



Billing Code: 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2015-0371; FRL-9932-59-Region 8]

### Approval and Promulgation of State Implementation Plan Revisions; Rules, Public Notice and Comment Process, and Renumbering; Utah

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on February 25, 2013, August 5, 2013, and March 5, 2014. These submittals request SIP revisions to incorporate several changes to Utah's rules, including the permit public notice and comment process requirements, and renumbering for the "Interstate Transport" provisions. EPA is taking this action in accordance with section 110 of the Clean Air Act (CAA).

**DATES:** This rule is effective on [**Insert date 60 days after publication in the Federal Register**] without further notice, unless EPA receives adverse comments by [**Insert date 30 days after publication in the Federal Register**]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** The EPA has established a docket for this action under Docket Identification Number EPA-R08-OAR-2015-0371. All documents in the docket are listed on the <http://www.regulations.gov> web site. Although listed in the index, some information may not be

publicly available, i.e., Confidential Business Information or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in the hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 8, Office of Partnerships and Regulatory Assistance, Air Program, 1595 Wynkoop Street, Denver, Colorado, 80202-1129. The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. The Regional Office's official hours of business are Monday through Friday, 8:00 a.m. - 4:00 p.m., excluding federal holidays. An electronic copy of the State's SIP compilation is also available at <http://www.epa.gov/region8/air/sip.html>.

**FOR FURTHER INFORMATION CONTACT:** Jody Ostendorf, Air Program, U.S.

Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-7814, [ostendorf.jody@epa.gov](mailto:ostendorf.jody@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

What should I consider as I prepare my comments for EPA?

1. Submitting Confidential Business Information (CBI). Do not submit CBI to EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain

the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. Tips for preparing your comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register volume, date, and page number).
- Follow directions and organize your comments.
- Explain why you agree or disagree.
- Suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

## **II. Analysis of the State Submittals**

Utah's February 25, 2013 submittal, in part, renumbers R307-110-36, Section XXIII, Interstate Transport, to R307-110-37. On November 10, 2014, EPA proposed the addition of a new R307-110-36, Section X, Vehicle Inspection and Maintenance Program, Part F., Cache County (79 FR 66670). This rulemaking approves the new numbering of the Interstate Transport provision into Utah's SIP as R307-110-37.

The August 5, 2013 SIP revision gives authority to the Director of the Division of Air Quality to make regulatory decisions that were previously made by the Air Quality Board or the Executive Secretary of the Air Quality Board. This revision conforms with Utah Senate Bill 21, which was passed by the Utah State Legislature during the 2012 legislative session. Most of these changes are administrative in nature because they replace “executive secretary” with “director,” and, in Utah, they are the same person. The 22 rules where this change occurs are R307-105, 130, 165, 170, 201, 203, 204, 205, 250, 305, 306, 320, 326, 327, 328, 341, 401, 403, 405, 406, 410 and 414.

Three rules in the August 5, 2013 submittal, however, result in substantive changes to comply with Utah Senate Bill 21. The three rules are: R307-101, General Requirements; R307-102, General Requirements: Broadly Applicable Requirements; and R307-307, Davis, Salt Lake, and Utah Counties: Road Salting and Sanding. The changes in these rules replace occurrences of “board” with “director,” add definitions for “director” and “division,” and remove the definition of “executive secretary.” As these changes update the Utah SIP to ensure the proper authorities are consistent with the state code, EPA is approving these revisions.

The March 5, 2014 SIP revision to R307-401-7, Permit: New and Modified Sources, Public Notice, addresses a previous EPA disapproval by establishing a 30-day public comment period for the public notice and comment period for all permit actions for new or modified sources. Previously, Utah had revised its permit public notice procedures for minor sources to allow for a 10-day public comment period for an approval or disapproval order issued under R307-401-8 and requested EPA to approve that SIP revision. EPA disapproved that request because it is inconsistent with Utah’s current federally approved SIP (79 FR 7072, February 6,

2014). In that disapproval, EPA also noted that federal regulations for Public Availability of Information found at 40 CFR 51.161(b)(2) require at a minimum a 30-day public comment period for the permitting of a source, including minor source permits. EPA is approving this revision.

### **III. What Action is EPA Taking Today?**

EPA is taking direct final action to approve the SIP revisions submitted by the State of Utah on February 25, 2013, August 5, 2013, and March 5, 2014. EPA is approving a portion of the February 25, 2013 submittal which renumbers R307-110-36, Interstate Transport to R307-110-37, to allow the addition of Section X, Vehicle Inspection and Maintenance Program, Part F., Cache County. EPA is approving the August 5, 2013 SIP revisions, which give the Director of the Division of Air Quality the authority to make regulatory decisions that were previously made by either the Air Quality Board or the Executive Secretary of the Air Quality Board. Finally, EPA is approving the March 5, 2014 submittal which establishes a 30-day public comment period for the public notice and comment period for permitting actions for new or modified sources.

EPA is approving the proposed SIP revisions as a direct final action without prior proposal because the Agency views the revisions as noncontroversial and anticipates no adverse comments. However, in the Proposed Rules section of today's Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revisions if adverse comments are filed. This rule will be effective [**Insert date 60 days after date of publication in the Federal Register**] without further notice unless the Agency receives adverse comments by [**Insert date 30 days after date of publication in the Federal Register.**] If the

EPA receives adverse comments, EPA will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### **IV. Incorporation by Reference**

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference for the revisions to the Utah Division of Air Quality rules including, the permit public notice and comment process, and renumbering discussed in section II, Analysis of the State Submittals, of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

#### **V. Statutory and Executive Orders Review**

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 actions, provided that they meet the criteria of the Clean Air Act. Accordingly, this direct final action merely approves some 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 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 in 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where 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).

The Congressional Review Act, 5 U.S.C. section 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 rule 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. section 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 **[Insert date 60 days after 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s

Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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.

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

Dated: August 4, 2015.

Shaun L. McGrath,  
Regional Administrator,  
Region 8.

This document was received for publication by the Office of Federal Register on January 14, 2016.

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 52.2320 is amended by adding paragraph (c)(81) to read as follows:

**§ 52.2320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(81) On February 25, 2013, August 5, 2013, and March 5, 2014, the Governor submitted revisions to the Utah State Implementation Plan (SIP) rules. The February 25, 2013 submittal renumbers Interstate Transport to R307-110-37. The August 5, 2013 SIP revisions give the Director of the Division of Air Quality the authority to make regulatory decisions that were previously made by either the Air Quality Board or the Executive Secretary of the Air Quality Board. The March 5, 2014 submittal establishes a 30-day public comment period for the public notice and comment period for all actions for new or modified sources. EPA is approving these revisions.

(i) *Incorporation by reference.*

(A) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-110, General Requirements: State Implementation Plan, R307-110-37, Section XXIII, Interstate Transport; effective December 6, 2012, as proposed in the Utah State Bulletin on October 1, 2012, and published as effective in the Utah State Bulletin on January 1, 2013.

(B) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-401, Permit: New and Modified Sources, R307-401-7, Public Notice; effective October 3, 2013, as proposed in the Utah State Bulletin on August 1, 2013, and published as effective in the Utah State Bulletin on November 1, 2013.

(C) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-101, General Requirements; effective November 8, 2012, as proposed in the Utah State Bulletin on September 1, 2012, and published as effective in the Utah State Bulletin on December 1, 2012.

(D) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-102, General Requirements: Broadly Applicable Requirements; effective November 8, 2012, as proposed in the Utah State Bulletin on September 1, 2012, and published as effective in the Utah State Bulletin on December 1, 2012.

(E) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-307, Davis, Salt Lake, and Utah Counties: Road Salting and Sanding; effective November 8, 2012, as proposed in the Utah State Bulletin on September 1, 2012, and published as effective in the Utah State Bulletin on December 1, 2012.

[FR Doc. 2016-01022 Filed: 1/28/2016 8:45 am; Publication Date: 1/29/2016]