



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**EPA-R09-OAR-2017-0404; FRL-9970-32-Region 9**

**Approval of California Air Plan Revisions, Northern Sierra Air  
Quality Management District**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to the Northern Sierra Air Quality Management District (NSAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of particulate matter (PM) from wood burning devices. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or the 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-2017-0404 at <http://www.regulations.gov>, or via email to Christine Vineyard, Rulemaking Office at [Vineyard.Christine@epa.gov](mailto:Vineyard.Christine@epa.gov). For comments submitted at

Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the 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](mailto: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 rule did the State submit?
- B. Are there other versions of this rule?
- C. What is the purpose of the submitted rule?

II. The EPA's Evaluation and Action

- A. How is the EPA evaluating the rule?
- B. Does the rule meet the evaluation criteria?
- C. EPA recommendations to further improve the rule
- D. Public comment and proposed action

III. Incorporation by reference

IV. Statutory and Executive Order Reviews

**I. The State's Submittal**

A. *What rule did the State submit?*

Table 1 describes the ordinance addressed by this proposal with the date that it was adopted by the City of Portola. NSAQMD submitted the ordinance to the California Air Resources Board (CARB). CARB then submitted the ordinance to the EPA for approval into the NSAQMD's portion of the California SIP on the date described below.

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Adopted	Submitted
NSAQMD, City of Portola	Ordinance No. 344, Municipal Code Chapter 15.10 (except paragraphs 15.10.060 (B) , 15.10.090 and 15.10.100)	Wood Stove and Fireplace Ordinance	06/22/16	01/24/17

On April 17, 2017, the EPA determined that the submittal for City of Portola Ordinance 344 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 this rule?*

There are no previous versions of Ordinance 344 in the SIP.

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

PM, including PM equal to or less than 2.5 microns in diameter (PM<sub>2.5</sub>) and PM equal to or less than 10 microns in diameter (PM<sub>10</sub>), 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 CAA requires states to submit regulations that control PM emissions. Ordinance 344 controls PM emissions by establishing requirements for new and existing wood burning devices, permitted fuels, mandatory curtailment during stagnant conditions, and educational materials. The EPA's technical support document (TSD) has more information about this rule.

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

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

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(1)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must implement Reasonably Available Control Measures (RACM), including Reasonably Available Control Technology (RACT), and additional reasonable measures in moderate PM<sub>2.5</sub> nonattainment areas (see CAA sections 172(c)(1) and 189(a)(1)(C) and 40 CFR 51.1009). The NSAQMD regulates a PM<sub>2.5</sub> nonattainment area classified as moderate for the 2012

annual PM<sub>2.5</sub> Standard (40 CFR 81.305). A RACM evaluation is generally performed by the State and reviewed by the EPA in the context of a broader plan. The EPA will address the overall RACM and additional reasonable measures requirements at a later date when we act on the Portola PM<sub>2.5</sub> attainment plan submitted by CARB to the EPA on February 28, 2017. In this action, we evaluate whether Rule 344 implements RACM and additional reasonable measures for wood burning devices specifically.

Guidance and policy documents that we use to evaluate enforceability and revision/relaxation requirements 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); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

B. *Does the rule meet the evaluation criteria?*

This rule is consistent with CAA requirements and relevant guidance regarding enforceability and SIP revisions. The rule implements RACM/RACT and additional reasonable measures for wood burning devices. The TSD has more information on our evaluation.

*C. EPA recommendations to further improve the rule*

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule.

*D. Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because we believe it fulfills 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 rule, our final action will incorporate this rule 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 City of Portola ordinance described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available

through [www.regulations.gov](http://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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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: October 19, 2017.

Alexis Strauss,  
Acting Regional Administrator,  
Region IX.