



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0737; FRL-9972-57-Region 9]

Approval of California Air Plan Revisions, Northern Sierra Air Quality Management

District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Northern Sierra Air Quality Management District (NSAQMD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of particulate matter (PM) from wood burning devices. We are proposing to approve a local measure to reduce emissions from 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 the date of publication in the Federal Register**].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2017-0737 at <http://www.regulations.gov>, or via email to Doris Lo, at lo.doris@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited 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: Rynda Kay, EPA Region IX, (415) 947-4118, kay.rynda@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 measure did the State submit?*

Table 1 lists the measure addressed by this proposal with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED MEASURE

Local Agency	Resolution #	Measure Title	Adopted	Submitted
NSAQMD	2017-01	Northern Sierra Air Quality Management District Resolution #2017-01	01/23/17	02/28/17

On August 28, 2017, the submittal for the NSAQMD measure 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 measure?*

There are no previous versions of the NSAQMD measure in the SIP.

C. *What is the purpose of the submitted measure?*

Particulate matter, including PM with diameters that are generally 2.5 microns or smaller (PM_{2.5}) and PM with diameters that are generally 10 microns or smaller (PM₁₀), contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires

states to submit regulations that control PM emissions.

On January 15, 2013, the EPA revised the National Ambient Air Quality Standards (NAAQS) for PM_{2.5} to provide increased protection of public health by lowering the level of the annual standards from 15 to 12 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) (40 CFR 50.18). Effective April 15, 2015, the EPA designated and classified the Plumas County nonattainment area (NAA) as moderate nonattainment for the 2012 PM_{2.5} NAAQS (40 CFR 81.305; 80 FR 2206, 2218). CARB submitted the NSAQMD measure on February 28, 2017, as part of an attainment plan to address nonattainment area SIP requirements for the 2012 PM_{2.5} NAAQS in the Plumas County NAA.

The submitted measure is an enforceable commitment by the NSAQMD to implement a woodstove change-out incentive program during the 2016-2022 timeframe in accordance with specific program requirements that are designed to achieve quantifiable, surplus, enforceable, and permanent PM_{2.5} emission reductions in the Plumas County NAA. The program requirements ensure, among other things, that older, dirtier wood stoves currently in operation in the Plumas County NAA will be replaced with EPA-certified wood stoves or other less-polluting devices. The woodstove change-out program is funded by the EPA's 2015 Targeted Air Shed Grant Program, the NSAQMD, and other agencies and is the primary control strategy in California's attainment plan for the 2012 PM_{2.5} NAAQS in the Plumas County NAA.

The enforceable commitment obligates the NSAQMD to achieve specific amounts of PM_{2.5} emission reductions through implementation of the woodstove change-out program by specific years, to submit annual reports to the EPA detailing its implementation of the program and the projected emission reductions, and to adopt and submit substitute measures by specific

dates if the EPA determines that the woodstove change-out program will not achieve the necessary emission reductions. The EPA's technical support document (TSD) has more information about this measure.

We intend to evaluate California's PM_{2.5} attainment plan for the Plumas County NAA as a whole through a subsequent notice-and-comment rulemaking action.

II. The EPA's Evaluation and Proposed Action

A. How is the EPA evaluating the measure?

Generally, SIP control measures must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

The CAA explicitly provides for the use of economic incentive programs (EIPs) as one tool for states to use to achieve attainment of the NAAQS (see, e.g., CAA sections 110(a)(2)(A), 172(c)(6), and 183(e)(4)). EIPs use market-based strategies to encourage the reduction of emissions from stationary, area, and mobile sources in an efficient manner. EPA has promulgated regulations for statutory EIPs required under section 182(g) of the Act and has issued guidance for discretionary EIPs (see 59 FR 16690 (April 7, 1994), codified at 40 CFR part 51, subpart U and U.S. EPA, "Improving Air Quality with Economic Incentive Programs," January 2001 ("2001 EIP Guidance")).¹

¹ A "discretionary economic incentive program" is "any EIP submitted to the EPA as an implementation plan revision for purposes other than to comply with the statutory requirements of sections 182(g)(3), 182(g)(5),

EPA’s guidance documents addressing EIPs and other nontraditional programs provide for some flexibility in meeting established SIP requirements for enforceability and quantification of emission reductions, provided the State takes clear responsibility for ensuring that the emission reductions necessary to meet applicable CAA requirements are achieved. Accordingly, EPA has consistently stated that nontraditional emission reduction measures submitted to satisfy SIP requirements under the Act must be accompanied by appropriate “enforceable commitments” from the State to monitor emission reductions achieved and to rectify shortfalls in a timely manner (see, e.g., U.S. EPA, “Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP),” September 2004 (“2004 Emerging and Voluntary Measures Guidance”) at pages 8-12 and U.S. EPA, “Guidance for Quantifying and Using Emission Reductions from Voluntary Woodstove Changeout Programs in State Implementation Plans,” January 2006 (“2006 Woodstove Guidance”) at page 7). The EPA has also consistently stated that, where a State intends to rely on a nontraditional program to satisfy CAA requirements, the State must demonstrate that the program achieves emission reductions that are quantifiable, surplus, enforceable, and permanent (see, e.g., 2001 EIP Guidance at Section 4.1 and 2006 Woodstove Guidance at 3-4).

Guidance documents that we use to evaluate discretionary EIPs and other nontraditional emission reduction programs include the following:

- “Improving Air Quality with Economic Incentive Programs” January 2001 (EPA-452/R-01-001) (“2001 EIP Guidance”).
- “Incorporating Emerging and Voluntary Measure in a State Implementation Plan

(SIP),” Stephen D. Page, OAQPS, October 4, 2004 (“2004 Emerging and Voluntary Measures Guidance”).

- “Guidance on Incorporating Bundled Measures in a State Implementation Plan,” Stephen D. Page, OAQPS, and Margo Oge, OTAQ, August 16, 2005 (“2005 Bundled Measures Guidance”).
- “Guidance for Quantifying and Using Emission Reductions from Voluntary Woodstove Changeout Programs in State Implementation Plans,” January 2006 (EPA-456/B-06-001) (“2006 Woodstove Guidance”).

B. *Does the measure meet the evaluation criteria?*

The submitted commitment contains clear, nondiscretionary and mandatory obligations that are enforceable against the NSAQMD and ensure that information about the emission reductions achieved through the woodstove change-out program will be readily available to the public through the NSAQMD’s submission of annual reports to the EPA. Our approval of this commitment would make these obligations enforceable by the EPA and by citizens under the CAA. The commitment obligates the District to implement a new program that achieves quantifiable, surplus, permanent, and enforceable PM_{2.5} emission reductions and does not alter any existing SIP requirements. Our approval of the commitment into the SIP would strengthen the SIP and would not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements, consistent with the requirements of CAA section 110(l). Section 193 of the CAA does not apply to this action because this measure does not modify any SIP control requirement that was in effect before November 15, 1990.

We are proposing to find that the submitted measure satisfies CAA requirements for enforceability, SIP revisions, and nontraditional emission reduction programs as interpreted in EPA guidance documents. The TSD contains more information on our evaluation of this measure.

C. *Public comment and proposed action*

The EPA proposes to fully approve the submitted measure under CAA section 110(k)(3) based on a conclusion that the measure satisfies all applicable 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 measure, our final action will incorporate this measure into the federally enforceable SIP.

III. Incorporation by Reference

In this action, 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 NSAQMD measure described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the “FOR FURTHER INFORMATION CONTACT” section of this preamble for more information).

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 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 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, Incorporation by reference,
Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

December 14, 2017.

Dated:

Deborah Jordan,
Acting Regional Administrator,
Region IX.

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