

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 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. 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 August 17, 2007. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 31, 2007.

Bharat Mathur,

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)(181) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(181) On September 2, 2004, Indiana submitted modifications to its Prevention of Significant Deterioration and nonattainment New Source Review rules as a revision to the state implementation plan. On October 25, 2005, and January 17, 2007, Indiana submitted revisions to the September 2, 2004 submittal.

(i) Incorporation by reference.

(A) Title 326 of the Indiana Administrative Code, Rules 2–1.1–7, 2–1(a) through (l), 2–2–1(n) through (kk), 2–2–1(mm) through (tt), 2–2–1(uu)(1) through (4), 2–2–1(vv) through (aaa), 2–2–2(a) through (d)(4), 2–2–2(d)(6) through (e), 2–2–2(g) through (i), 2–2–3, 2–2–4, 2–2–5(a), 2–2–5(c) through (e), 2–2–6, 2–2–8, 2–2.4, 2–3–1(a) through (i), 2–3–1(k) through (ff), 2–3–1(hh) through (uu), 2–3–2(a) through (c)(4), 2–3–2(c)(6) through (k), 2–3–2(m), 2–3–3(a) through (b)(11), 2–3–3(b)(14), 2–3.4, 2–5.1–4. Filed with the Secretary of State on August 10, 2004, effective September 10, 2004. Published in the Indiana Register on September 1, 2004 (27 IR 3887).

[FR Doc. E7–11571 Filed 6–15–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R09–OAR–2006–0619; FRL–8327–3]

Revisions to the Nevada State Implementation Plan, Washoe County District Health Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Washoe County District Health Department (WCDHD) portion of the Nevada State Implementation Plan (SIP). These revisions concern opacity, emissions of carbon monoxide (CO) and particulate matter (PM) from wood stoves and fireplaces, and air emergency episode plans. We are approving local rules that help regulate emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on August 17, 2007 without further notice, unless EPA receives adverse comments by July 18, 2007. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2006–0619, by one of the following methods:

• **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions.

• **E-mail:** 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 <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 or e-mail.

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 <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, EPA Region IX, (415) 947–4118, petersen.alfred@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the new or amended rules we are approving with the date

that the rules were adopted by the WCDHD and were submitted by the Nevada Division of Environmental Protection (NDEP).

TABLE 1.—RULES SUBMITTED

Agency	Rule No.	Rule title	Adopted or revised	Submitted
WCDHD	010.117	Definitions—"Pellet Stove"	02/23/06 Revised	05/05/06
WCDHD	040.005	Visible Air Contaminants	02/23/06 Revised	05/05/06
WCDHD	040.051	Wood Stove/Fireplace Insert Emissions	02/23/06 Revised	05/05/06
WCDHD	050.001	Emergency Episode Plan	03/23/06 Adopted	05/05/06

On November 4, 2006, the submittal of May 5, 2006 was found by operation of law to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are there other versions of the rules?

We approved a version of WCDHD Rule 040.005 into the SIP on July 27, 1972 (37 FR 15080).

We approved a version of WCDHD Rule 050.001 into the SIP as Rules 060.005, 060.030, 060.035, 060.040, 060.045, 060.050, 060.055, and 060.060 on July 27, 1972 (37 FR 15080).

Submitted Rule 050.001 does not contain provisions that substantively relate to 060.010, 060.015, 060.020, or 060.025. Thus, those provisions would remain in the applicable SIP after approval of Rule 050.001. Approval of 050.001 would supersede the other 8 rules in the 050-series that we approved in 1972.

There is no version of WCDHD Rules 010.117 or 040.051 in the SIP.

C. What are the purposes of the submitted rule and rule revisions?

Section 110(a) of the Clean Air Act (CAA) requires states to submit regulations that control volatile organic compounds, nitrogen oxides, particulate matter, sulfur oxides, and other air pollutants which harm human health and the environment. The rules were developed as part of the Washoe County District Board of Health's program to control these pollutants.

The purpose of Rule 010.117 is to define "pellet stove" for use in the rules below.

The purpose of Rule 040.005 is to limit visible emissions from stationary sources.

- The revised rule has a format change and two references added for clarity.

The purpose of Rule 040.051 is to limit particulate matter and other pollutants (such as carbon monoxide) discharged into the ambient air from solid fuel burning devices. Rule 040.051 would be a new rule in the SIP but was

adopted locally several years ago and revised a number of times since then. The general purposes of the latest revision by Washoe County to Rule 040.051 are to strengthen and to clarify the requirements of the rule. Notable elements of Rule 040.051 are as follows:

- The rule provides 21 definitions for clarity.
- The rule requires a PM emission standard for non-catalytic appliances of 7.5 grams PM per hour and a PM emission standard for catalytic appliances of 4.1 grams PM per hour.
- The rule requires that existing non-certified wood stoves must be removed or replaced with certified wood stoves or low emission devices upon property sale or transfer.

Antique wood stoves could be exempted by the Control Officer on a case-by-case basis.

- The rule allows, if a property is undergoing renovation without change of ownership, the existing wood stove to be moved and re-installed or the same type of fireplace to be rebuilt.

- The rule prohibits visible emissions from a chimney from exceeding No. 2 on the Ringlemann chart (40% opacity), except for a 15-minute startup period.

- The rule provides a list of 12 prohibited fuels for use in solid fuel burning devices.

- The rule allows wood less than 20% moisture to be sold for immediate use; wood over 20% moisture may be sold, providing a seasoning period to achieve 20% moisture is recommended to the buyer.

- The rule allows no more than one certified wood stove or fireplace per acre to be installed in new construction.
- The rule prohibits the installation of additional solid fuel burning devices in existing dwelling units or commercial/public property.

- The rule provides various administrative requirements in order to enforce the standards in the rule, including qualifications and duties of a Wood Stove Inspector.

The purpose of Rule 050.001 is to prevent the excessive buildup of air

pollutants by recognizing atmospheric conditions conducive to such buildup and initiating effective remedial actions before the concentrations can build to unhealthy levels. Notable changes relative to the existing SIP include:

- The rule includes new definitions that clarify the meaning of the rule's provisions.
- The rule includes substantially more protective episode criteria levels for carbon monoxide (CO) and ozone compared to the existing SIP and includes episode criteria levels for two pollutants, PM₁₀ and PM_{2.5}, that are not included in the corresponding provision in the existing SIP.
- The rule no longer includes episode criteria level for sulfur dioxide, nitrogen dioxide, and hydrocarbons.
- The rule updates the list of entities to be notified in the event of an alert.
- The rule includes additional control actions to be taken upon declaration of different stages (such as the suspension of operation of any solid fuel burning device upon the declaration of a stage 1 alert for CO, PM₁₀ or PM_{2.5}).

EPA's technical support documents (TSDs) have 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 WCDHD regulates a serious PM-10 nonattainment area where significant sources of PM-10 must fulfill the requirements of Best Available Control Measures (BACM), including Best Available Control Technology (BACT) (see section 189(b)). Rule 040.005 regulates significant source categories and must fulfill the requirements of BACM/BACT. Rule 040.051 regulates a significant source category of PM-10 according to the *Revisions 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 specific enforceability and BACM/BACT requirements consistently include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans*, U.S. EPA, 40 CFR part 51.
- *PM-10 Guideline Document* (EPA-452/R-93-008).
- *Technical Information Document for Residential Wood Combustion Best Available Control Measures* (EPA-450/2-92-002).
- *Minimum BACM/RACM Control Measures for Residential Wood Combustion Rules*, EPA Region IX (March 22, 2007).

B. Do the rules meet the evaluation criteria?

We believe the rules are consistent with the relevant EPA rules, policy, and guidance regarding enforceability, SIP relaxations, BACM/BACT, and emergency episode plans. Specifically, we find amended WCDHD Rule 040.005 to be acceptable because it meets BACM, is relied upon in both the PM-10 and CO plans for Truckee Meadows, and is reasonably enforceable. We find the amended emergency episode plan recodified as WCDHD Rule 050.001 to be acceptable because it meets the applicable requirements for such plans in 40 CFR part 52, subpart H, is an improvement over the related existing SIP, and is relied upon by the PM-10 and CO plans for Truckee Meadows.

The TSDs have more information on our evaluation.

C. Public comment and final action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted WCDHD Rules 010.117, 040.005, 040.051, and 050.001 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 July 18, 2007, 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 August 17, 2007. 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 approves a state rule implementing a Federal standard.

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 August 17, 2007. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Particulate

matter, Reporting and recordkeeping requirements.

Dated: May 9, 2007.

Laura Yoshii,

Acting 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)(63) to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(c) * * *

(63) New or amended regulations were submitted on May 5, 2006, by the Governor's designee.

(i) Incorporation by reference.

(A) Washoe County District Health Department.

(1) Rules 010.117, 040.005, and 040.051, revised on February 23, 2006, and Rule 050.001, adopted on March 23, 2006.

[FR Doc. E7-11578 Filed 6-15-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2006-0930; A-1-FRL-8327-9]

Approval of Implementation Plan; Connecticut; Commitment to Submit Mid-Course Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of commitment fulfillment.

SUMMARY: Notice is hereby given that the State of Connecticut has fulfilled the enforceable commitments it made to EPA to complete a mid-course review (MCR) assessing whether two one-hour ozone nonattainment areas are, or are not, making sufficient progress toward attainment of the one-hour ozone standard under the Clean Air Act (CAA). The two areas are the Connecticut portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area, and the Greater Connecticut 1-hour ozone nonattainment area. EPA has reviewed

the MCR documents submitted by Connecticut and has determined that Connecticut has met the commitment to perform these MCRs. EPA has sent a letter to Connecticut finding that their MCRs fulfill the commitment made by Connecticut in their 1-hour ozone attainment demonstrations.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2006-0930. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, i.e., 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 either electronically through www.regulations.gov or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114-2023, telephone number (617) 918-1664.

SUPPLEMENTARY INFORMATION:

I. General Information

EPA's findings letter and Technical support Document (TSD) and the State's mid-course review (MCR) submittal are available at the Regional Office, which is identified in the **ADDRESSES** section above.

II. Further Information

A. Background

EPA's 1996 modeling guidance¹ recognized the need to perform a MCR as a means for addressing uncertainty in the modeling results. In its December 16, 1999 proposed rulemakings on the 1-hour ozone attainment demonstrations for ten ozone nonattainment areas (see

¹ U.S. EPA (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA-454/B-957-007, (June 1996), Web site: <http://www.epa.gov/ttn/scram/> (file name: "O3TEST").

one example at 64 FR 70348), EPA stated that because of the uncertainty in long-term projections, an attainment demonstration that relies on weight of evidence needs to contain provisions for periodic review of monitoring, emissions, and modeling data to assess the extent to which refinements to emission control measures are needed. In those December 16, 1999 proposed rulemakings, EPA set forth its framework for reviewing and processing 1-hour ozone attainment demonstrations and one element of that framework was a commitment for a MCR.

A MCR provides an opportunity for the state and EPA to assess if a nonattainment area is, or is not, making sufficient progress toward attainment of the one-hour ozone standard. The MCR should utilize air quality monitoring and other data to assess whether the control measures relied on in a SIP's attainment demonstration have resulted in adequate improvement of the ozone air quality. The EPA believes that a MCR is a critical element in any attainment demonstration that employs a long-term projection period and relies on a weight-of-evidence test. The commitment to perform a MCR was required before EPA would approve most 1-hour ozone attainment demonstrations. Moreover, even though the 1-hour ozone standard has been revoked by EPA (70 FR 44470, June 15, 2005), the anti-backsliding provisions of EPA's 8-hour ozone implementation rule (69 FR 23951, April 30, 2004) continue to require areas with outstanding commitments to perform a 1-hour MCR to do so.

The two 1-hour ozone nonattainment areas in Connecticut that are the subject of this notice are the Connecticut portion of the New York-Northern New Jersey-Long Island ozone nonattainment area and the Greater Connecticut 1-hour ozone nonattainment area. The one-hour attainment demonstration for the Connecticut portion of the New York-Northern New Jersey-Long Island ozone nonattainment area, with the commitment to perform a MCR, was approved in 66 FR 63921, published on December 11, 2001. This area also had an emissions shortfall. Connecticut adopted additional control measures to fill this shortfall. EPA approved these measures as fulfilling the shortfall in a previous rulemaking. See 71 FR 51761 (August 31, 2006). The one-hour attainment demonstration for the Greater Connecticut 1-hour ozone nonattainment area, with the commitment to perform a MCR, was approved in 66 FR 634, published on January 3, 2001.