



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0494; FRL-9931-02-R9]

Air Plan Approval; Nevada; Clark County Department of Environment and Sustainability; Nonattainment New Source Review; 2015 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a state implementation plan (SIP) revision submitted by the State of Nevada addressing the nonattainment new source review (NNSR) requirements for the 2015 ozone National Ambient Air Quality Standards (NAAQS). This SIP revision addresses the Clark County Department of Environment and Sustainability (“Department”) portion of the Nevada SIP. This action is being taken pursuant to the Clean Air Act (CAA or “Act”) and its implementing regulations.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2022-0494. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the

FOR FURTHER INFORMATION CONTACT section.

FOR FURTHER INFORMATION CONTACT: Amita Muralidharan, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4140 or by email at *muralidharan.amita@epa.gov*.

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

Table of Contents

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Statutory and Executive Order Reviews

I. Proposed Action

On February 2, 2024 (89 FR 7318), the EPA proposed to approve the SIP revision listed in table 1 of this document, addressing the NNSR requirements for the 2015 ozone NAAQS for the Department.

TABLE 1 - SUBMITTED CERTIFICATION LETTER

Air Pollution Control Agency	Adoption Date	Submittal Date¹
Clark County Department of Environment and Sustainability	7/20/2021	8/5/2021

¹ The submitted certification letter was dated August 3, 2021. The electronic submittal was received by EPA on August 5, 2021.

We proposed approval of the submitted SIP revision because we determined that the 2015 ozone certification submitted by the Department fulfills the 40 CFR 51.1314 revision requirement and meets the requirements of CAA sections 110, 172(c)(5), 173, 182(a)(2)(c), 193, and the minimum SIP requirements of 40 CFR 51.165. Our proposed action contains more information on the SIP revision and our evaluation.

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During this period, we received one comment in support of this action. The comment outlines the air quality improvements that will result from finalizing this action. The EPA has considered this comment

in its final decision to approve the Department's SIP revision.

III. EPA Action

One favorable comment was received during the 30-day public comment period. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is approving this certification into the Nevada SIP as proposed.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this 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 14094 (88 FR 21879, April 11, 2023);
- 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record

inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2))

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by Reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 22, 2024.

Martha Guzman Aceves,
Regional Administrator,
Region IX.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart DD—Nevada

2. Amend § 52.1470, in paragraph (e), by adding an entry to the table for “Revision to the Nevada State Implementation Plan for the 2015 Ozone NAAQS: Nonattainment Major NSR Requirements: Las Vegas Valley Nonattainment Area” after the entry for “Revision to Nevada 2015 Eight-Hour Ozone Plan, Emissions Inventory Requirement for the Las Vegas Valley Nonattainment Area, Clark County, NV (October 15, 2020)” to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-Approved Nevada Nonregulatory Provisions and Quasi-Regulatory Measures

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
Air Quality Implementation Plan for the State of Nevada ¹				
* * * * *				
Revision to the Nevada State Implementation Plan for the 2015 Ozone NAAQS: Nonattainment Major NSR Requirements: Las Vegas Valley Nonattainment Area	Las Vegas Valley, Clark County	8/5/2021	[INSERT FEDERAL REGISTER CITATION], [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	This is an approval of Clark County’s certification that the existing Nonattainment New Source Review program is at least as stringent as the requirements of 40 CFR 51.165 for the 2015 ozone NAAQS.
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¹ The organization of this table generally follows from the organization of the State of Nevada's original 1972 SIP, which was divided into 12 sections. Nonattainment and maintenance plans, among other types of plans, are listed under Section 5 (Control Strategy). Lead SIPs and Small Business Stationary Source Technical and Environmental Compliance Assistance SIPs are listed after Section 12 followed by nonregulatory or quasi-regulatory statutory provisions approved into the SIP. Regulatory statutory provisions are listed in 40 CFR 52.1470(c).

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[FR Doc. 2024-09308 Filed: 5/3/2024 8:45 am; Publication Date: 5/6/2024]