7. *Records and Reports.* Every DEA registrant must maintain records and submit reports with respect to acetyl fentanyl pursuant to 21 U.S.C. 827 and 958, and in accordance with 21 CFR parts 1304 and 1312.

8. *Order Forms.* All DEA registrants who distribute acetyl fentanyl must comply with order form requirements pursuant to 21 U.S.C. 828 and in accordance with 21 CFR part 1305.

9. *Importation and Exportation.* All importation and exportation of acetyl fentanyl must be in compliance with 21 U.S.C. 952, 953, 957, 958, and in accordance with 21 CFR part 1312.

10. *Liability.* Any activity involving acetyl fentanyl not authorized by, or in violation of the CSA, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

Regulatory Analyses

Administrative Procedure Act

The CSA provides for an expedited scheduling action where control is required by the United States obligations under international treaties, conventions, or protocols. 21 U.S.C. 811(d)(1). If control is required pursuant to such international treaty, convention, or protocol, the Attorney General must issue an order controlling such drug under the schedule he deems most appropriate to carry out such obligations, without regard to the findings or procedures otherwise required for scheduling actions. *Id.*

To the extent that 21 U.S.C. 811(d)(1) directs that if control is required by the United States obligations under international treaties, conventions, or protocols in effect on October 27, 1970, scheduling actions shall be issued by order (as compared to scheduling pursuant to 21 U.S.C. 811(a) by rule), the DEA believes that the notice and comment requirements of section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553, do not apply to this scheduling action. In the alternative, even if this action does constitute ''rule making'' under 5 U.S.C. 551(5), this action is exempt from the notice and comment requirements of 5 U.S.C. 553 pursuant to 21 U.S.C. 553(a)(1) as an action involving a foreign affairs function of the United States given that this action is being done in accordance with 21 U.S.C. 811(d)(1)'s requirement that such action be taken to comply with the United States obligations under the specified international agreements.

Executive Order 12866

This action is not a significant regulatory action as defined by Executive Order 12866 (Regulatory Planning and Review), section 3(f), and, accordingly, this action has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 13132

This action does not have federalism implications warranting the application of Executive Order 13132. This action does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132 (Federalism) it is determined that this action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 13175

This action does not have tribal implications warranting the application of Executive Order 13175. The action does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA or any other law. As explained above, the CSA exempts this final order from notice and comment. Consequently, the RFA does not apply to this action.

Paperwork Reduction Act of 1995

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Congressional Review Act

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Congressional Review Act). However, the DEA has submitted a copy of this final order to both Houses of Congress and to the Comptroller General.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

For the reasons set out above, the DEA amends 21 CFR part 1308 as follows:

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

1. The authority citation for part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), 956(b), unless otherwise noted.

■ 2. Amend § 1308.11 by:

■ i. Redesignating paragraphs (b)(3) through (56) as (b)(4) through (57) and adding a new paragraph (b)(3); and

■ ii. Removing paragraph (h)(4), redesignating paragraphs (h)(5) through (15) as (h)(4) through (14), and adding reserved paragraph (h)(15).

The addition reads as follows:

§ 1308.11 Schedule I.

* * * * *

(b) * * *

(3) Acetyl fentanyl (*N*-(1-phenethylpiperidin-4-yl)-*N*-phenylacetamide)—9821

* * * * *

Dated: May 30, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–11795 Filed 6–6–17; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2015–0399; FRL–9963–25–Region 9]

Air Plan Approval; Nevada, Lake Tahoe; Second 10-Year Carbon Monoxide Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the State of Nevada's (''State'') April 3, 2012 state implementation plan (SIP) submission and the State's August 26, 2016 supplement to their 2012 submittal. The State submitted these two SIP revisions for the Lake Tahoe, Nevada carbon monoxide (CO) area to address the Clean Air Act (CAA) requirement to submit by the eighth year of the first maintenance plan a second 10-year maintenance plan.

DATES: This final rule is effective on July 7, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R09–OAR–2015–0399. All

documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* 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 through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: John Kelly, EPA Region IX, (415) 947–4151, *kelly.johnj@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 10, 2017 (82 FR 13235), the EPA published a direct final rule (DFR) approving two SIP revisions submitted by the Nevada Division of Environmental Protection. On April 3, 2012, the State submitted to the EPA a CO maintenance plan as a SIP revision. This 2012 maintenance plan was intended to meet the CAA requirement (*see* CAA section 175A(b)) to submit a second maintenance plan. The CAA requires that, in the eighth year of an area's first 10-year maintenance plan, a second maintenance plan be submitted covering an additional ten years beyond the first 10-year period. Subsequently, on August 26, 2016, the State submitted a supplement to their 2012 submittal.

In the March 10, 2017 DFR, the EPA also approved a surrogate monitoring method for the State to monitor ambient levels of CO in the area. This surrogate monitoring method was described in both the 2012 submittal and 2016 supplement, with the 2016 supplement containing the State's final intended method.

In the March 10, 2017 DFR, the EPA stated that if adverse comments were received by April 10, 2017, the EPA would publish a timely withdrawal and address the comments in a subsequent final rule based on the notice of proposed rulemaking (NPR), also published on March 10, 2017 (82 FR 13269).

In this instance, the EPA received an adverse comment on the alternative monitoring strategy and attempted to withdraw the DFR prior to the effective date of May 9, 2017. However, the EPA inadvertently did not withdraw the DFR prior to that date and the rule prematurely became effective on May 9, 2017, revising the State's SIP to include the 2012 submittal and 2016 supplement on that date.

In today's final rule, the EPA is responding to the comment submitted on the EPA's proposed approval of revisions to the State's SIP, is approving the 2012 SIP submittal and 2016 supplement into the SIP, and is amending the effective date of the regulations' inclusion in the SIP to correct our failure to withdraw the DFR (after the EPA received an adverse public comment) prior to the May 9, 2017 effective date of the DFR.

II. Summary of SIP Revision and the EPA's Analysis

As described in the DFR, the State's 2012 submittal was a limited maintenance plan (LMP). A LMP is appropriate for CO areas that are below 85 percent of the 8-hour CO national ambient air quality standards (NAAQS). The following are the key elements of a LMP for CO: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, contingency plan, and conformity determinations.[1]

The 2012 plan contains the following sections to address these elements: (1) An introductory section containing a general discussion of plan approvals for the area and its redesignation to attainment; (2) a maintenance plan section including subsections on monitoring data for the area, air quality trends and background on the State's intention to discontinue monitoring CO at the only remaining gaseous CO ambient monitor in the Lake Tahoe basin located at Harvey's Resort and Hotel in Stateline, Nevada (hereinafter, the ''Harvey's monitor''); (3) a section titled ''Verification of Continued Attainment'' that addresses population change, traffic volumes, meteorology and the State's surrogate monitoring method; (4) contingency measures for the area; and (5) transportation conformity requirements.

The 2016 supplement revises several sections of the 2012 plan and contains an emissions inventory. The DFR describes our evaluation of the 2012 plan and 2016 supplement as they pertain to each of the required LMP elements.[2] Although we approved the State's surrogate monitoring method in the DFR, we took no action on the State's monitor shutdown request and anticipate acting on the request in a separate action after we review the State's annual network plan and finalize this action.

As described in the DFR, this action incorporates the 2012 plan, as amended by the 2016 supplement, and specific portions of the 2016 supplement itself, into the federally enforceable SIP. Together, these two submittals meet the applicable CAA requirements, and the EPA has determined they are sufficient to provide for maintenance of the CO NAAQS over the course of the second 10-year maintenance period through 2024.

III. Public Comment and the EPA's Response

The EPA received an adverse comment from an anonymous commenter (''commenter'') on March 14, 2017.[3]

Comment Summary: The commenter noted their support for the EPA's action, stating that it would have a positive effect on the environment and would benefit the public. However, the commenter went on to comment adversely on the EPA's approval of the State's surrogate monitoring method, because monitoring methods are important to safeguard against a possible return of high levels of CO occurring in the region again, and the plan the EPA was approving did not offer any scenarios for reinstating monitoring.

Response: The EPA acknowledges the commenter's support. However, we disagree with some of the assertions and conclusions in the comment. First, the text the commenter quoted from our action was taken from the Code of Federal Regulations (CFR). The text the commenter quoted was that monitoring may be discontinued if the monitor in question has not measured violations of the applicable NAAQS in the previous five years. This text is not something that the EPA was proposing to approve in our action, but rather is text from the existing CFR (40 CFR part 58), that, in a general sense, describes the circumstances that the EPA evaluates in determining whether to allow discontinuation of a monitor. We are not acting on a general policy regarding the circumstances under which ambient monitoring may be discontinued, nor are we acting on a specific instance of a monitor's discontinuation. Rather, we said in the DFR that we are not taking action on the State's request to shut down the Harvey's monitor, and that the EPA would respond to the State's

[1] *See* DFR footnote 1 for a further discussion of LMP requirements (82 FR 13235, March 10, 2017).

[2] In the DFR we also noted that for this area, the initial maintenance period extended through 2014 and that the second 10-year maintenance period therefore extends through 2024.

[3] We note that, although we did receive another comment (regarding ''chemtrails''), we believe the comment is immaterial to the purpose of this action, and we are not addressing the comment in this action.

request in a separate action. We are instead approving a surrogate monitoring method for the State to use in the area.

In addition, we believe the commenter is factually incorrect in stating that nothing is offered to reinstate ambient CO monitors ''if CO were ever to plague the region again.'' To the contrary, the EPA explained in the DFR the circumstances under which ambient monitoring would be re-started. The surrogate monitoring method is a method of monitoring that relies on indirect indicators (traffic counts) to be monitored during the entire second maintenance period, and that have in fact already commenced. The EPA has already received several years' worth of traffic count reports from the State. The surrogate monitoring method using traffic counts is an ongoing effort of the State, performed at two locations in the area. Further, if the traffic counts rise above trigger levels, the State will re-start ambient monitoring. Lastly, once ambient monitoring is triggered, specific stringent conditions must be met to discontinue ambient CO monitoring. This will be the case even if the EPA, in a separate future action, approves the State's 2012 request to discontinue ambient CO monitoring. That is, even if the EPA approves the shutdown of the Harvey's ambient CO monitor per the State's 2012 request, a triggered re-start of the monitor (''triggered monitoring'') would set in motion specific requirements before triggered monitoring could be discontinued. Regardless of the status of ambient CO monitoring, the State's traffic counts at two locations remain in place and are required by today's action to be continued throughout the maintenance period, through the end of 2024. The commenter did not provide any data or rationale for why monitoring methods should be addressed further.

IV. Final Action

The EPA is approving revisions to the Nevada SIP. The revisions incorporate the 2012 maintenance plan and 2016 supplement. The EPA is also amending the effective date of the inclusion of these revisions to the State's SIP because the revisions were added to the SIP prematurely on May 9, 2017, when the EPA did not withdraw its DFR after receiving a comment on our approval of the State's two SIP submittals. This rule responds to the comment received, finalizes our approval and corrects the effective date for inclusion of the State's two submittals into the SIP.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 approves 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);
- 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 (Pub. L. 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, 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 the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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, that includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The 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).

C. Petitions for Judicial Review

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 August 7, 2017. 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 approving the revisions to the State of Nevada's SIP may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: May 23, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart DD—Nevada

■ 2. Section 52.1470, paragraph (e) is amended by adding, under the table heading ''Air Quality Implementation Plan for the State of Nevada,'' two entries ''2012 Revision to the Nevada State Implementation Plan for Carbon Monoxide, April 2012'' and ''2016 Supplement to Nevada's 2nd 10-Year CO Limited Maintenance Plan at Lake Tahoe, August 26, 2016'' after the entry ''Addendum to the October 27, 2003 letter of transmittal of the redesignation request and maintenance plan,'' to read as follows:

§ 52.1470 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEVADA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanation
AIR QUALITY IMPLEMENTATION PLAN FOR THE STATE OF NEVADA [1]				
*	*	*	*	*
2012 Revision to the Nevada State Implementation Plan for Carbon Monoxide, April 2012.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	4/3/2012	[INSERT **Federal Register** CITATION] (6/7/2017).	Adopted on 4/3/2012. Approval excludes sections 3.2.4 and 4. With 2016 supplement, fulfills requirement for second ten-year maintenance plan.
2016 Supplement to Nevada's 2nd 10-Year CO Limited Maintenance Plan at Lake Tahoe, August 26, 2016.	Nevada portion of Lake Tahoe Basin—portions of Carson City, Douglas and Washoe counties.	8/26/2016	[INSERT **Federal Register** CITATION] (6/7/2017).	Adopted on 8/26/2016. Approval includes revised sections 3.2.4 and 4 (alternative CO monitoring strategy and contingency plan), 2011 emissions inventory and 2024 projected emissions inventory (Attachment A), evidence of public participation (Attachment B) and revised table of contents for 2012 submittal (Attachment F). Excludes Attachments C, D and E.
*	*	*	*	*

[1] 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).

[FR Doc. 2017–11699 Filed 6–6–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2016–0631; FRL–9963–54–OAR]

Approval of Tennessee's Request To Relax the Federal Reid Vapor Pressure Gasoline Volatility Standard for Davidson, Rutherford, Sumner, Williamson, and Wilson Counties; and Minor Technical Corrections for Federal Reid Vapor Pressure Gasoline Volatility Standards in Other Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a request from the state of Tennessee for EPA to relax the Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year in Davidson, Rutherford, Sumner, Williamson, and Wilson Counties (the Middle Tennessee Area). Specifically, EPA is approving amendments to the regulations to allow the gasoline RVP standard for the five counties to rise from 7.8 pounds per square inch (psi) to 9.0 psi. EPA has determined that this change to the federal RVP regulation is consistent with the applicable provisions of the Clean Air Act (CAA). Finally, EPA is making several minor technical corrections to address clerical errors made in prior rulemakings that relaxed the gasoline RVP standard in other areas.

DATES: This final rule is effective on June 7, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2016–0631. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *e.g.,* 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 electronically through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: David Dickinson, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: (202) 343–9256; email address: *dickinson.david@epa.gov,* or Rudolph Kapichak, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4574; email address: *kapichak.rudolph@epa.gov.*

SUPPLEMENTARY INFORMATION:

The contents of this preamble are listed in the following outline: