

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R09-OAR-2013-0735; FRL-9917-23-Region 9]

### Approval of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Las Vegas Valley, Nevada; Redesignation to Attainment for PM<sub>10</sub>

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Nevada state implementation plan that provides for the maintenance of the national ambient air quality standard for particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM<sub>10</sub>) in Las Vegas Valley for the next ten years and to approve the related motor vehicle emissions budgets. Based in part on the approval of the PM<sub>10</sub> maintenance plan, EPA is also taking final action to grant the State of Nevada's request for redesignation of Las Vegas Valley to attainment for the PM<sub>10</sub> standard. Consistent with the assumptions of the maintenance plan, EPA is approving revisions to certain local fugitive dust rules to ensure their continued applicability after redesignation of the area to attainment. Lastly, EPA is taking final action to delete the area designation for Las Vegas Valley for the revoked national standard for total suspended particulate because the designation is no longer necessary.

**DATES:** This rule is effective on November 5, 2014.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R09-OAR-2013-0735. Generally, documents in the docket for this action are 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 at [www.regulations.gov](http://www.regulations.gov), some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., confidential business information or "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:** Karina O'Connor, Air Planning Office

(AIR-2), U.S. Environmental Protection Agency, Region IX, (775) 434-8176, [occonnor.karina@epa.gov](mailto:occonnor.karina@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us," or "our" refer to EPA. This **SUPPLEMENTARY INFORMATION** section is arranged as follows:

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#### I. Proposed Actions

On July 21, 2014 (79 FR 42258), under Clean Air Act (CAA or "Act") section 110(k)(3), EPA proposed to approve a submittal from the Nevada Division of Environmental Protection (NDEP) dated September 7, 2012 of the *Redesignation Request and Maintenance Plan for Particulate Matter (PM<sub>10</sub>), Clark County, Nevada* (August 2012) ("Las Vegas Valley PM<sub>10</sub> Maintenance Plan") as a revision to the Nevada state implementation plan (SIP). In so doing, we found that the Las Vegas Valley PM<sub>10</sub> Maintenance Plan adequately demonstrates that the area will maintain the PM<sub>10</sub> national ambient air quality standard (NAAQS or "standard") for 10 years beyond redesignation and includes sufficient contingency provisions to promptly correct any violation of the PM<sub>10</sub> standard which occurs after redesignation and thereby meets the requirements for maintenance plans under CAA section 175A. We also proposed to approve the motor vehicle emissions budgets (MVEBs) in the Las Vegas Valley PM<sub>10</sub> Maintenance Plan because we found they meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

In our July 21, 2014 proposed rule, under CAA section 107(d)(3)(D), we proposed to grant NDEP's request to redesignate the Las Vegas Valley PM<sub>10</sub> nonattainment area from "nonattainment" to "attainment" for the PM<sub>10</sub> standard. We proposed to do so based on our conclusion that the Las Vegas Valley has attained the PM<sub>10</sub> standard;<sup>1</sup> that the relevant portions of the Nevada SIP are fully approved; that the improvement in air quality is due to permanent and enforceable emissions reductions; that the State of Nevada has met all of the requirements applicable to

<sup>1</sup> In our proposed approval, EPA stated that "SLAMS data for 2014 are not yet available . . . but will be reviewed prior to final action to ensure that they are consistent with continued attainment." 79 FR at 42263. We have now reviewed 2014 data, submitted to AQS as of September 12, 2014, and have found it to be consistent with continued attainment.

the Las Vegas Valley PM<sub>10</sub> nonattainment area with respect to section 110 and part D of the CAA; and, based on our proposed approval as described above, that the Las Vegas Valley PM<sub>10</sub> Maintenance Plan meets the requirements for maintenance plans under section 175A of the CAA; and that, therefore, the State of Nevada has met the criteria for redesignation under CAA section 107(d)(3)(E) for the Las Vegas Valley PM<sub>10</sub> nonattainment area.

Next, we proposed to approve certain fugitive dust rules (i.e., Clark County Air Quality Regulations sections 41, and 90 through 93) that Clark County has amended to ensure their continued applicability after the area is redesignated to attainment and that NDEP submitted to us (on May 27, 2014) as a revision to the Nevada SIP.

Lastly, we proposed to delete the area designation for Las Vegas Valley for the revoked NAAQS for total suspended particulate.

Please see our July 21, 2014 proposed rule for a detailed discussion of the background for these actions, and the rationale for approval of the Las Vegas Valley PM<sub>10</sub> Maintenance Plan, for granting NDEP's request for redesignation of Las Vegas Valley to attainment, for approving Clark County's amended fugitive dust rules, and for deleting the TSP designation for Las Vegas Valley.

#### II. Public Comments

Our July 21, 2014 proposed rule provided a 30-day public comment period, which closed on August 20, 2014. We received no comments on our proposal during this period.

#### III. Final Action

Under CAA section 110(k)(3), and for the reasons set forth in our July 21, 2014 proposed rule, EPA is taking final action to approve NDEP's submittal dated September 7, 2012 of the *Redesignation Request and Maintenance Plan for Particulate Matter (PM<sub>10</sub>), Clark County, Nevada* (August 2012) ("Las Vegas Valley PM<sub>10</sub> Maintenance Plan") as a revision to the Nevada SIP. EPA finds that the maintenance demonstration showing how the area will continue to attain the 24-hour PM<sub>10</sub> NAAQS for 10 years beyond redesignation, and the contingency provisions describing the actions that Clark County will take in the event of a future monitored violation, meet all applicable requirements for maintenance plans and related contingency provisions in CAA section 175A. EPA is also finding adequate and approving the motor vehicle emissions budgets in the Las Vegas Valley PM<sub>10</sub> Maintenance Plan

(i.e., 141.14 tons per day in 2008, 2015, and 2023) because we find they meet the applicable transportation conformity requirements under 40 CFR 93.118(e).

Second, under CAA section 107(d)(3)(D), we are taking final action to grant NDEP's request, which accompanied the submittal of the maintenance plan, to redesignate the Las Vegas Valley PM<sub>10</sub> nonattainment area to attainment for the 24-hour PM<sub>10</sub> NAAQS. We are doing so based on our conclusion that the area has met the five criteria for redesignation under CAA section 107(d)(3)(E). Our conclusion in this regard is in turn based on our determination that the area has attained the 24-hour PM<sub>10</sub> NAAQS, that relevant portions of the Nevada SIP are fully approved, that the improvement in air quality is due to permanent and enforceable reductions in emissions, that Nevada has met all requirements applicable to the Las Vegas Valley PM<sub>10</sub> nonattainment area with respect to section 110 and part D of the CAA, and based on our approval as part of this action of the Las Vegas Valley PM<sub>10</sub> Maintenance Plan. Our determination that the area has attained the 24-hour PM<sub>10</sub> NAAQS is based in part on our concurrence with Clark County DAQ that the exceedances monitored in Las Vegas Valley on July 3, 2011 were caused by a high wind exceptional event and our related exclusion of the exceedances from the attainment determination.

Third, EPA is taking final action to approve revisions to Clark County fugitive dust rules sections 41, and 90 through 93 that were submitted on May 27, 2014 as a revision to the Nevada SIP because we find that they ensure continued implementation of the rules after redesignation of Las Vegas Valley to attainment and because they meet all other applicable requirements.<sup>2</sup>

Lastly, EPA is taking final action to delete the area designation for Las Vegas Valley for the revoked national standard for total suspended particulate because the designation is no longer necessary.

#### IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section

<sup>2</sup> Approval of Clark County amended sections 41, and 90 through 93 will supersede the following existing rules in the applicable Nevada SIP: Section 41 as approved at 46 FR 43141 (August 27, 1981); section 90 as approved at 71 FR 63250 (October 30, 2006); section 91 as approved at 69 FR 32272 (June 9, 2004); section 92 as approved at 71 FR 63250 (October 30, 2006); and section 93 as approved at 71 FR 63250 (October 30, 2006).

107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. Redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, these actions merely approve a State plan and redesignation request as meeting Federal requirements and do not impose additional requirements beyond those by State law. For these reasons, these actions:

- Are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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 CAA; and
- Do not provide 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, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law. Nonetheless, EPA has discussed the action with the one Tribe, the Las Vegas Paiute Tribe, located within the Las Vegas Valley PM<sub>10</sub> nonattainment area.

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 action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 5, 2014. 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

##### 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide.

##### 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: September 17, 2014.  
**Jared Blumenfeld,**  
*Regional Administrator, Region IX.*

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

Request and Maintenance Plan for Particulate Matter (PM<sub>10</sub>), Clark County, Nevada (August 2012)” after the entry for “Pages 4–125 and 4–126 and appendix R (of the PM–10 State Implementation Plan for Clark County).”

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**Subpart DD—Nevada**

The revisions and additions read as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

- 2. Section 52.1470 is amended:
  - a. In paragraph (c), Table 3, by revising the entries for “Section 41: Subsections 41.1–41.4,” “Section 90,” “Section 91,” “Section 92,” and “Section 93”; and
  - b. By adding in paragraph (e), under the table heading “Air Quality Implementation Plan for the State of Nevada” an entry for “Redesignation

**§ 52.1470 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*

TABLE 3—EPA-APPROVED CLARK COUNTY REGULATIONS

County citation	Title/Subject	County effective date	EPA Approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Section 41 .....	Fugitive Dust .....	4/29/14	[Insert <b>Federal Register</b> citation], 10/6/14.	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
Section 90 .....	Fugitive Dust from Open Areas and Vacant Lots.	4/29/14	[Insert <b>Federal Register</b> citation], 10/6/14.	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
Section 91 .....	Fugitive Dust from Unpaved Roads, Unpaved Alleys, and Unpaved Easement Roads.	4/29/14	[Insert <b>Federal Register</b> citation], 10/6/14.	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
Section 92 .....	Fugitive Dust from Unpaved Parking Lots, Material Handling & Storage Yards, & Vehicle & Equipment Storage Yards.	4/29/14	[Insert <b>Federal Register</b> citation], 10/6/14.	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
Section 93 .....	Fugitive Dust from Paved Roads & Street Sweeping Equipment.	4/29/14	[Insert <b>Federal Register</b> citation], 10/6/14.	Adopted by Clark County on April 15, 2014 and submitted by NDEP on May 27, 2014.
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

\* \* \* \* \* (e) \* \* \*

**EPA-APPROVED NEVADA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES**

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date	EPA Approval date	Explanation
<b>Air Quality Implementation Plan for the State of Nevada<sup>1</sup></b>				
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Redesignation Request and Maintenance Plan for Particulate Matter (PM <sub>10</sub> ), Clark County, Nevada (August 2012).	Las Vegas Valley, Clark County.	9/7/12	[Insert <b>Federal Register</b> citation], 10/6/14.	Excludes appendix B (“Documentation of the Public Review Process”).
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *

<sup>1</sup> 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).

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 3. The authority citation for part 81 continues to read as follows:

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

**Subpart C—Section 107 Attainment Status Designations**

- 4. Section 81.329 is amended by:
  - a. Removing in the table under “Nevada—TSP,” the entry for “Las Vegas Valley (212) (15–24S, 56–64E)”; and

■ b. Revising in the table under “Nevada—PM–10,” the entry for “Clark County” to read as follows:

**§ 81.329 Nevada.**  
\* \* \* \* \*

NEVADA—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
Clark County:				
Las Vegas planning area .....	November 5, 2014	Attainment		
Hydrographic area 212 .....				

\* \* \* \* \*  
[FR Doc. 2014–23623 Filed 10–3–14; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA–R03–OAR–2014–0148; FRL–9917–39–Region–3]

**Approval and Promulgation of Air Quality Implementation Plans; District of Columbia, Maryland, and Virginia; Approval of the Redesignation Requests and Maintenance Plan of the Washington, DC–MD–VA Nonattainment Area for the 1997 Annual Fine Particulate Matter Standard**

**AGENCY:** Environmental Protection Agency.  
**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the requests from the District of Columbia (the District), the State of Maryland (Maryland), and the Commonwealth of Virginia (Virginia) (collectively “the States”) to redesignate to attainment their respective portions of the Washington, DC–MD–VA nonattainment area (hereafter “the Washington Area” or “the Area”) for the 1997 annual fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS or standard). EPA is also approving, as a revision to their respective State Implementation Plans (SIPs), the common maintenance plan submitted by the States to show maintenance of the 1997 annual PM<sub>2.5</sub> NAAQS through 2025 for the Washington Area. The Washington Area

maintenance plan includes motor vehicle emissions budgets (MVEBs) for PM<sub>2.5</sub> and nitrogen oxides (NO<sub>x</sub>) for the Area for the 1997 annual PM<sub>2.5</sub> standard, which EPA is approving for transportation conformity purposes. These actions are being taken under the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 5, 2014.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2014–0148. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., 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 either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittals are available at District of Columbia, Department of the Environment, Air Quality Division, 1200 1st Street NE., 5th Floor, Washington, DC 20002; Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230; and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219, respectively.

**FOR FURTHER INFORMATION CONTACT:** Emlyn Vélez-Rosa, (215) 814–2038, or by email at [velez-rosa.emlyn@epa.gov](mailto:velez-rosa.emlyn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The District of Columbia Department of the Environment (DDOE), the Maryland Department of the Environment (MDE), and the Virginia Department of Environmental Quality (VADEQ) worked together in developing a combined document to address the requirements for the redesignation to attainment of the Washington Area for the 1997 annual PM<sub>2.5</sub> NAAQS. The States also developed a common maintenance plan as a revision to their respective SIPs to ensure continued attainment of the 1997 annual PM<sub>2.5</sub> standard in the Washington Area throughout 2025. The 1997 annual PM<sub>2.5</sub> redesignation requests and maintenance plans for the Washington Area were submitted to EPA by DDOE on June 3, 2013, by MDE on July 10, 2013, and by VADEQ on June 3, 2013. The emissions inventories included in the Washington Area maintenance plans were subsequently supplemented by the States to provide for emissions estimates of VOC and ammonia. The supplemental inventories were submitted to EPA on July 22, 2013 by DDOE, on July 26, 2013 by MDE, and on July 17, 2013 by VADEQ. In addition, the maintenance plan includes the 2017 and 2025 PM<sub>2.5</sub> and NO<sub>x</sub> MVEBs used for transportation conformity purposes for the entire Washington Area for the 1997 annual PM<sub>2.5</sub> NAAQS.

On August 8, 2014 (79 FR 45735), EPA published a notice of proposed rulemaking (NPR), proposing to take several rulemaking actions related to the redesignation of the Washington Area to