



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2015-0673; FRL-9941-13-Region 9]

**Partial Approval and Disapproval of Nevada Air Plan Revisions,
Clark County**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a partial approval and partial disapproval of revisions to the Clark County portion of the Nevada State Implementation Plan (SIP). The SIP revisions include rescission of four local rules that collectively apply to sources that emit volatile organic compounds (VOCs), oxides of sulfur (SO_x), and particulate matter (PM). In this final action, the EPA is approving the rescission of two of the rules and disapproving the rescission of the other two rules. Approval of the rescission of the two local rules removes them from the Nevada SIP. The two rules for which the EPA is disapproving rescission remain in the Nevada SIP.

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

ADDRESSES: The EPA has established docket number EPA-R09-OAR-

2015-0673 for this action. Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov> or in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105-3901. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps, multi-volume reports), and some may not be available in either location (e.g., confidential business information (CBI)). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, (415) 972 3073, Gong.Kevin@epa.gov.

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

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I. Proposed Action

On November 5, 2015 (80 FR 68486), under section 110(k)(3) of the Clean Air Act (CAA or "Act"), the EPA proposed a partial approval and partial disapproval of the rescission of four local rules submitted by the Nevada Division of Environmental Protection (NDEP) on November 20, 2014 as a revision to the Clark County portion of the Nevada SIP.

Table 1 lists the rule rescissions that the EPA is approving in today's action, as currently ordered in the Nevada SIP.¹

Table 1 - Approved Rule Rescissions

Rule Section of the Clark County Air Quality Regulations (CCAQR)	Title	Local Effective Date	SIP Approval Date	FR Citation
Section 29	Sulfur Contents of Fuel Oil	December 29, 1978	August 27, 1981	46 FR 43141
Section 30, subsections 30.1-30.7 (excluding subsection 30.4)	Incinerators	December 29, 1978	August 27, 1981	46 FR 43141
Section 30, subsection 30.4	[exemptions for certain types of incinerators]	September 3, 1981	June 18, 1982	47 FR 26386
Section 30,	[related to	September	June 18,	47 FR 26386

¹ Unless otherwise specified, all references to CCAQR Sections in this document are to those sections in their entirety.

subsection 30.8	maximum allowable emission rates]	3, 1981	1982	
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Table 2 lists the rule rescissions that the EPA is disapproving in today's action, as currently ordered in the Nevada SIP.

Table 2 - Disapproved Rule Rescissions

Rule Section of the CCAQR	Title	Local Effective Date	SIP Approval Date	FR Citation
Section 52, subsections 52.1-52.10 (excluding subsections 52.4.2.3 and 52.7.2)	Handling of Gasoline at Service Stations, Airports and Storage Tanks	December 28, 1978	April 14, 1981	46 FR 21758
Section 52, subsections 52.4.2.3 and 52.7.2	[related to vapor recovery and sales information]	September 3, 1981	June 18, 1982	47 FR 26386
Section 60 (excluding subsections 60.4.2-60.4.3)	Evaporation and Leakage	June 28, 1979	April 14, 1981	46 FR 21758
Section 60, subsection 60.4.2	[General prohibition on the use of cutback asphalt]	September 3, 1981	March 20, 1984	49 FR 10259
Section 60, subsection 60.4.3	[Exceptions to subsection 60.4.2]	September 3, 1981	June 18, 1982	47 FR 26386

We proposed approval of the rescission of CCAQR sections 29

and 30, as approved into the SIP, based on our conclusion that these rules were not specifically required under the CAA and that rescission would be consistent with section 110(1) of the CAA, i.e., the rescission of the two rules would not interfere with attainment or maintenance of any of the national ambient air quality standards (NAAQS). We proposed to disapprove the rescission of CCAQR sections 52 and 60, as approved into the SIP, because rescission would be inconsistent with section 110(1) of the CAA. More specifically, we concluded that rescission of sections 52 and 60 would allow for an increase in VOC emissions and thus would not be protective of the 2008 ozone NAAQS. Our conclusion in this regard derives from the following findings:

1. The rescission of Section 52 would allow an increase in VOC emissions from gasoline dispensing facilities that would not be controlled by other regulations.
2. The rescission of Section 60 would allow an increase in VOC emissions from the allowance of cutback asphalt use during summer months that would not be controlled by other regulations.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

Under section 110(k)(3) of the Act, the EPA is finalizing a partial approval and partial disapproval of the SIP revision submitted by NDEP on November 20, 2014. More specifically, we are approving the rescission of CCAQR Sections 29 and 30 from the Nevada SIP and we are disapproving the rescission of CCAQR Sections 52 and 60. Rescission of CCAQR Sections 29 and 30 means the removal of the rules from the Nevada SIP. Disapproval of the rescission of CCAQR Sections 52 and 60 means that the rules remain in the Nevada SIP.

This final partial disapproval does not trigger sanctions or a Federal Implementation Plan (FIP) clock. Sanctions will not be imposed under CAA section 179(b) because the SIP submittal that we are partially disapproving is not a required SIP submittal. The EPA will not promulgate a FIP in this instance under CAA section 110(c)(1) because the partial disapproval of the SIP revision retains existing SIP rules and does not reveal a deficiency in the SIP for the area that a FIP must correct.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at <http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. This action

does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination with Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because 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, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only

to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income

Population

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

K. Congressional Review Act (CRA)

This action is subject to the CRA, 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).

L. Petitions for Judicial Review

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 rule 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 dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

Dated: December 24, 2015.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended 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

§52.1470 [Amended]

2. In §52.1470 in paragraph (c), Table 3 is amended by removing the entries for "Section 29," "Section 30: Subsections 30.1-30.7 (excluding subsection 30.4)," "Section 30 (Incinerators): Subsection 30.4," and "Section 30 (Incinerators): Subsection 30.8."

[FR Doc. 2016-340 Filed: 1/13/2016 8:45 am; Publication Date: 1/14/2016]