

prohibition is identical to the prohibition or control prescribed by EPA. The Federal controls on RVP, promulgated under section 211(h) and section 211(c)(1), apply only in the summer months. There is no Federal RVP control applicable to gasoline in the wintertime, and thus no Federal preemption of the State's wintertime low RVP requirement.

Therefore, we are proposing to approve the State's wintertime low RVP requirement into the Nevada SIP as a CO control measure [*i.e.*, NAC 590.065, as adopted on October 28, 1998] because the State has demonstrated that the measure is enforceable, contributes to the attainment demonstration by reducing vehicular CO emissions in the Las Vegas Valley nonattainment area, and is not preempted under section 211(c)(4) of the Act. The TSD provides a copy of the State's low RVP wintertime regulation and additional information on the emissions effects of the regulation.

#### Cleaner Burning Gasoline

The Clark County Board of Health, which governs the CCHD, adopted a wintertime Cleaner Burning Gasoline (CBG) regulation in 1999 that results in lower CO emissions from motor vehicles. The CBG regulation was

included as one of the principal additional control measures included in the 2000 CO plan. The CBG regulation requires that gasoline sold in Clark County comply with limits on the maximum levels of sulfur and aromatics during the period from November 1 to March 31.

As noted previously, the air-quality-related regulatory authority that had been vested in the County Board of Health was transferred to the County Board of Commissioners in 2001. On July 24, 2001, the Clark County Board of Commissioners adopted County ordinance #2627, which, among other items, adopted the Board of Health's air quality regulations then in effect, including the CBG regulation, except for substitutions in the references to the applicable agency (*e.g.*, "Clark County Air Quality Management Board" was substituted for "Clark County District Board of Health"). We have not yet received CCAQMB's wintertime CBG regulation (*i.e.*, CCDAQM regulation, section 54) from NDEP as a SIP submittal, but are proposing approval of the CCAQMB's CBG rule at this time based on the condition that the State submit to EPA the CCAQMB version of the rule prior to our taking final action. In so doing, and as discussed more fully below, we are proposing approval of

CCAQMB's CBG rule based on the substance of the Board of Health's CBG regulation and our review of the analysis of that regulation contained in the 2000 CO plan because the two versions of the CBG rule are the same (but for the substitution in agency references as noted above).

The Board of Health's CBG regulation (CCHD regulation, section 54) and the related technical support document are in appendix D, section one, of the 2000 CO plan. The regulation includes sections on: Definitions; applicability of the standards; the standards for sulfur content and aromatics content; sampling, testing and recordkeeping; requirements pertaining to CBG blendstock for oxygenated blending and downstream blending; and enforcement.

The CBG regulation provides two alternative ways to be in compliance for the specifications on sulfur and aromatics: (1) marketers can meet a flat limit on a per gallon basis or (2) marketers can comply via averaging, with each per gallon sample not to exceed a certain cap. (The CBG rule does not change current State and local regulations for wintertime RVP (9 psi) and minimum oxygen content (3.5%).) A summary of the limitations is shown in Table 6.

TABLE 6.—SPECIFICATIONS FOR AROMATICS AND SULFUR IN CLARK COUNTY CBG

	Compliance Method I	Compliance Method II	
	Flat Limit	Average	Cap
Sulfur, ppm .....	40	30	80
Aromatics, percent .....	25	22	30

As noted above, the CBG regulation establishes gasoline standards for sulfur and aromatics, and as noted above in connection with low RVP gasoline, under section 211(c)(4) of the Act, states are preempted from prescribing any control or prohibition respecting any characteristic or component of a fuel, where there is a nonidentical Federal control or prohibition applicable to such characteristic or component. See section 5 of the TSD for further discussion of this prohibition and EPA's guidance on approval of a state fuel measure under section 211(c)(4)(C).

Our analysis of preemption of the CBG regulation addresses the specifications for sulfur and aromatics. To determine whether a state fuel requirement is preempted by a federal requirement, we compare the applicable federal fuel requirements in the area with the proposed state fuel

requirements. For the purposes of this analysis, the federal fuel requirement in the Las Vegas Valley CO nonattainment area is federal conventional gasoline.

In this proposed rulemaking, EPA does not need to determine whether the federal requirements for conventional gasoline include requirements for sulfur and aromatics which would preempt the CBG regulation under section 211(c)(4)(A). If the sulfur and aromatics requirements are not preempted, there is no bar to our approving them as a SIP revision.<sup>8</sup> If they are preempted, we may approve the CBG regulation as necessary under section 211(c)(4)(C) if we could approve each of these requirements as a SIP revision, *i.e.*, if CCHD's

<sup>8</sup> It is clear, however, that as of December 21, 1999, EPA has prescribed specific limits on maximum sulfur content in conventional gasoline. See, Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements, 65 FR 6698, 6765 (February 10, 2000).

documentation for the regulation shows that each requirement (*i.e.*, the sulfur limit and the aromatics limit) is "necessary" to achieve the CO NAAQS.

Sulfur and aromatics specifications both reduce CO emissions. Emissions modeling data shows that each of these controls, independently, contributes to CO emissions reductions. Thus, each requirement can be determined "necessary" to achieve the CO NAAQS if the remaining requirements of the necessity determination are met.

To make a necessity determination, we must consider whether there are other reasonable and practicable measures available that would produce sufficient emissions reductions to attain the CO NAAQS without implementation of the CBG requirements. Section 211(c)(4) is intended to ensure that a state resorts to a fuel measure only if there are no available practicable and