

United States Environmental Protection Agency, Region IX

Air Division

Technical Support Document

for

EPA's Notice of Rulemaking

for the

Hawaii State Implementation Plan

Hawaii Administrative Rules Title 11 Department of Health Chapter 60.1 Air Pollution Control

Subchapter 1

Rule 11-60.1-1 Definitions

Rule 11-60.1-2 Prohibition of air pollution

Rule 11-60.1-4 Certification

Rule 11-60.1-8 Reporting discontinuance

Rule 11-60.1-11 Sampling, resting, and reporting methods

Rule 11-60.1-14 Public access to information

Rule 11-60.1-15 Reporting of equipment shutdown

Rule 11-60.1-16 Prompt reporting of deviations

Rule 11-60.1-17 Prevention of air pollution emergency episodes

Rule 11-60.1-20 Severability

Subchapter 2

Rule 11-60.1-32 Visible emissions

Rule 11-60.1-34 Motor vehicles

Rule 11-60.1-40 Volatile organic compound water separation

Rule 11-60.1-41 Pump and compressor requirements

Rule 11-60.1-42 Waste gas disposal

Subchapter 3

Rule 11-60.1-51 Definitions

Rule 11-60.1-53 Agricultural burning: permit requirement

Rule 11-60.1-54 Agricultural burning: applications

Rule 11-60.1-56 Agricultural burning: recordkeeping and monitoring

Prepared by Nicole Law

Reviewed by Andrew Steckel

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## Hawaii Department of Health (DOH)

### Submitted Rules (revised on November 14, 2003 and submitted on December 14, 2011)

- Rule 11-60.1-1, Definitions
- Rule 11-60.1-2, Prohibition of air pollution
- Rule 11-60.1-4, Certification
- Rule 11-60.1-8, Reporting discontinuance
- Rule 11-60.1-11, Sampling, testing, and reporting methods
- Rule 11-60.1-14, Public access to information
- Rule 11-60.1-15, Reporting of equipment shutdown
- Rule 11-60.1-16, Prompt reporting of deviations
- Rule 11-60.1-17, Prevention of air pollution emergency episodes
- Rule 11-60.1-20, Severability
- Rule 11-60.1-32, Visible emissions
- Rule 11-60.1-34, Motor vehicles
- Rule 11-60.1-40, Volatile organic compound water separation
- Rule 11-60.1-41, Pump and compressor requirements
- Rule 11-60.1-42, Waste gas disposal
- Rule 11-60.1-51, Definitions
- Rule 11-60.1-53, Agricultural burning: permit requirement
- Rule 11-60.1-54, Agricultural burning: applications
- Rule 11-60.1-56, Agricultural burning: recordkeeping and monitoring

There are no superseded submittals of the rules upon which EPA has not acted.

### State Implementation Plan (SIP) Rules (adopted on November 29, 1982, approved on August 18, 1983, 48 FR 37402)

- Rule 11-60-1 Definitions
- Rule 11-60-17 Prohibition of air pollution
- Rule 11-60-10 Permit system, reporting discontinuance or dismantlement
- Rule 11-60-15 Sampling, testing, and reporting methods
- Rule 11-60-6 Permit systems, performance testing
- Rule 11-60-16 Malfunction of equipment reporting
- Rule 11-60-35 Prevention of air pollution emergency episodes
- Rule 11-60-38 Severability
- Rule 11-60-24 Visible emissions
- Rule 11-60-25 Control of motor vehicles
- Rule 11-60-19 Agricultural burning, permit requirement
- Rule 11-60-20 Agricultural burning, applications
- Rule 11-60-22 Agricultural burning, record keeping and monitoring

**Table of Current SIP and Submitted Rules**

Rules Approved into the SIP on August 18, 1983	Rules Submitted on December 14, 2011 and Replacing Current SIP Rules
11-60-1 Definitions	11-60.1-1 Definitions
11-60-17 Prohibition of air pollution	11-60.1-2 Prohibition of air pollution
new to the SIP	11-60.1-4 Certification
11-60-10 Permit system, reporting discontinuance or dismantlement	11-60.1-8 Reporting discontinuance
11-60-15 Sampling, testing, and reporting methods	11-60.1-11 Sampling, testing, and reporting methods
11-60-6 Permit systems, performance testing	
new to the SIP	11-60.1-14 Public access to information
11-60-16 Malfunction of equipment reporting	11-60.1-15 Reporting of equipment shutdown
	11-60.1-16 Prompt reporting of deviations
11-60-35 Prevention of air pollution emergency episodes	11-60.1-17 Prevention of air pollution emergency episodes
11-60-38 Severability	11-60.1-20 Severability
11-60-24 Visible emissions	11-60.1-32 Visible emissions
11-60-25 Control of motor vehicles	11-60.1-34 Motor vehicles
new to the SIP	11-60.1-40 Volatile organic compound water separation
new to the SIP	11-60.1-41 Pump and compressor requirements
new to the SIP	11-60.1-42 Waste gas disposal
11-60-1 Definitions	11-60.1-51 Definitions
11-60-19 Agricultural burning, permit requirement	11-60.1-53 Agricultural burning: permit requirement
11-60-20 Agricultural burning, applications	11-60.1-54 Agricultural burning: applications
11-60-22 Agricultural burning, record keeping and monitoring	11-60.1-56 Agricultural burning: recordkeeping and monitoring

**Purpose of New Rules and Revisions**

Section 110(a) of the Clean Air Act (CAA) requires states to submit regulations that control volatile organic compounds, oxides of nitrogen, particulate matter, 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 these pollutants. Hawaii DOH submitted these rules to support the infrastructure SIP requirements of section 110(a)(2) of the CAA.

The purposes of the new rules are as follows:

- Rule 11-60.1-4 Certification requires that application forms, reports, compliance plans, and compliance certifications submitted shall contain certification by a responsible official of truth, accuracy, and completeness.
- Rule 11-60.1-14 Public access to information requires information from facilities,

- submitted as government records, be available to the public.
- Rule 11-60.1-40 Volatile organic compound water separation requires various controls on large VOC water separator units.
- Rule 11-60.1-41 Pump and compressor requirements requires pumps and compressors be equipped with seals and other pollution controls.
- Rule 11-60.1-42 Waste gas disposal prohibits VOC gas stream emissions from vapor blowdown systems, unless control devices are used.

The purposes of revising the rules relative to the SIP rules are to make the following changes:

- Rule 11-60-1 Definitions adds several new definitions, removes unnecessary terms, and moves terms related to open burning to a separate definitions rule.
- Rule 11-60-17 Prohibition of air pollution has now been renumbered to 11-60.1-2. Small revisions to the rule clarify that written approval needs to be obtained in order to allow air pollution.
- Rule 11-60-10 Permit system, transfer of permit to operate has been renumbered and renamed to 11-60.1-8 Reporting discontinuance. The rule now requires reporting of discontinuance to be reported in writing to the director.
- Rule 11-60-15 Sampling, testing, and reporting methods and 11-60-6 Permit system, performance testing have been consolidated to one rule- 11-60.1-11 Sampling, testing, and reporting with the same requirements.
- Rule 11-60-16 Malfunction of equipment reporting has been split into the following two separate rules: 11-60.1-15 Reporting of equipment shutdown and 11-60.1-16 Prompt reporting of deviation. Requirements are generally the same, except additional information will need to be provided when reporting deviations.
- Rule 11-60-35 Prevention of air pollution emergency episodes has been renumbered to 11-60.1-17. A few of the indication levels have been revised. The ozone alert level has been raised to  $400 \mu\text{g}/\text{m}^3$ , the PM10 alert level has been reduced to  $420 \mu\text{g}/\text{m}^3$ , the PM10 emergency level has been reduced to  $500 \mu\text{g}/\text{m}^3$ , and the ozone emergency level has been reduced to  $100 \mu\text{g}/\text{m}^3$ .
- Rule 11-60-38 Severability has not been changed, just renumbered to 11-60.1-20.
- Rule 11-60-24 Visible emissions has been renumbered to 11-60.1-32 and is generally unchanged except for an updated test method for determining opacity.
- Rule 11-60-25 Control of motor vehicles has not been changed, just renumbered to 11-60.1-34.
- Rule 11-60-19 Agricultural burning, permit requirements has been renumbered to 11-60.1-53 and language has been slightly changed.
- Rule 11-60-20 Agricultural burning, applications has been renumbered to 11-60.1-54 and is generally unchanged except for the additional requirement to include a copy of a business license for commercial agricultural activities.
- Rule 11-60-22 Agricultural burning, record keeping and monitoring has been renumbered to 11-60.1-56 and revised to state monitoring and records are performed in accordance with the permit.

## **EPA Evaluation and Action**

Generally, prohibitory SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). We have evaluated this SIP revision to determine whether it would interfere with any applicable requirement concerning attainment and reasonable further progress (RFP) or any other applicable requirement of the Act (CAA 110(l)). Section 193 of the CAA does not apply to this proposed action because the entire State of Hawaii is designated unclassifiable/attainment for all of the current National Ambient Air Quality Standards (NAAQS). Because Hawaii DOH is specifically submitting the rules to fulfill infrastructure SIP requirements, we have also considered these requirements in our evaluation.

EPA guidance documents that we used to help evaluate enforceability requirements consistently includes the following:

- Requirements for Preparation, Adoption, and Submittal of Implementation Plans, U.S. EPA, 40 CFR part 51.
- Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, EPA (May 25, 1988) (The Bluebook).
- Guidance Document for Correcting Common VOC & Other Rule Deficiencies, EPA Region 9 (August 21, 2001) (The Little Bluebook).
- PM-10 Guideline Document, EPA (April 1993).

Evaluation of the new rules follows:

- Rule 11-60.1-4, 11-60.1-14, 11-60.1-40, 11-60.1-41, and 11-60.1-42 are new enforceable rules which require certification on submitted documents, public access to information, and controls on various VOC sources. Because there are no specific rules regarding these requirements currently in the Hawaii SIP, the submitted rules strengthen the SIP and comply with CAA §110(l). The new rules also address infrastructure SIP requirements in CAA sections 110(a)(2)(A) and 110(a)(2)(F). Rule 11-60.1-4 strengthens the enforceability of emission limitations and control measures by requiring submitted documents be certified. Rules 11-60.1-40, 11-60.1-41, and 11-60.1-42 also support section 110(a)(2)(A) by requiring enforceable control measures. Section 110(a)(2)(F)(iii) is supported by the new rule 11-60.1-14 which outlines what type of documents will be considered government records and therefore publically available.

Evaluation of the rule revisions follows:

- Rule 11-60.1-1: Several terms were added to the definitions rules to clarify the revised rules. Many terms were also removed to update the rule. Terms such as air pollutant, air pollution, emission, fuel burning equipment, fugitive dust, person, stack, and volatile organic compound have been slightly revised. The addition, removal, and revision of terms does not relax the rule nor does it present any enforceability issues. Rule 11-60.1-1 supports both 110(a)(2)(A) and 110(a)(2)(C), as definitions clarify key terms in enforceable emission limitations, and control measures.
- Rule 11-60.1-2: The rule language has been expanded to clarify that air pollution is prohibited unless written approval from the director has been given to a person. This clarifies the SIP and does not present enforceability issues. The air pollution prohibition also supports both 110(a)(2)(A) and 110(a)(2)(C) because it is an enforceable emission

limitation.

- Rule 11-60.1-8: The rule language was edited to remove the requirement that permits need to be surrendered after a report of permanent discontinuance. Reporting requirements support the enforceability of emission limitations as required by CAA section 110(a)(2)(A) and 110(a)(2)(C).
- Rule 11-60.1-11: This rule replaces two of the SIP-approved rules covering performance testing for permits and sampling, testing, and reporting methods. Many of the provisions are identical, though the wording has been revised. The SIP-approved rules required that reports be retained for 2 years, but the revision states they should be retained for a specific time period as required in other sections of the regulations. These referenced sections require a minimum retention time of three years, so the rule has been strengthened by extending the record retention time. Language stating that the emission data will be made available to the public during normal business hours has been removed. Removing this language is not a relaxation because a new rule addressing public access to information has been submitted. Sampling, testing, and reporting methods are paramount for the enforceability of emission limitations as required by CAA section 110(a)(2)(A) and 110(a)(2)(C). In addition, Rule 11-60.1-11 partially fulfills the requirements of CAA section 110(a)(2)(F) by requiring reporting and correlation of emissions data.
- Rule 11-60.1-15: This rule has the same language as SIP-approved Rule 11-60-16 (a). The rule (entitled Reporting of Equipment Shutdown) supports both 110(a)(2)(A) and 110(a)(2)(C) by requiring reporting of the “nature and quantity of emissions of air pollutants likely to be emitted during the shutdown period.”
- Rule 11-60.1-16: This rule contains similar language found in Rule 11-60-16 (b), but has additional requirements specifying what information needs to be provided when an owner or operator notifies the department in the event of a violation of the permit. This revision strengthens the rule and enhances its enforceability increasing. This rule supports the enforceability requirements of CAA sections 110(a)(2)(A) and 110(a)(2)(C).
- Rule 11-60.1-17: This rule contains similar language that is found in 11-60-35. However, a few of the indication levels have been revised. The ozone alert level has been raised to  $400 \mu\text{g}/\text{m}^3$ , the PM10 alert level has been reduced to  $420 \mu\text{g}/\text{m}^3$ , the PM10 emergency level has been reduced to  $500 \mu\text{g}/\text{m}^3$ , and the ozone emergency level has been reduced to  $100 \mu\text{g}/\text{m}^3$ . While the ozone alert level has been raised to  $400 \mu\text{g}/\text{m}^3$ , we do not consider this a problematic relaxation because the new level is consistent with federal guidance in 40 CFR Part 51 Appendix L 1.1(b) for ozone alert levels. The other revised levels strengthen the rule. Rule 11-60.1-17 describes alert levels during which health advisories are issued and source activities curtailed. This rule supports the requirement in CAA section 110(a)(2)(G) to provide authority comparable to section 303 of the CAA to issue various orders or alert levels when air quality has reached levels that endanger public health or welfare.
- Rule 11-60.1-20: There have been no changes made to the rule language, only renumbering of the rule. Severability supports CAA section 110(a)(2)(A) as it allows portions of various rules to be enforceable.
- Rule 11-60.1-32: The rule is generally unchanged from the SIP-approved version except for an updated test method for determining opacity. This change clarifies the SIP and does not present relaxation or enforceability issues. The visible emissions rule contains emission

- limitations as required by CAA section 110(a)(2)(A).
- Rule 11-60.1-34: There have been no changes made to the rule language, only renumbering of the rule. The motor vehicles rule contains emission limitations and control measures as required by CAA section 110(a)(2)(A).
- Rule 11-60.1-51: This is a new definitions rule. The current SIP includes open burning related definitions in the general definitions rule, but the new submittal separates all open burning rules into their own subsection and set of rules. Six new terms are introduced in this rule and two unchanged terms and corresponding definitions have been moved from the general definitions SIP rule. The additional terms help clarify rule language and do not weaken the rule or adversely affect its enforceability. This definitions rule supports CAA section 110(a)(2)(A), as the definitions clarify key terms in enforceable emission limitations, and control measures.
- Rule 11-60.1-53: The revised rule is similar to SIP Rule 11-60-19, except for additional language outlining that failure to comply with permit requirements results in penalties. The rule references parts of the state's statutes that set maximum penalties for each violation. It should be noted that these penalty "ceilings" do not impact penalties available pursuant to federal law or otherwise affect federal enforcement authority. Because the only change to the rule is the addition of the penalty provisions, there are no relaxation or enforceability issues. This permit requirement is an enforceable control measure which supports requirements of CAA section 110(a)(2)(A) and 110(a)(2)(C).
- Rule 11-60.1-54: This rule provides requirements for applications for agricultural burning permits and is generally unchanged from the SIP-approved version except that it requires submittal of additional information to accompany the submittal of an agricultural burning permit. The rule now requires that a business license for commercial agricultural activities be included in an agricultural burning permit application packet. This is a rule-strengthening revision, so it does not present any relaxation or enforceability issues. The rule supports the requirements of CAA section 110(a)(2)(A) and 110(a)(2)(C).
- Rule 11-60.1-56: The revised rule streamlines the monitoring and recordkeeping requirements by referring to what is required in the specific permit. While the SIP-approved rule more specifically lists what information should be maintained, the removal of these specific information requirements is not a SIP relaxation because recordkeeping revisions would not alter attainment or reasonable further progress. The recordkeeping and monitoring rule for agricultural burning support the enforceability of emission limitations as required by CAA section 110(a)(2)(A).

The submitted rules discussed in this TSD specifically support infrastructure SIP CAA requirements in sections 110(a)(2)(A), 110(a)(2)(C), 110(a)(2)(F), and 110(a)(2)(G). A number of rules discussed above fulfill section 110(a)(2)(A)'s requirement for a plan to have enforceable emission limitations and other control measures. A few of the rules discussed above support section 110(a)(2)(C)'s requirement to provide for the enforcement of measures in (A). One of the requirements in CAA section (a)(2)(F) is for reports to be available for public inspection. Rule 11-60.1-14 describes these requirements, so it supports one aspect of 110(a)(2)(F). Rule 11-60.1-11 also supports CAA section 110(a)(2)(F) by requiring reporting and correlation of emissions data. Rule 11-60.1-17 supports the requirement in CAA section 110(a)(2)(G) to provide authority comparable to section 303 of the CAA to issue various orders or alert levels when air

quality has reached levels that endanger public health or welfare. We believe that with these revisions, the Hawaii SIP will meet the requirements of CAA section 110(a)(2)(A) with respect to the 1997 NAAQS for ozone and the 1997 and 2006 NAAQS for particulate matter smaller than 2.5 microns. Adequacy of Hawaii's program with respect to other section 110(a)(2) requirements and other pollutants will be addressed by EPA in separate actions.

Overall, the new and revised rules improve the SIP and do not constitute a relaxation from the current SIP-approved rules. Therefore, we propose to determine that our approval of the submittal would comply with CAA section 110(l), because the SIP, as revised to reflect the submitted revision, would provide for RFP and attainment of the NAAQS, and the revised rules are at least as stringent as the rules previously approved into the SIP.

### **EPA Recommended Actions**

We recommend full approval of the following rules (revised on November 14, 2003 and submitted on December 14, 2011) to supersede the SIP rules cited above:

- Rule 11-60.1-1, Definitions
- Rule 11-60.1-2, Prohibition of air pollution
- Rule 11-60.1-4, Certification
- Rule 11-60.1-8, Reporting discontinuance
- Rule 11-60.1-11, Sampling, resting, and reporting methods
- Rule 11-60.1-14, Public access to information
- Rule 11-60.1-15, Reporting of equipment shutdown
- Rule 11-60.1-16, Prompt reporting of deviations
- Rule 11-60.1-17, Prevention of air pollution emergency episodes
- Rule 11-60.1-20, Severability
- Rule 11-60.1-32, Visible emissions
- Rule 11-60.1-34, Motor vehicles
- Rule 11-60.1-40, Volatile organic compound water separation
- Rule 11-60.1-41, Pump and compressor requirements
- Rule 11-60.1-42, Waste gas disposal
- Rule 11-60.1-51, Definitions
- Rule 11-60.1-53, Agricultural burning: permit requirement
- Rule 11-60.1-54, Agricultural burning: applications
- Rule 11-60.1-56, Agricultural burning: recordkeeping and monitoring

### **References**

1. Submitted Hawaii Administrative Rules Title 11, Chapter 60.1 Air Pollution Control, revised on November 14, 2003 and submitted on December 14, 2011.
2. Applicable SIP Rules revised on November 29, 1982 and approved into the SIP on August 18, 1983, 48 FR 37402.
3. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, U.S. EPA, 40 CFR part 51.
4. Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, EPA (May 25,

- 1988) (The Bluebook).
5. Guidance Document for Correcting Common VOC & Other Rule Deficiencies, EPA Region 9 (August 21, 2001) (The Little Bluebook).
  6. PM-10 Guideline Document, EPA (April 1993).