6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[**EPA-R08-OAR-2019-0696; FRL-10005-71-Region 8]**

Approval and Promulgation of Air Quality State Implementation Plans; Provo, Utah

Second 10-Year Carbon Monoxide Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Utah. On January 14, 2019, the Governor of Utah submitted to the EPA a Clean Air Act (CAA) section 175A(b) second 10-year maintenance plan for the Provo area for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS). This limited maintenance plan (LMP) addresses maintenance of the CO NAAQS for a second 10-year period beyond the original redesignation. This action is being taken under sections 110 and 175A of the CAA.

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2019-0696, to the Federal Rulemaking Portal: https://www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. 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, 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.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Amrita Singh, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6103, singh.amrita@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we," "us" or "our" is used, we mean the EPA.

I. Background

Under the CAA Amendments of 1990, the Provo area was designated as nonattainment and classified as a "moderate > 12.7 ppm" CO area (56 FR 56839, November 6, 1991). On April 1, 2004, the Governor of Utah submitted to the EPA a request to redesignate the Provo CO nonattainment area to attainment for the CO NAAQS. Along with this request, the Governor submitted a CAA section 175A(a) maintenance plan which demonstrated that the area would maintain the CO NAAQS for the first 10 years following our approval of the redesignation request. We approved the State's redesignation request and 10-year maintenance plan on November 2, 2005 (70 FR 66264).

Eight years after an area is redesignated to attainment, CAA section 175A(b) requires the state to submit a subsequent maintenance plan to the EPA, covering a second 10-year period.[1] This second 10-year maintenance plan must demonstrate continued compliance with the NAAQS during this second 10-year period. To fulfill this requirement of the CAA, the Governor of Utah submitted the second 10-year update of the Provo CO maintenance plan (hereafter; "revised Provo Maintenance Plan") to us on January 14, 2019. With this action, we are proposing approval of the revised Provo Maintenance Plan.

The 8-hour CO NAAQS – 9.0 parts per million (ppm) - is attained when such value is not exceeded more than once a year. 40 CFR 50.8(a)(1). The Provo area has attained the 8-hour CO

[1] In this case, the initial maintenance period extended through 2015.

NAAQS from 1994 to the present.[2] In October 1995, the EPA issued guidance that provided CO nonattainment areas the option of using a less rigorous "limited maintenance plan" (LMP) option to demonstrate continued attainment and maintenance of the CO NAAQS.[3] According to this "LMP Guidance," areas that can demonstrate design values (2nd highest max) at or below 7.65 ppm (85% of exceedance levels of the 8-hour CO NAAQS) for eight consecutive quarters qualify to use an LMP. For the revised Provo Maintenance Plan, the State used the LMP option to demonstrate continued maintenance of the CO NAAQS in the Provo area. We have determined that the Provo area qualifies for the LMP option because the maximum design value for the most recent eight consecutive quarters with certified data at the time the State adopted the plan (years 2016 and 2017) was 1.6 ppm.[4]

II. The EPA's Evaluation of the Provo Second 10-Year CO Maintenance Plan

The following are the key elements of an LMP for CO: Emission Inventory, Maintenance Demonstration, Monitoring Network/Verification of Continued Attainment, Contingency Plan, and Conformity Determinations. Below, we describe our evaluation of each of these elements as it pertains to the revised Provo Maintenance Plan.

A. Emission Inventory

The revised Provo Maintenance Plan contains an emissions inventory for 2016. The emission inventory is a list, by source category, of the tons per day of CO directly emitted in

[2] In a direct final rulemaking published September 20, 2002, the EPA determined that the Provo area had attained the CO NAAQS from 1994 through 2001. (67 FR 59165). The measures taken by the State to achieve attainment of the CO NAAQS are also detailed in this rulemaking action.
[3] Memorandum "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph W. Paisie, Group Leader, EPA Integrated Policy and Strategies Group, to Air Branch Chiefs, October 6, 1995.
[4] See Table 4 below. Additionally, according to the LMP guidance, an area using the LMP option must continue to have a design value "at or below 7.65 ppm until the time of final EPA action on the redesignation." Table 4, below, demonstrates that the area meets this requirement.

Utah County (in which the Provo CO maintenance area is located) on a typical winter day in 2016.[5] This inventory is shown in Table 1, below.

Table 1 - Utah County Emissions Inventory for a Typical Winter Day in 2016

Emission Inventory Summary	**CO (tons/day)**
Point Sources	0.901
Onroad Mobile	94.827
Nonroad Mobile	27.769
Railroads	0.255
Wood Burning	6.454
Commercial Cooking	0.137
Nat. Gas Fuel Combustion	3.144
TOTAL	**133.488**

The State noted that 92% of the CO in the 2016 emissions inventory were from mobile sources. For that reason, the State also calculated mobile source emissions data for the city of Provo on a typical winter day in 2011, 2014 and 2016 using EPA-recommended mobile sources emissions modeling methods (MOVES2014a)[6].

Table 2 - Provo Vehicle Miles Traveled on an Average Winter Day

Year	**Vehicle Miles Traveled/Winter Day in Provo City**	**Average CO Tons/Day In Provo City**
2011	1,255,778	16.53
2014	1,312,491	14.46
2016	1,497,156	13

As shown in Table 2 (and as noted in the revised Provo Maintenance Plan), modeled average CO emissions declined from 2011 to 2014, and again from 2014 to 2016, despite an

[5] Violations of the CO NAAQS are most likely to occur on winter weekdays.
[6] Motor Vehicle Emissions Simulator (MOVES) model; version 2014a.

increase in vehicle miles traveled in each of these periods, which the State attributed to vehicles growing continuously cleaner over time. The Provo LMP contains a detailed emission inventory that was prepared in accordance with EPA guidance and is acceptable to the EPA.[7]

B. Maintenance Demonstration

We consider the maintenance demonstration requirement to be satisfied for areas that qualify for and use the LMP option. As mentioned above, a maintenance area is qualified to use the LMP option if that area's maximum 8-hour CO design value for eight consecutive quarters does not exceed 7.65 ppm (85% of the CO NAAQS). The EPA maintains that if an area begins the maintenance period with a design value no greater than 7.65 ppm, the applicability of prevention of significant deterioration requirements, the control measures already in the SIP, and federal measures should provide adequate assurance of maintenance over the 10-year maintenance period. Therefore, the EPA does not require areas using the LMP option to project emissions over the maintenance period. Because CO design values in the Provo area are consistently well below the LMP threshold (see Table 4), the State has adequately demonstrated that the Provo area will maintain the CO NAAQS into the future.

C. Monitoring Network/Verification of Continued Attainment

Per the EPA's LMP Guidance, "to verify the attainment status of the area over the maintenance period, the maintenance plan should contain provisions for continued operation of an appropriate, EPA-approved air quality monitoring network."[8] In instances where a state has used the LMP option for a second ten-year CO maintenance plan in an area whose monitoring

[7] "Procedures for Processing Requests to Redesignate Areas to Attainment," from John Calcagni, September 4, 1992.
[8] See LMP Guidance, October 6, 1995, at 4.

values have consistently been well below the NAAQS, the EPA has allowed the state to monitor CO in the maintenance area using average daily traffic (ADT) counts in lieu of ambient air quality monitoring.[9] For the revised Provo Maintenance Plan, the State has elected to use a similar alternative monitoring method which does not rely on ambient monitoring to verify continued attainment of the CO NAAQS. This method utilizes ADT counts that are collected by a Utah Department of Transportation (UDOT) traffic counter located along a major thoroughfare (North University Avenue) in Provo, by comparing ongoing ADT counts to those collected when monitoring data in the area showed design values well below the CO NAAQS.

Since 2007, no Provo CO monitor has registered a design value greater than 2.6 ppm, which is below one-third of the NAAQS.[10] Citing these consistently low monitor values, and expressing a desire to reallocate monitoring resources, the State has requested to discontinue CO monitoring in Provo and instead use an alternative strategy for monitoring maintenance of the CO NAAQS.

The State's alternative monitoring method utilizes ADT vehicle counts collected from a permanent automatic traffic counter in the Provo CO maintenance area to determine average monthly traffic during the traditional high CO concentration season of November through February. The State will compare the latest rolling 3-years of monthly ADT volumes to the 2013-2016 baseline ADT volumes (see Table 3) that correlate to the low CO monitored values during that period (see Table 4). Because mobile sources are the biggest driver of CO levels (as demonstrated in the "Emission Inventory" section), the State reasoned that any significant

[9] See, e.g., "Approval and Promulgation of Air Quality Implementation Plans; State of Montana Second 10-Year Carbon Monoxide Maintenance Plan for Billings," 80 FR 16571, March 30, 2015.
[10] See Table 4 below. Design values were derived from the EPA Air Data (https://www.epa.gov/outdoor-air-quality-data) website.

increase in CO emissions would have to be accompanied by a significant increase in ADT.[11] The EPA agrees with the State's reasoning.

Table 3 - Traffic Volumes for Provo, Utah

Rolling 2013-2016 ADT: November to February	
Month-Year	**Provo**
November 2013	27,223
December 2013	24,881
January 2014	27,361
February 2014	28,679
November 2014	28,453
December 2014	27,156
January 2015	29,056
February 2015	30,682
November 2015	29,582
December 2015	27,518
January 2016	30,452
February 2016	32,301
Average	**28,612**

Table 4 - 8-Hour CO Design Values for Provo, Utah

Design Value (ppm)[12]	Year
2.6	2007
1.8	2008
2.5	2009
1.9	2010
2.0	2011
1.8	2012
2.1	2013
1.9	2014
2.1	2015
1.3	2016
1.6	2017

[11] See "Review of National Ambient Air Quality Standards for Carbon Monoxide," 76 FR 54294, August 31, 2011.
[12] Design values were derived from the EPA Air Data (https://www.epa.gov/outdoor-air-quality-data) website.

If the rolling 3-year ADT value is 25% higher than the average value of 28,612 from the 2013-2016 baseline period, the State will reestablish CO ambient monitoring in Provo the following high season (November – February). If the CO design value in that season has not increased from the baseline mean by an equal or greater rate at which ADT has increased, and the monitor values remain at or below 50% of the CO NAAQS (2^{nd} max concentration $\leq$ 4.5 ppm), the monitor may again be removed and the ADT counts will continue to be relied upon to determine compliance with the NAAQS.

40 CFR 58.14(c) allows approval of requests to discontinue ambient monitors "on a case-by-case basis if discontinuance does not compromise data collection needed for implementation of a NAAQS and if the requirements of appendix D to this part, if any, continue to be met." The EPA finds that Utah's alternative monitoring method meets the criteria of 40 CFR 58.14(c) for the Provo CO maintenance area. Given the long history of low CO concentrations in the Provo area, and the adequacy of the State's alternative monitoring method at ensuring continued attainment of the CO NAAQS, the EPA finds it appropriate to approve the State's request to discontinue the Provo monitor and use their alternative monitoring method in its place.

D. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions to promptly correct any violation of the NAAQS that occurs after redesignation of an area. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures.

The revised Provo Maintenance Plan stated that Utah will use an exceedance of the CO NAAQS as the trigger for adopting specific contingency measures for the Provo area. As noted,

the State's alternative monitoring method requires reinstitution of a CO monitor in Provo if traffic levels increase from the 2013-2016 baseline by a factor of 25%. Therefore, the EPA finds that CO emissions in Provo are very unlikely to increase to the point of an exceedance without that exceedance being observed by a gaseous monitor.

The revised Provo Maintenance Plan indicates that, once monitoring is reinstated, a measured 8-hour CO concentration in a given year which exceeds the LMP eligibility requirement of 7.65 ppm would require the State to evaluate the cause of the CO increase. Within 6 months of validation of the concentration above 7.65 ppm, the State must present the Utah Air Quality Board (UAQB) with a recommended strategy to either prevent or correct any violation of the 8-hour CO standard. The revised Provo Maintenance Plan also states that, if a violation of the CO NAAQS occurs, the UAQB will hold a public meeting to consider the prior contingency measures that helped bring the Provo area into attainment, including the mandatory 2.7% oxygen fuels program and annual inspection and maintenance tests for mobile sources, in addition to any measures that could help the area reduce CO emissions. Selected contingency measures would then be adopted and required by November 1st of the next winter season.

We find that the contingency measures provided in the revised Provo Maintenance Plan are sufficient and meet the requirements of section 175A(d) of the CAA.

E. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(B)). The EPA's conformity rule provisions in 40 CFR part 93, subpart A require that transportation plans, programs and

projects conform to SIPs and establish the criteria and procedures for determining whether or not they demonstrate conformity. The EPA's conformity rule provisions include requirements for a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicle emission budget (MVEB) contained in the SIP revision (40 CFR 93.118 and 93.124). The MVEB is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment or maintenance area.[13]

Under the LMP policy, emissions budgets are treated as essentially not constraining for the length of the maintenance period. While the EPA's LMP policy does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting a MVEB. This is because it is unreasonable to expect that an LMP area will experience so much growth in that period that a violation of the CO NAAQS would result.[14] Therefore, for the Provo CO maintenance area, all actions that require conformity determinations for CO under our conformity rule provisions are considered to have already satisfied the regional emissions analysis and "budget test" requirements in 40 CFR 93.118.

Since LMP areas are still maintenance areas, certain aspects of transportation conformity determinations are still required for transportation plans, programs and projects. Specifically, for such determinations, RTPs, TIPs and projects must still demonstrate that they are fiscally constrained (40 CFR 93.108) and must meet the criteria for consultation (40 CFR 93.105 and 40

[13] The EPA's transportation conformity requirements and policy on MVEBs are found in the preamble to the November 24, 1993, transportation conformity rule (see 58 FR 62193 – 62196) and in the sections of 40 CFR part 93 referenced above.
[14] See LMP Guidance, October 6, 1995, at 4.

CFR 93.112) and Transportation Control Measure implementation in the conformity rule provisions (40 CFR 93.113). In addition, projects in LMP areas will still be required to meet the applicable criteria for CO hot spot analyses to satisfy "project level" conformity determinations (40 CFR 93.116 and 40 CFR 93.123) which must also incorporate the latest planning assumptions and models available (40 CFR 93.110 and 40 CFR 93.111 respectively).

In view of the CO LMP policy, the effect of this proposed approval will be that no regional emissions analyses for future transportation CO conformity determinations will be required of the Mountainland Association of Governments, who is the Metropolitan Planning Organization for Utah County, for the CO LMP period (as per the EPA's CO LMP policy and 40 CFR 93.109(e)).

III. Proposed Action

The EPA is proposing to approve the revised Provo Maintenance Plan submitted on January 14, 2019. This maintenance plan meets the applicable CAA requirements and the EPA has determined it is sufficient to provide for maintenance of the CO NAAQS over the course of the second 10-year maintenance period out to 2025.

IV. Statutory and Executive Orders Review

Under the CAA, 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 CAA. Accordingly, this 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 action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 CAA; and

- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable 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 proposed 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur dioxide, Volatile organic compounds.

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

Dated: February 25, 2020

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Gregory Sopkin,
Regional Administrator,
Region 8.

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