PSD) program to the NDEP as it existed on July 20, 2011. The federal PSD program also addresses the section 126(a) notification requirements.</i></p>
(E)	<p><u>Adequate personnel, funding and authority:</u> Each such plan shall [. . .] provide:</p> <ul style="list-style-type: none"> (i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof), (ii) requirements that the state comply with the requirements respecting state boards under section 128, (See section 40 CFR 52.1182, http://edocket.access.gpo.gov/cfr_2004/julqtr/pdf/40cfr52.1180.pdf) (iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision.
	<p><i>NRS 445B.205, "Department designated as State Air Pollution Control Agency," designates the Department of Conservation and Natural Resources as the air pollution control agency for the State of Nevada for the purposes of the CAA insofar as it pertains to state programs. Within the Department, pursuant to NAC 445B.053 ("Director" defined), the Director has assigned the NDEP responsibility to manage air quality planning and air pollution control programs for the State and to act on his behalf for the purposes of adoption, revision and submittal of state plans (see Appendix D).</i></p> <p><i>The specific statutes in the Nevada applicable SIP that deal with personnel, funding, authority to support SIP requirements, CAA section 128 requirements, and state responsibility for implementing the SIP include NRS:</i></p> <ul style="list-style-type: none"> 232A.020 Residency requirement for appointment; terms of members; vacancies; qualification of member appointed as representative of general public; gubernatorial appointee prohibited from serving on more than one board, commission or similar body. 281A.150 "Public employee" defined.

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
	<ul style="list-style-type: none"> • 281A.160 “Public officer” defined. • 281A.400 General requirements: exceptions. • 281A.410 Limitations on representing or counseling private persons before public agencies; disclosure required by certain public officers. • 281A.420 Requirements regarding disclosure of conflicts of interest and abstention from voting because of certain types of conflicts; effect of abstention on quorum and voting requirements; exceptions. 445B.200 Creation and composition; Chairman; quorum; compensation of members and employees; disqualification; technical support. • 445B.210 Powers of Commission. • 445B.220 Additional powers of Commission. • 445B.225 Power of Commission to require testing of sources. • 445B.230 Powers and duties of Department. • 445B.235 Additional powers of Department. • 445B.240 Power of representatives of Department to enter and inspect premises. • 445B.245 Power of Department to perform or require test of emissions from stacks. • 445B.300 Operating permit for source of air contaminant; notice and approval of proposed construction; administrative fees; failure of Commission or Department to act. • 445B.450 Notice and order by Director; hearing; alternative procedures. • 445B.460 Injunctive relief. • 445B.500 Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and smaller counties; regulation of certain electric plants prohibited. • 445B.510 Commission may require program for designated area. • 445B.520 Commission may establish or supersede county program. • 445B.530 Commission may assume jurisdiction over specific classes of air contaminants. • 445B.540 Restoration of superseded local program; continuation of existing local program. • 445B.560 Plan or procedure for emergency. • 445B.570 Confidentiality and use of information obtained by Department; penalty.

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
	<ul style="list-style-type: none"> • 445B.580 Officer of Department may inspect or search premises; search warrant. • 445B.640 Levy and disposition of administrative fines; additional remedies available; penalty for failure to pay administrative fine. <p>Further, Section 12 (“Resources”) of the Nevada applicable SIP, updated effective October 23, 2012 (77 FR 64737), provides information concerning funding and personnel supporting the functions of the three air pollution control agencies administering CAA programs in Nevada: the NDEP, Clark County Department of Air Quality, and Washoe County Health District Air Quality Management Division.</p> <p>The Nevada Legislature approves the NDEP air programs’ funding and personnel resources requests every two years. The air programs receive funding from fees paid by regulated businesses, motor vehicle registration fees, and federal grants. The NDEP’s State Fiscal Year 2012 budget is in excess of \$7 million with 54 approved full-time equivalent staff positions in the air programs.</p>
(F)	<p><u>Stationary source monitoring and reporting:</u> Each such plan shall [. . .] require, as may be prescribed by the Administrator:</p> <ul style="list-style-type: none"> (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such source, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this chapter, which reports shall be available at reasonable times for public inspection.
	<p>Nevada’s applicable SIP provides a system for monitoring emissions from stationary sources and the submittal of periodic emission reports in NAC:</p> <ul style="list-style-type: none"> • 445B.063 “Excess emissions” defined. • 445B.252 Testing and sampling. • 445B.256 Monitoring systems: Calibration, operation, and maintenance of equipment. • 445B.257 Monitoring systems: Location. • 445B.258 Monitoring systems: Verification of operational status. • 445B.259 Monitoring systems: Performance evaluations. • 445B.260 Monitoring systems: Components contracted for before September 11, 1974. • 445B.261 Monitoring systems: Adjustments.

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
	<ul style="list-style-type: none"> • 445B.262 Monitoring systems: Measurement of opacity. • 445B.263 Monitoring systems: Frequency of operation. • 445B.264 Monitoring systems: Recordation of data. • 445B.265 Monitoring systems: Records; reports. • 445B.267 Alternative monitoring procedures or requirements. • 445B.275 Violations: Acts constituting; notice. • 445B.308 Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan. [See paragraph (a) of subsection (7).] • 445B.315(3) Contents of operating permits: Exception for operating permits to construct; required conditions. • 445B.3368 Additional requirements for application; exception. • 445B.346 Required contents of permit. <p>NRS 445B.570 is also supportive of the portion of the CAA section 110(a)(2)(F)(iii) requirement pertaining to the public availability of reports.</p> <p>Ambient air quality monitoring data and trends are reported annually in the Nevada Air Quality Trend Report. This report indirectly correlates stationary source emissions with the NAAQS. It is available for public inspection on the NDEP's web site at http://ndep.nv.gov/baqp/monitoring/docs/trend.pdf. Additionally, the state submits stationary source emissions data to US EPA for publication in the annual National Emission Inventory, which is also available for public inspection.</p>
(G)	<p><u>Emergency episodes:</u> Each such plan shall provide for authority comparable to that in section 303 of this title and adequate contingency plans to implement such authority.</p>
	<p>Emergency powers are provided in Nevada's current SIP in:</p> <ul style="list-style-type: none"> • NRS 445B.560 Plan or procedure for emergency. • NAC 445B.229 Hazardous emissions: Order for reduction or discontinuance. • NAC 445B.230 Plan for reduction of emissions. <p>The provisions cited above are adequate to constrain any sources of SO₂ emissions, as necessary, in an emergency situation.</p>

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
	<p><i>40 CFR 52.1471 lists the classification of air quality control regions for certain criteria pollutants. The NDEP has jurisdiction over four of the five counties in the “Northwest Nevada Intrastate” region, which is classified as a priority III area for SO₂. Priority III areas are not required to prepare emergency episode plans (51.152(c)). The NDEP also has jurisdiction over the “Nevada Intrastate” region, which is classified as a priority IA area. Priority IA means an area that has exceeded the ambient air concentration threshold for episode plans because of a single point source. In this case, the point source that caused the exceedances was the Kennecott copper smelter in McGill, Nevada. Kennecott was located in the Steptoe Valley in White Pine County. The smelter caused violations of the NAAQS between 1975 and 1977; it ceased operation in 1983 and was completely demolished by 1993. The area was redesignated attainment on April 12, 2002 (67 FR 17939).</i></p> <p><i>Because the SO₂ source responsible for the priority IA classification no longer exists and because the single nonattainment area in the Nevada Intrastate region was redesignated attainment, the NDEP requests that USEPA change the classification of the Nevada Intrastate air quality control region to priority III. Lacking that action by USEPA, the NDEP requests pursuant to 40 CFR 51.152(d) that the USEPA exempt the Nevada Intrastate region from the requirement to develop an emergency episode plan.</i></p> <p><i>The NDEP further requests that USEPA remove paragraphs (a) and (b) of section 1475 of 40 CFR 52, “Control strategy and regulations: Sulfur oxides.” Section 1475 was added to the CFR in 1975 “. . . to promulgate substitute regulations for the control of SO₂ at the Kennecott Copper Corporation Smelter, McGill, Nevada . . .” because Nevada’s SIP to control of emissions of sulfur oxides from the Kennecott smelter was disapproved (40 CFR 5508). Section 1475 no longer applies since the Kennecott smelter is nonexistent and the area was redesignated attainment.</i></p>
(H)	<p><u>Future SIP revisions:</u> Each such plan shall [. . .] provide for revision of such plan—</p> <ul style="list-style-type: none"> (i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and (ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to otherwise comply with any additional requirements established under this chapter (CAA).
	<p><i>NRS 445B.205, “Department designated as State Air Pollution Control Agency,” designates the Department of Conservation and Natural Resources as the air pollution control agency for the State of Nevada for the purposes of the CAA insofar as it pertains to state programs. Within the Department, pursuant to NAC 445B.053 (“Director” defined), the Director has assigned the NDEP Administrator responsibility to manage air quality planning and air pollution control programs for the State and to act on his</i></p>

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
	<p><i>behalf for the purposes of adoption, revision and submittal of state plans (see Appendix D). The NDEP commits to submit appropriate SIP revisions in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to a US EPA finding that the SIP is substantially inadequate.</i></p> <p><i>Other NRS that may provide support for this element include:</i></p> <ul style="list-style-type: none"> • <i>445B.135 “Federal Act” defined.</i> • <i>445B.210 Powers of Commission.</i> • <i>445B.220 Additional powers of Commission.</i> • <i>445B.500 Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and smaller counties; regulation of certain electric plants prohibited.</i>
(I)	<p><u>Nonattainment area plan or plan revision under Part D:</u> Each such plan shall [. . .] in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D of this subchapter (relating to nonattainment areas).</p>
	<p><i>US EPA considers this element of 110(a)(2) to be outside the scope of infrastructure SIP actions because it pertains to plan requirements for nonattainment areas. Therefore, US EPA does not expect infrastructure SIP submissions to address this element (US EPA, Memorandum to Regional Air Division Directors, 10/14/11. Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS). S. Page).</i></p>
(J)	<p><u>Consultation with government officials, public notification, PSD and visibility protection:</u> Each such plan shall [. . .] meet the applicable requirements of section 121 of this title (relating to consultation), section 127 of this title (relating to public notification), and part C of this subchapter (relating to prevention of significant deterioration of air quality and visibility protection).</p>
	<p><u>CAA Section 121</u> <i>Section 11 of the Nevada applicable SIP, “Intergovernmental Relations,” describes the process for consultation among the three air pollution control agencies administering CAA programs in Nevada: NDEP, Clark County Department of Air Quality, and Washoe County Health District’s Air Quality Management Division, as well as for regional planning and transportation agencies that also have certain air-quality-planning-related responsibilities. It identifies the applicable state and local provisions governing consultation; describes provisions relevant to consultation in permitting new or modified stationary sources; and, for Clark County,</i></p>

SECTION 110(a)(2) ELEMENT	CURRENT PROGRAMS AND PROVISIONS IN THE NEVADA APPLICABLE SIP ¹
	<p><i>Washoe County and the Lake Tahoe Basin, addresses consultation's role in transportation planning and conformity to the Nevada applicable SIP.</i></p> <p><i>Together with Section 11, the following SIP provisions fulfill the requirements of CAA section 121.</i></p> <p><i>NRS:</i></p> <ul style="list-style-type: none"> • <i>445B.220 Additional powers of Commission.</i> • <i>445B.235 Additional powers of Department.</i> • <i>445B.500 Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and small counties; regulation of certain electric plants provided.</i> • <i>445B.503 Local air pollution control board in county whose population is 400,000 or more: Cooperation with regional planning coalition and regional transportation commission; prerequisites to adoption or amendment of plan, policy or program.</i> • <i>445B.510 Commission may require program for designated areas.</i> <p><i>NAC:</i></p> <ul style="list-style-type: none"> • <i>445B.325 Operating permits: Termination, reopening and revision, revision, or revocation and reissuance.</i> • <i>445B.3364 Operating permit to construct: Action by Director on application; notice; public comment and hearing.</i> • <i>445B.3395 Action by Director on application; notice; public comment and hearing; objection by Administrator; expiration of permit.</i> • <i>445B.3425 Minor revision of permit.</i> • <i>445B.344 Significant revision of permit.</i> • <i>445B.3441 Administrative revision of permit to incorporate conditions of certain permits to construct.</i> • <i>445B.3447 Class I general permit.</i> • <i>445B.3457 Action by Director on application; notice; public comment and hearing; expiration of permit.</i> <p><i>The following provisions have not been submitted as part of Nevada's SIP, but are in state law or regulation and further support this element requirement (see Appendix A).</i></p>

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	<p><i>NRS Chapter 445B, Air Pollution:</i></p> <ul style="list-style-type: none">• <i>445B.100 Declaration of public policy.</i> <p><i>NRS Chapter 233B, Nevada Administrative Procedure Act, requires notification and provision of comment opportunities to all parties affected by proposed regulations:</i></p> <ul style="list-style-type: none">• <i>233B.060 Notice of adoption, amendment or repeal of permanent or temporary regulation; adoption of permanent regulation after adoption of temporary regulation.</i>• <i>233B.0603 Contents and form of notice of intent to adopt, amend or repeal permanent or temporary regulation; solicitation of comments from public or affected businesses.</i>• <i>233B.061 Proposed permanent or temporary regulation: Public comment; workshop; public hearing; applicability of Open Meeting Law.</i> <p><i>Additionally, NAC 445B.221, "Adoption by reference and applicability of certain provisions of federal law and regulations," adopts the federal PSD requirements by reference and thereby includes requirements to consult with affected land managers on PSD-related actions.</i></p> <p><u><i>Section 127</i></u> <i>The NDEP maintains a web site, http://ndep.nv.gov/, which describes the state's air quality planning and air pollution control programs and includes public information pages with public notices and news releases. The Nevada Air Quality Trend Report (http://ndep.nv.gov/baqp/monitoring/docs/trend.pdf) is published annually and includes a discussion of air quality trends with respect to the NAAQS. Furthermore, the NDEP continues to be in compliance with US EPA monitoring requirements for the SO₂ NAAQS; no ambient air quality monitoring is required in the NDEP jurisdiction. The single nonattainment area in the NDEP's jurisdiction was designated in 1978 in the Steptoe Valley in White Pine County. The Steptoe Valley was redesignated attainment in two separate actions: the northern and southern portions on May 14, 1982 (47 FR 20773) and the central valley on April 12, 2002 (67 FR 17939). The copper smelter that caused violations of the NAAQS between 1975 and 1977 ceased operation in 1983 and was completely demolished by 1993.</i></p> <p><u><i>Part C</i></u> <i>The NDEP does not have a SIP-based program to prevent significant deterioration of air quality; however, pursuant to 40 CFR 52.21(u), the US EPA has delegated its responsibility for implementation of the federal prevention significant deterioration (PSD) program to the NDEP as it existed on July 20, 2011. With respect to visibility protection, according to the US EPA's</i></p>

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	<p><i>interpretation of the CAA, this sub-element of element (J) does not need to be addressed (US EPA Memorandum 10/14/11, Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2008 Lead (Pb) National Ambient Air Quality Standards (NAAQS). S. Page). For informational purposes, the NDEP submitted a regional haze SIP to US EPA on November 18, 2009. US EPA approved the entire RH SIP, with the exception of certain requirements for BART for nitrogen oxides at NV Energy’s Reid Gardner Generating Station (77 FR 17334). On August 23, 2012, US EPA approved in part and disapproved in part the remaining portion of the regional haze SIP (77 FR 50936). In the same action, US EPA promulgated a FIP replacing the disapproved provisions of the State plan.</i></p>
(K)	<p><u>Air quality modeling/data:</u> Each such plan shall [. . .] provide for—</p> <ul style="list-style-type: none"> (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.
	<p><i>Nevada’s applicable SIP provides provisions for the environmental evaluation of stationary sources in:</i></p> <ul style="list-style-type: none"> • <i>NAC 445B.308 Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan.</i> • <i>NAC 445B.310 Environmental evaluation: Applicable sources and other subjects; exemption.</i> • <i>NAC 445B.311 Environmental evaluation: Contents; consideration of good engineering practice stack height.</i> • <i>Article 13 General Provisions for the Review of New Sources.</i> <p><i>Finally, the NDEP does not have a SIP-based program to prevent significant deterioration of air quality; however, pursuant to 40 CFR 52.21(u), the US EPA has delegated its responsibility for implementation of the federal prevention significant deterioration (PSD) program to the NDEP as it existed on July 20, 2011.</i></p>
(L)	<p><u>Permitting fees:</u> Each such plan shall require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover—</p> <ul style="list-style-type: none"> (i) the reasonable costs of reviewing and acting upon any application for such a permit, and (ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator’s approval of a fee

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	program under subchapter (title) V of this chapter.
	<i>US EPA approved the NDEP’s permitting fee program under title V of the CAA (66 FR 63188, December 5, 2001. Thus, a separate program to satisfy element (L) is not required.</i>
(M)	<u>Consultation/participation by affected local entities:</u> Each such plan shall [. . .] provide for consultation and participation by local political subdivisions affected by the plan.
	<p><i>The following applicable SIP provisions provide a framework for consultation in the development of SIPs or SIP revisions.</i></p> <p><i>NRS:</i></p> <ul style="list-style-type: none"> • <i>445B.210 Powers of Commission.</i> • <i>445B.220 Additional powers of Commission.</i> • <i>445B.235 Additional powers of Department; deposit of money collected from sale of emission credits or allocations; Department to develop regulations concerning public participation in determination of amount of emission credits or allocations available for sale.</i> <p><i>Section 11 of the Nevada applicable SIP, “Intergovernmental Relations,” describes the process for consultation among the three air pollution control agencies administering CAA programs in Nevada: NDEP, Clark County Department of Air Quality, and Washoe County Health District’s Air Quality Management Division, as well as for regional planning and transportation agencies that also have certain air-quality-planning-related responsibilities. For each area, SIP Section 11 identifies the applicable state and local provisions governing consultation and notification to affected entities, including for those parts of the SIP related to permitting new and modified major sources and transportation planning, as appropriate. By the very nature of delegating air program responsibilities to Clark County and Washoe County, and cooperating with the Tahoe Regional Planning Agency, while retaining SIP revision authority at the state level, Nevada has instilled a process for developing, implementing, and enforcing the SIP that relies upon the involvement of such local political subdivisions.</i></p> <p><i>The Nevada applicable SIP further provides authority and functionality to the primary agencies in Clark and Washoe counties to engage local political subdivisions in air quality planning. It also includes provisions to supersede a county program, if such program is found inadequate by the State Environmental Commission. These authorities are found in NRS:</i></p> <ul style="list-style-type: none"> • <i>445B.500 Establishment and administration of program; contents of program; designation of air pollution control agency of county for purposes of federal act; powers and duties of local air pollution control board; notice of public hearings; delegation of authority to determine violations and levy administrative penalties; cities and smaller counties; regulation of</i>

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	<p><i>certain electric plants prohibited.</i></p> <ul style="list-style-type: none">• <i>445B.503 Local air pollution control board in county whose population is 700,000 or more: Cooperation with regional planning coalition and regional transportation commission; prerequisites to adoption or amendment of plan, policy or program.</i>• <i>445B.510 Commission may require program for designated area.</i>• <i>445B.520 Commission may establish or supersede county program.</i>

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