



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0154; FRL-9967-20-Region 9]

Approval of Nevada Air Plan Revisions, Washoe Oxygenated Fuels Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Nevada State Implementation Plan (SIP). This revision concerns emissions of carbon monoxide (CO) from passenger vehicles. We are proposing to approve the suspension of a local rule that regulated these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2017-0154 at <http://www.regulations.gov>, or via email to Buss.Jeffrey@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official

comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Jeffrey Buss, EPA Region IX, (415) 947-4152, buss.jeffrey@epa.gov.

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

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I. The State's Submittal

A. What rule did the State submit?

On March 28, 2014, the Nevada Department of Environmental Protection (NDEP) submitted Washoe County District Board of Health (WCDBOH) Regulations Governing Air Quality Management Section 040.095, "Oxygen Content of Motor Vehicle Fuel," as amended by the WCDBOH on December 24, 2013. On September 28, 2014, the submittal for Section 040.095 was deemed 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 this rule?

The WCDBOH has adopted other versions of Section 040.095, most recently the version adopted September 22, 2005 and submitted to the EPA on November 4, 2005. We approved this version of the rule into the SIP on July 3, 2008 (73 FR 38124). While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. What is the purpose of the submitted rule revision?

The submitted revision to Section 040.095 suspends all requirements of the SIP-approved rule, which implements Washoe County's oxygenated fuel program. This program requires gasoline sold in Washoe County to contain 2.7 percent oxygenate by weight between October 1 and January 31 as a means of reducing CO emissions. The Truckee Meadows area of Washoe County has historically been designated nonattainment for the CO National Ambient Air Quality Standard (NAAQS or "Standard"),¹ and the WCDBOH adopted Section 040.095 to comply with

¹ Truckee Meadows was first designated nonattainment in 1978. See 43 FR 8962, 9013 (March 3, 1978). Truckee

the requirements of CAA section 211(m), which requires states to adopt an oxygenated gasoline program for any area out of attainment for the CO NAAQS. The EPA redesignated Truckee Meadows as attainment for the CO NAAQS in 2008, and the area's CO levels are now substantially below the Standard. 73 FR 38124 (July 3, 2008). The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule suspension?

As a general matter, under CAA section 110(l), the EPA may approve relaxations or suspensions of control measures so long as doing so would not interfere with attainment or maintenance of any NAAQS or otherwise conflict with applicable CAA requirements. The EPA has evaluated the revision to Section 040.095 to determine whether suspension of the Washoe County's oxygenated fuel program would interfere with NAAQS attainment or maintenance or conflict with other CAA requirements.

B. Does the rule suspension meet the evaluation criteria?

We believe this SIP submittal is consistent with CAA 110(l) requirements regarding restrictions on relaxation of SIP measures. The WCDBOH's analysis of future CO emissions in Washoe County demonstrates continued compliance with the CO NAAQS as a result of other state measures, such as the motor vehicle inspection and maintenance program, and federal measures such as the Renewable Fuels Standard. The TSD has more information on our evaluation.

Meadows was classified as moderate nonattainment under the 1990 CAA amendments. *See* 56 FR 56694, 56798 (November 6, 1991).

C. Public comment and proposed action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule suspension because we believe it fulfills all relevant requirements. We will accept comments from the public on this proposal until **[insert date 30 days after date of publication in the Federal Register]**. If we take final action to approve the submitted rule suspension, our final action will incorporate this revision into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the WCDBOH rule described in this notice. The EPA has made, and will continue to make, this material available electronically through www.regulations.gov and in hard copy at U.S. Environmental Protection Agency Region IX (Air-4), 75 Hawthorne Street, San Francisco, CA, 94105-3901.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is 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);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is 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.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is 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 Clean Air Act; and
- Does not provide the 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, 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. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: August 14, 2017.

Deborah Jordan,
Acting Regional Administrator,
Region IX.