



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0653; FRL-9959-05-Region 9]

Approval of Nevada Air Plan Revisions, Clark County Department of Air Quality and

Washoe County Health District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Clark County Department of Air Quality and Washoe County Health District portions of the Nevada State Implementation Plan. These revisions concern emissions of particulate matter from fugitive dust. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act. We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by [**Insert date 30 days after the date of publication in the Federal Register**].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2016-0653 at <http://www.regulations.gov>, or via email to Andrew Steckel, Rulemaking Office Chief at Steckel.Andrew@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the Environmental Protection Agency (EPA) may publish any comment received to its public docket. Do not submit electronically any

information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947-4125, vineyard.christine@epa.gov.

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

Table of Contents

- I. The State’s Submittal
 - A. What rules did the State submit?
 - B. Are there other versions of these rules?
 - C. What is the purpose of the submitted rule revisions?
- II. The EPA’s Evaluation and Action
 - A. How is the EPA evaluating the rules?
 - B. Do the rules meet the evaluation criteria?

C. EPA recommendations to further improve the rules

D. Public comment and proposed action

III. Incorporation by reference

IV. Statutory and Executive Order Reviews

I. The State's Submittal

A. *What rules did the State submit?*

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agencies, Washoe County Health District (WCHD) and Clark County Department of Air Quality (CCDAQ), and submitted by the Nevada Division of Environmental Protection (NDEP).

TABLE 1 - SUBMITTED RULES

Local Agency	Rule #	Rule Title	Revised	Submitted
WCHD	010.000	Definitions	05/26/16	08/15/16
WCHD	040.051	Wood-Burning Devices	05/26/16	08/15/16
CCDAQ	26	Emission of Visible Air Contaminants	05/05/15	06/29/15

On September 16, 2016 and August 11, 2015, the EPA determined that the submittals for WCHD and CCDAQ, respectively, met the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of these rules?*

We approved an earlier version of Rule 010.000 into the State Implementation Plan (SIP) on February 01, 1972 (33 FR 15080) and Rule 040.051 into the SIP on June 18, 2007 (72 FR 33397). The WCHD adopted revisions to the SIP-approved versions on May 26, 2016 and NDEP

submitted them to us on August 15, 2016. We approved an earlier version of Rule 26 into the SIP on August 27, 1981 (46 FR 43141). The CCDAQ adopted revisions to the SIP-approved version on December 30, 2008 and May 05, 2015, and NDEP submitted them to us on November 20, 2014 and June 29, 2015, respectively. While we can act on only the most recently submitted version of the rules, we have reviewed materials provided with previous submittals.

C. *What is the purpose of the submitted rule revisions?*

Particulate Matter (PM), including PM equal to or less than 2.5 microns in diameter (PM_{2.5}) and PM equal to or less than 10 microns in diameter (PM₁₀), contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the Clean Air Act (CAA or Act) requires states to submit regulations that control PM emissions. WCHD Rule 010.000 was revised to include new definitions, eliminate obsolete definitions and change some existing definitions applicable to Rule 040.051, Wood-Burning Devices. WCHD Rule 040.051 was revised to incorporate requirements from Rule 040.052 (rescinded) and the EPA's New Source Performance Standards (NSPS) for Wood Heaters. CCDAQ Rule 26 was revised to reference the use of EPA Test Method 9 to determine compliance with the visible emissions limits. The EPA's technical support documents (TSDs) have more information about these rules.

II. The EPA's Evaluation and Action

A. *How is the EPA evaluating the rules?*

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA

requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193). CCDAQ and WCHD regulate areas that are classified as attainment for the 24-hour PM₁₀ National Ambient Air Quality Standards (NAAQS) (see 40 CFR Part 81.305). Rule CCDAQ Rule 26 is comparable to other district rules used to enforce a visible emissions limit of 20% opacity and WCHD Rules 040.010 and 040.051 fulfill relevant CAA Best Available Control Measures (BACM) requirements. For these reasons, we believe the rules will not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," (57 FR 13498, April 16, 1992 and 57 FR 18070, April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations" ("the Bluebook," U.S. EPA, May 25, 1988; revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies" ("the Little Bluebook", EPA Region 9, August 21, 2001).
4. "State Implementation Plans for Serious PM-10 Nonattainment Areas, and Attainment Date Waivers for PM-10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990"

(59 FR 41998, August 16, 1994).

5. “PM-10 Guideline Document” (EPA 452/R-93-008, April 1993).

B. *Do the rules meet the evaluation criteria?*

We are proposing to approve these rules because they are consistent with the relevant policy and guidance regarding enforceability, and SIP relaxations. The TSDs have more information on our evaluation.

C. *EPA recommendations to further improve the rules*

The TSDs describe additional rule revisions that we recommend for the next time the local agency modifies the rules.

D. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because they fulfill all relevant requirements. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the Federal Register**]. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the CCQAD and WCHD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more

information).

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve State law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: January 19, 2017.

Deborah Jordan,
Acting Regional Administrator,
Region IX.

[FR Doc. 2017-04777 Filed: 3/9/2017 8:45 am; Publication Date: 3/10/2017]