



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2011-0727, FRL-9901-92-Region 8]

Promulgation of State Implementation Plan Revisions; Revision to Prevention of Significant Deterioration Program; Infrastructure Requirements for the 1997 and 2006 PM_{2.5} National Ambient Air Quality Standards; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is partially approving and partially disapproving State Implementation Plan (SIP) submissions from the State of Utah to demonstrate that the SIP meets the infrastructure requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for fine particulate matter (PM_{2.5}) on July 18, 1997 and on October 17, 2006. The CAA requires that each state, after a new or revised NAAQS is promulgated, review their SIPs to ensure that they meet infrastructure requirements. The State of Utah provided infrastructure SIP submissions on April 17, 2008 for the 1997 PM_{2.5} NAAQS and September 21, 2010 for the 2006 PM_{2.5} NAAQS. In addition, EPA is approving portions of SIP revisions submitted by the State of Utah on March 14, 2012. This submission revises Utah's Prevention of Significant Deterioration (PSD) program to incorporate the required elements of the 2008 PM_{2.5} New Source Review (NSR) Implementation Rule and the 2010 PM_{2.5} Increment Rule.

DATES: This final rule is effective **[Insert date 30 days after publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No.EPA-R08-OAR-2011-0727. All documents in the docket are listed on the www.regulations.gov website.

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 either electronically through www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. 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: Kathy Ayala, Air Program, U.S.

Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6142, ayala.kathy@epa.gov.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials Act or CAA mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The initials CBI mean or refer to confidential business information.
- (iii) The words EPA, we, us or our mean or refer to the United States Environmental Protection Agency.
- (iv) The initials NAAQS mean or refer to national ambient air quality standards.

- (v) The initials PM mean or refer to particulate matter.
- (vi) The initials PM_{2.5} mean or refer to particulate matter with an aerodynamic diameter of less than 2.5 micrometers (fine particulate matter).
- (vii) The initials PSD mean or refer to Prevention of Significant Deterioration.
- (viii) The initials SIP mean or refer to State Implementation Plan.

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I. Background

Infrastructure requirements for SIPs are provided in section 110(a)(1) and (2) of the CAA. Section 110(a)(2) lists the specific infrastructure elements that a SIP must contain or satisfy. The elements that are the subject of this action are described in detail in our notice of proposed rulemaking (NPR) of May 23, 2013 (78 FR 30830).

In our NPR, we proposed to act on submissions from the State of Utah to address infrastructure requirements for the 1997 and 2006 PM_{2.5} NAAQS. The NPR proposed approval of the submissions with respect to the following infrastructure elements for the 1997 and 2006 PM_{2.5} NAAQS: CAA Sections 110(a)(2)(A), (B), (C) with respect to minor NSR requirements, (E), (F), (G), (H), (J) with respect to the requirements of sections 121 and 127 of the Act, (K), (L), and (M). The reasons for our approval are provided in detail in the NPR.

For reasons explained in the NPR, EPA also proposed to approve the submissions for

infrastructure elements (C) and (J) with respect to PSD requirements for the 1997 and 2006 PM_{2.5} NAAQS. Concurrently, EPA proposed to approve revisions to the Utah SIP submitted by the State on March 14, 2012 which incorporate the requirements of the 2008 PM_{2.5} NSR Implementation Rule and the 2010 PM_{2.5} Increment Rule; specifically, approval of the text of 40 CFR 52.21, paragraphs (b)(14)(i), (ii), and (iii); (b)(15)(i) and (ii); (b)(23)(i); (b)(50); and, paragraph (c) as they existed on July 1, 2011. EPA is taking no action at this time on infrastructure element (D) for the 2006 PM_{2.5} NAAQS.

EPA also proposed to correct, under section 110(k)(6) of the CAA, an erroneous statement made in a previous action on Utah's infrastructure SIP submission for the 1997 ozone NAAQS. As explained in more detail in our proposal, in EPA's action on the 1997 ozone infrastructure submittal, EPA erroneously stated that the CAA made no requirements for state judicial review of PSD permits.

II. Response to Comments

Comment: Three trade associations opposed our proposed disapproval of Utah's infrastructure SIP with respect to element 110(a)(2)(E)(ii). The commenters acknowledge that Utah's state law governing the Utah Air Quality Board (Board) was amended by Senate Bill 21 in 2011 to remove the provision in Utah Code section 19-2-203 requiring members of the Board to adequately disclose potential conflicts of interest. However, the commenters cite another provision, added in Senate Bill 21 to Utah Code section 19-1-201, requiring the Utah Department of Environmental Quality (Department) to promulgate rules regarding conflict of interest procedures for the Board. The commenters therefore disagree with our statement that Utah Code section 19-2-203 does not address disclosure of potential conflicts of interest by members of the

Board, and our statement that the 2008 and 2010 infrastructure submittals no longer reflect state law. The commenters cite conflict of interest rules promulgated by the Department in Utah Administrative Code (UAC) sections R305-9-101 to -106 and note that the Director is a member of the Board and is thus subject to these rules. As a result, the commenters also take exception to our statement that Utah Code section 19-2-203 does not address disclosure of conflicts of interest by the Director, and state that they have “no idea” why EPA did not take the rules promulgated in UAC sections R305-9-101 to -106 into account in our proposal. The commenters conclude, based on the revisions to Utah Code section 19-1-203 and the rules in Utah Administrative Code section R305-9, that the infrastructure SIP should be approved for CAA element 110(a)(2)(E)(ii).

Response: EPA disagrees with this comment. First, we stated a general principle in our proposed action: section 128 must be satisfied through federally enforceable provisions that are approved into the SIP. See 78 FR at 52842 n.5 (citing 78 FR 32613 (May 31, 2013)). The language of section 128 compels this. It mandates that each SIP “contain requirements” meeting the terms of subsections 128(a)(1) and (a)(2). In turn, section 110(a)(2)(E)(ii) requires section 128 to be satisfied. The commenters do not dispute any of this.

EPA correctly stated that the infrastructure SIP submittals no longer reflect state law. As stated in our proposal, the submittals were made on April 17, 2008 and September 21, 2010, for the 1997 PM_{2.5} and 2006 PM_{2.5} NAAQS, respectively. Also stated in our proposal, S.B. 21 was enacted in 2011, after the submittals were made. In other words, state law changed after the submittals were made.

EPA also correctly stated that revised Utah Code section 19-2-203 does not address disclosure of potential conflicts of interest. To the extent that EPA should have considered the

revisions to Utah Code section 19-1-201 (which were not referenced in the infrastructure SIP submittals nor separately submitted for inclusion in the SIP), a general requirement such as that in section 19-1-203 to promulgate conflict of interest rules nonetheless does not address how potential conflicts of interest will be disclosed. Furthermore, as noted in our proposed action, the Utah SIP contains only a reference to Utah Code section 19-2-104. See 78 FR at 52842 n.5. Thus, even to the extent that a general provision requiring promulgation of conflict of interest rules can be said to “address” the specific disclosure requirements in CAA section 128(a)(2), Utah Code section 19-1-201 cannot be used for that purpose, as it is not approved into the SIP.

We turn to the rules in UAC sections R305-9-101 to -106 cited by the commenters. These rules have not been submitted to EPA by the State of Utah for inclusion in the SIP. If and when they and any other provisions are submitted by the State, EPA will evaluate them for compliance with section 128 and act accordingly. Until such provisions are approved into the SIP, they cannot be relied on to satisfy the requirements of section 128 for purposes of an infrastructure SIP submission. Thus, it was not necessary for EPA to assess these unsubmitted provisions (which also were not cited in the infrastructure SIP submittals) in proposing disapproval of Utah’s infrastructure SIP submissions for element 110(a)(2)(E)(ii).

Aside from the requirement that provisions to meet section 128 must be approved into the SIP, the commenters do not explain how the new rules in UAC sections R305-9-101 to -106 would meet the requirements for section 128(a)(2) when, for example, the Director, acting alone and not as a member of the Board, approves a permit. As explained in our notice—and again undisputed by the commenters—the Board no longer has authority to approve permits that the State issues under the Act. By their own terms, the disclosure rules promulgated by the

Department apply only to “matters before the Board.” See UAC R305-9-104, -105. Because the Board no longer has authority to approve permits, the disclosure rules do not apply to permit actions. In those actions, the Director acts alone and not as a member of the Board. The rules on their face thus do not appear to apply to the Director’s decisions on permits or to satisfy the requirements of section 128(a)(2) as applied to the Director.

As mentioned above, when the State does submit provisions to meet the requirements of section 128, we will act on them. However, the comment provides no basis for us to change our proposed disapproval of the Utah infrastructure SIPs for element 110(a)(2)(E)(ii) for the 1997 and 2006 PM_{2.5} NAAQS.

Comment: One commenter questioned our approval of Utah’s SIP as to the October 20, 2010 major source baseline date for the PM_{2.5} increments. The commenter contends that the court decision in NRDC v. EPA, 706 F.3d 428 (D.C. Cir. 2013), requires that EPA treat PM_{2.5} in the same manner as PM₁₀ with respect to establishing baseline dates. The commenter contends that, because the court held that the statutory definition of PM₁₀ includes PM_{2.5}, EPA must interpret CAA sections 166(f) and 169(4) as applying the statutory major source baseline date of January 6, 1975, to the regulation of PM_{2.5} increments in the same manner that it applies to the regulation of PM₁₀.

Response: EPA does not agree with the commenter’s contention, and is approving this element of the Utah SIP because it is consistent with applicable EPA regulations implementing the CAA. EPA’s regulations are not altered by the court decision cited by the commenter. As discussed in the proposal, the court in NRDC v. EPA addressed whether EPA acted appropriately in establishing SIP requirements in the 2007 and 2008 PM_{2.5} NAAQS

implementation rules via only subpart 1 of Part D, title I, of the CAA, which establishes plan requirements for nonattainment areas in general, instead of subpart 4 of Part D, which establishes additional provisions for particulate matter nonattainment areas. The court concluded that because the Act defines the term PM_{10} to include $PM_{2.5}$, the requirements of subpart 4 that pertain to PM_{10} nonattainment areas also apply to $PM_{2.5}$ nonattainment areas. As subpart 4 pertains exclusively to particulate matter nonattainment areas, the court's decision does not address the part C PSD program requirements for $PM_{2.5}$, which apply to attainment and unclassifiable areas.

EPA adopted the $PM_{2.5}$ increments and the associated baseline dates in a 2010 rule that was not before the court in NRDC v. EPA. The D.C. Circuit issued a separate decision on January 22, 2013, in Sierra Club v. EPA, 705 F.3d 458, that vacated the SILs and SMC for $PM_{2.5}$ that were also promulgated by EPA in the 2010 rule. Because no party raised the issue in that case, the January 2013 decision did not address any of the $PM_{2.5}$ increment provisions (including the baseline dates) adopted in that rule.

The $PM_{2.5}$ increments and baseline dates promulgated in the 2010 rule thus remain in effect and are unchanged by recent court decisions. EPA established the $PM_{2.5}$ increments as additional increments under section 166(a) of the CAA rather than substitute increments under section 166(f). See 75 FR 64864, 64871-2 (Oct. 20, 2010). A complete discussion of how the rule implements the requirements of the CAA is contained in the preamble to the 2010 rule. An opportunity to raise concerns with EPA's decision to set the $PM_{2.5}$ major source baseline date in 2010 was available during the comment period on the 2010 rulemaking and court challenge that produced the January 2013 decision. EPA may not rewrite those rules in the context of this

action, but rather EPA is bound to apply them in their present form to the Utah SIP submission.

The 2010 rule amended EPA's regulations at 40 C.F.R. 51.166, which establishes the minimum requirements that a state must meet in order to obtain EPA approval of the PSD program elements of a state implementation plan. Section 51.166(b) specifies that "[a]ll state plans shall use the following definitions for the purposes of this section." Within this provision, section 51.166(b)(14)(i) establishes separate and distinct major source baseline dates for PM₁₀ and PM_{2.5}. Furthermore, the definition of minor source baseline date in section 51.166(b)(14)(ii) contains separate and distinct trigger dates for PM₁₀ and PM_{2.5}. Utah's plan is approvable because it uses these definitions and thus meets the criteria EPA has established by rule as sufficient to satisfy the relevant requirements of title I, Part C of the CAA. The Utah plan incorporates by reference the definitions of major source baseline date and minor source baseline date in section 40 C.F.R. 52.21(b)(14), which are the same as those in section 51.166(b)(14).

III. Final Action

EPA is approving Utah's April 17, 2008 and March 14, 2012 submissions with respect to the following CAA section 110(a)(2) infrastructure elements for the 1997 and 2006 PM_{2.5} NAAQS: (A), (B), (C) with respect to minor NSR and PSD requirements, (D)(i)(II) with respect to PSD requirements, (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M).

EPA disapproves Utah's submissions with respect to the section 110(a)(2)(E)(ii) infrastructure element for the 1997 and 2006 PM_{2.5} NAAQS.

We are approving the following portions of the State's March 14, 2012 submission to address the 2008 PM_{2.5} NSR Implementation Rule and the 2010 PM_{2.5} Increment Rule; specifically we approve the adoption of the text of 40 CFR 52.21, paragraphs (b)(14)(i),(ii),(iii);

(b)(15)(i),(ii); (b)(23)(i); (b)(50) and paragraph (c) as they existed on July 1, 2011.

EPA is taking no action on infrastructure elements (D)(i)(I), interstate transport of pollutants which contribute significantly to nonattainment in, or interfere with maintenance by, any other state, and (D)(i)(II), with respect to visibility requirements for the 2006 PM_{2.5} NAAQS as EPA is acting separately on these elements. Finally, EPA is correcting an erroneous statement made in a previous action regarding requirements for state judicial review of PSD permits.

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, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves some state law as meeting Federal requirements and disapproves other state law as not meeting Federal requirements; it 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 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 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 EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. 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 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 30, 2013

Shaun L. McGrath
Regional Administrator
Region 8

40 CFR part 52 is amended to read 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 TT - Utah

2. Section 52.2346 is amended by adding paragraph (d) to read as follows:

§ 52.2346 Significant deterioration of air quality.

* * * * *

(d) On March 14, 2012 the State of Utah submitted revisions to the State Implementation Plan that incorporated the required elements of the 2008 PM_{2.5} NSR Implementation Rule and the 2010 PM_{2.5} Increment Rule. The following provisions are approved into the State Implementation Plan.

(1) Major source baseline date means:

- (i) In the case of PM₁₀ and sulfur dioxide, January 6, 1975;
- (ii) In the case of nitrogen dioxide, February 8, 1988; and
- (iii) In the case of PM_{2.5}, October 20, 2010.

(2) Minor source baseline date means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 or to regulations approved pursuant to 40 CFR 51.166 submits a complete application under the relevant regulations. The trigger date is:

- (i) In the case of PM₁₀ and sulfur dioxide, August 7, 1977;

(ii) In the case of nitrogen dioxide, February 8, 1988; and

(iii) In the case of PM_{2.5}, October 20, 2011.

(3) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(i) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act for the pollutant on the date of its complete application under 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.166; and

(ii) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(4) Baseline area means any intrastate area (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the Act in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: equal to or greater than 1 µg/m³ (annual average) for SO₂, NO₂, or PM₁₀; or equal or greater than 0.3 µg/m³ (annual average) for PM_{2.5}.

(5) Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(i) Establishes a minor source baseline date; or

(ii) Is subject to 40 CFR 52.21 or [Utah Administrative Code (UAC)] R307-405 and would be constructed in the same state as the state proposing the redesignation.

(6) Significant means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

(i) Carbon monoxide: 100 tons per year (tpy).

(ii) Nitrogen oxides: 40 tpy.

(iii) Sulfur dioxide: 40 tpy.

(iv) Particulate matter: 25 tpy of particulate matter emissions.

(v) PM₁₀: 15 tpy.

(vi) PM_{2.5}: 10 tpy of direct PM_{2.5} emissions; 40 tpy of sulfur dioxide emissions; 40 tpy of nitrogen oxide emissions unless demonstrated not to be a PM_{2.5} precursor under 40 CFR 52.21(b)(50).

(vii) Ozone: 40 tpy of volatile organic compounds or nitrogen oxides.

(viii) Lead: 0.6 tpy.

(ix) Fluorides: 3 tpy.

(x) Sulfuric acid mist: 7 tpy.

(xi) Hydrogen sulfide (H₂S): 10 tpy.

(xii) Total reduced sulfur (including H₂S): 10 tpy.

(xiii) Reduced sulfur compounds (including H₂S): 10 tpy.

(xiv) Municipal waste combustor organics (measured as total tetra-through octa-chlorinated diebenzo-p-dioxins and dibenzofurans): 3.2×10^{M6} megagrams per year (3.5×10^{M6} tons per year).

(xv) Municipal waste combustor metals (measured as particulate matter): 14 megagrams per year

(15 tons per year).

(xvi) Municipal waste combustor acid gases (measured as sulfur dioxide and hydrogen chloride):

36 megagrams per year (40 tons per year).

(xvii) Municipal solid waste landfills emissions (measured as nonmethane organic compounds):

45 megagrams per year (50 tons per year).

(7) Regulated NSR pollutant, for purposes of this section means the following:

(i) Any pollutant for which a national ambient air quality standard has been promulgated and any pollutant identified under 40 CFR 52.21(b)(50)(i) as a constituent or precursor for such pollutant. Precursors identified by the EPA Administrator for purposes of NSR are the following:

(A) Volatile organic compounds and nitrogen oxides are precursors to ozone in all attainment and unclassifiable areas.

(B) Sulfur dioxide is a precursor to $PM_{2.5}$ in all attainment and unclassifiable areas.

(C) Nitrogen oxides are presumed to be precursors to $PM_{2.5}$ in all attainment and unclassifiable areas, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of nitrogen oxides from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(D) Volatile organic compounds are presumed not to be precursors to $PM_{2.5}$ in any attainment or unclassifiable area, unless the State demonstrates to the EPA Administrator's satisfaction or EPA demonstrates that emissions of volatile organic compounds from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

(ii) Any pollutant that is subject to any standard promulgated under section 111 of the Act;

(iii) Any Class I or II substance subject to a standard promulgated under or established by title VI of the Act;

(iv) Any pollutant that otherwise is subject to regulation under the Act.

(v) Notwithstanding 40 CFR 52.21(b)(50)(i) through (iv), the term regulated NSR pollutant shall not include any or all hazardous air pollutant either listed in section 112 of the Act, or added to the list pursuant to section 112(b)(2) of the Act, and which have not been delisted pursuant to section 122(b)(3) of the Act, unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a general pollutant listed under section 108 of the Act.

(vi) Particulate matter (PM) emissions, PM_{2.5} emissions and PM₁₀ emissions shall include gaseous emissions from a source or activity which condense to form particulate matter at ambient temperatures. On or after January 1, 2011 (or any earlier date established in the upcoming rulemaking codifying test methods), such condensable particulate matter shall be accounted for in applicability determinations and in establishing emissions limitations for PM, PM_{2.5} and PM₁₀ in PSD permits. Compliance with emissions limitations for PM, PM_{2.5} and PM₁₀ issued prior to this date shall not be based on condensable particulate matter unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable particulate matter shall not be considered in violation of this section unless the applicable implementation plan required condensable particulate matter to be included.

(8) Ambient air increments. (i) In areas designated as Class I, II, or III, increases in pollutant concentration over the baseline concentration shall be limited to the following:

Pollutant	Maximum allowable
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	increase (micrograms per cubic meter)
Class I Area	
PM _{2.5} :	
Annual arithmetic mean	1
24-hr maximum	2
PM ₁₀ :	
Annual arithmetic mean	4
24-hr maximum	8
Sulfur dioxide:	
Annual arithmetic mean	2
24-hr maximum	5
3-hr maximum	25
Nitrogen dioxide:	
Annual arithmetic mean	2.5
Class II Area	
PM _{2.5} :	
Annual arithmetic mean	4
24-hr maximum	9
PM ₁₀ :	
Annual arithmetic mean	17
24-hr maximum	30
Sulfur dioxide:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	512
Nitrogen dioxide:	
Annual arithmetic mean	25
Class III Area	
PM _{2.5} :	
Annual arithmetic mean	8
24-hr maximum	18
PM ₁₀ :	
Annual arithmetic mean	34
24-hr maximum	60
Sulfur dioxide:	
Annual arithmetic mean	40
24-hr maximum	182
3-hr maximum	700
Nitrogen dioxide:	
Annual arithmetic mean	50

(ii) For any period other than an annual period the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

3. Section 52.2355 is amended by designating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.2355 Section 110(a)(2) infrastructure requirements.

* * * * *

(b) On December 3, 2007, Jon L. Huntsman, Jr. Governor, State of Utah, provided a submission to meet the infrastructure requirements for the State of Utah for the 1997 PM_{2.5} NAAQS. On April 17, 2008, M. Cheryl Heying, Director, Utah Department of Environmental Quality, provided a second submission to meet the infrastructure requirements for the State of Utah for the 1997 PM_{2.5} NAAQS. On September 21, 2010, M. Cheryl Heying, Director, Utah Department of Environmental Quality, provided a submission to meet the infrastructure requirements for the State of Utah for the 2006 PM_{2.5} NAAQS. The State's Infrastructure SIP is approved with respect to the 1997 and 2006 PM_{2.5} NAAQS with respect to CAA section 110(a)(1) and the following elements of section 110(a)(2): (A), (B), (C) with respect to PSD and minor NSR requirements, (D)(i)(II) with respect to PSD requirements, (E)(i), (E)(iii), (F), (G), (H), (J), (K), (L), and (M).