

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 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 May 22, 2006. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 17, 2006.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart P—Indiana

■ 2. Section 52.770 is amended by adding paragraph (c)(173) to read as follows:

##### § 52.770 Identification of plan.

(c) \* \* \* \* \*  
 (173) The Indiana Department of Environmental Management submitted amendments to Indiana's State Implementation Plan on September 1, 2005. The amendments include the repeal of 326 IAC 6-1, which is replaced with new articles 326 IAC 6.5, "Particulate Matter Limitations for all Counties Except Lake County" and 326 IAC 6.8, "Particulate Matter Limitations for Lake County."

(i) Incorporation by reference. The following sections of the Indiana

Administrative Code are incorporated by reference.

(A) Amendments to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6.5 Particulate Matter Limitations Except Lake County, and Article 6.8 Particulate Matter Limitations For Lake County. Adopted by the Indiana Air Pollution Control Board on May 4, 2005. Filed with the Secretary of State on August 10, 2005 and effective on September 9, 2005. Published at Indiana Register, Volume 28, Number 12, September 1, 2005 (3454).

[FR Doc. 06-2694 Filed 3-21-06; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2005-NV-0002, FRL-8040-8]

#### Revisions to the Nevada State Implementation Plan, Washoe County District Board of Health

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Washoe County District Board of Health (WCDBH) portion of the Nevada State Implementation Plan (SIP). The WCDBH revisions concern particulate matter (PM-10) emissions from street sanding operations and from street sweeping operations. We are approving local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on May 22, 2006 without further notice, unless EPA receives adverse comments by April 21, 2006. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2005-NV-0002, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions.
- E-mail: [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
- Mail or deliver: Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

*Instructions:* All comments will be included in the public docket without change and may be made available

online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through [www.regulations.gov](http://www.regulations.gov) or e-mail. [www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

*Docket:* The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., 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:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 947-4118, [petersen.alfred@epa.gov](mailto:petersen.alfred@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to 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 rules?
- II. EPA's Evaluation and Action
  - A. How is EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?
  - C. Public Comment and Final Action
- III. Statutory and Executive Order Reviews

#### I. The State's Submittal

##### A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agency and submitted by the Nevada Division of Environmental Protection.

TABLE 1.—SUBMITTED RULES FOR DIRECT FINAL APPROVAL

Local agency	Rule No.	Rule title	Adopted	Submitted
WCDBH .....	040.031	Street Sanding Operations .....	02/27/02	08/05/02
WCDBH .....	040.032	Street Sweeping Operations .....	02/27/02	08/05/02

On February 6, 2003, the submittals of August 5, 2002 were found by operation of law to meet the completeness criteria.

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

There are no versions of Rules 040.031 and 040.032 in the SIP.

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

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds, oxides of nitrogen, particulate matter (PM-10), and other air pollutants which harm human health and the environment. These rules were developed as part of the local agency's program to control emissions of PM-10.

The purposes of the new rules are as follows:

- Rule 040.031 establishes the following specifications for de-icing sand: (a) Durability index greater than 75; (b) hardness index less than 33%; (c) fines smaller than 100 mesh less than 4.0%; and (d) fines smaller than 200 mesh less than 2.5%.

- Rule 040.032 establishes the following standards for street sweeping: (a) Certified street sweepers are equipment purchased or leased after February 1, 2002; (b) equipment must be maintained in accordance with manufacturer's specifications; (c) sanding events must be followed by street sweeping within four days or as soon as weather and road conditions permit; and (d) routine street sweeping not related to sanding events must be done at least once per month.

The TSD has more information about these rules.

## II. EPA's Evaluation and Action

*A. How is EPA evaluating the rules?*

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). The WCDBH regulates a serious PM-10 nonattainment area; therefore, significant sources of PM-10 must apply BACM/BACT (see section 189(b)(1)(B)). Rules 040.031 and 040.032 regulate a significant source of PM-10 according to the *PM-10 State Implementation Plan for the Truckee Meadows Air Basin* (August 2002) (2002 Plan) and must fulfill the requirements of BACM/BACT.

Guidance and policy documents that we used to help evaluate enforceability requirements consistently include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *Guidance Document for Correcting Common VOC & Other Rule Deficiencies*, EPA Region IX (August 21, 2001). (The Little Bluebook)
- *Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990*, U. S. EPA, 59 FR 41998 (August 16, 1994).
- *Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures*, EPA-450/2-92-004 (September 1992).
- *Guidance Document for Selecting Antiskid Materials Applied to Ice- and Snow-Covered Roadways*, EPA-450/3-90-007 (July 1991).

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

We believe WCDBH Rules 040.031 and 040.032 are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling the requirements of BACM/BACT.

The rules are discussed further in the TSD.

*C. Public Comment and Final Action*

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules WCDBH Rules 040.031 and 040.032 because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by April 21, 2006, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on May 22, 2006.

This will incorporate these rules into the federally enforceable SIP.

However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by April 21, 2006, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on May 22, 2006. This will incorporate these rules into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more

Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**.

This action is not a "major rule" as defined by 5 U.S.C. section 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 May 22, 2006. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 16, 2006.

**Wayne Nastri,**  
*Regional Administrator, Region IX.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart DD—Nevada**

■ 2. Section 52.1470 is amended by adding paragraph (c)(55) to read as follows:

**§ 52.1470 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(55) The following plan revision and regulations were submitted on August 5, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Washoe County District Board of Health.

(1) Rules 040.031 and 040.032, adopted on February 27, 2002.

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[VT-19-1222c; FRL-8037-2]

**Approval and Promulgation of Air Quality Implementation Plans; Vermont Update to Materials Incorporated by Reference**

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

**ACTION:** Final rule; Notice of administrative change.

**SUMMARY:** EPA is publishing this action to provide the public with notice of the update to the Vermont State Implementation Plan (SIP) compilation. In particular, materials submitted by Vermont that are incorporated by reference (IBR) into the Vermont SIP are being updated to reflect EPA-approved revisions to Vermont's SIP that have occurred since the last update. In this action EPA is also notifying the public of the correction of a certain typographical error within the table in the regulations, and modification of the **Federal Register** citations to reflect the first page of the applicable **Federal Register** document.

**DATES:** This action is effective March 22, 2006.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, New England Regional Office (Region 1), One Congress Street, Suite 1100, Boston, MA 02114-2023; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B-108, Washington, DC 20460; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Mr. Donald Cooke, Environmental Scientist, at the above EPA New England Region address or at (617) 918-1668 or by e-mail at [cooke.donald@epa.gov](mailto:cooke.donald@epa.gov).

**SUPPLEMENTARY INFORMATION:** The SIP is a living document which the State can revise as necessary to address its unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations as being part of the SIP. On May 22, 1997, (62 FR 27968),