



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2014-0369; FRL-9935-54-Region 8]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Revisions to the Utah Division of Administrative Rules, R307-300 Series; Area Source Rules for Attainment of Fine Particulate Matter Standards.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing approval and finalizing the conditional approval of portions of the fine particulate matter (PM_{2.5}) State Implementation Plan (SIP) and other general rule revisions submitted by the State of Utah. The revisions affect the Utah Division of Administrative Rules (DAR), R307-300 Series; Requirements for Specific Locations. The revisions had submission dates of: February 2, 2012, May 9, 2013, June 8, 2013, February 18, 2014, April 17, 2014, May 20, 2014, July 10, 2014, August 6, 2014, and December 9, 2014. These area source rules control emissions of direct PM_{2.5} and PM_{2.5} precursors, sulfur dioxides (SO₂), nitrogen oxides (NO_x) and volatile organic compounds (VOC). Our approval will make these rules federally enforceable. Additionally, EPA is finalizing approval of the State's reasonably available control measure (RACM) determinations for the rule revisions that pertain to the PM_{2.5} SIP. This action is being taken under section 110 of the Clean Air Act (CAA or Act).

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

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2014-0369. 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: Crystal Ostigaard, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6602, ostigaard.crystal@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 17, 2006 (71 FR 61144), EPA strengthened the level of the 24-hour $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS), lowering the primary and secondary standards from 65 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$), the 1997 standard, to $35\mu\text{g}/\text{m}^3$. On November 13, 2009 (74 FR 58688), EPA designated three nonattainment areas in Utah for the 24-hour $PM_{2.5}$ NAAQS of $35\mu\text{g}/\text{m}^3$. These are the Salt Lake City, UT; Provo, UT; and Logan,

UT-ID nonattainment areas. The State of Utah has made a number of SIP submittals intended to address the requirements under part D of title I of the CAA for these PM_{2.5} nonattainment areas. Among those requirements are those in sections 172(c)(1) and 189(a)(1)(C) regarding reasonably available control measures (RACM) and reasonably available control technology (RACT).

On August 25, 2015 (80 FR 51499), EPA proposed to approve or conditionally approve a number of RACM components in the PM_{2.5} Moderate area SIP submitted by the State. Our proposed notice and associated technical support document (TSD) give details on EPA's interpretation of the RACM requirements under part D and our evaluation of the State's submittals. Specifically, the RACM components consist of area source rules found in Utah's submittals dated February 2, 2012, May 9, 2013, June 8, 2013, February 18, 2014, April 17, 2014, May 20, 2014, July 10, 2014, August 6, 2014, and December 9, 2014. These submittals contained various revisions to the DAR, Title R307 - Environmental Quality, set of rules, most of which are applicable to the Utah SIP for PM_{2.5} nonattainment areas. The new rules or revised rules we are addressing in this final rule were provided by Utah in the nine different submissions listed above, and these rules are: R307-101-2, General Requirements: Definitions; R307-303, Commercial Cooking; R307-307, Road Salting and Sanding; R307-312, Aggregate Processing Operations for PM_{2.5} Nonattainment Areas; R307-328, Gasoline Transfer and Storage; R307-335, Degreasing and Solvent Cleaning Operations; R307-342, Adhesives and Sealants; R307-343 Emissions Standards for Wood Furniture Manufacturing Operations; R307-344, Paper, Film, and Foil Coatings; R307-345, Fabric and Vinyl Coatings; R307-346, Metal Furniture Surface Coatings; R307-347, Large Appliance Surface Coatings; R307-348, Magnet Wire Coatings; R307-349, Flat Wood Panel Coatings; R307-350, Miscellaneous Metal Parts and Products

Coatings; R307-351, Graphic Arts; R307-352, Metal Container, Closure, and Coil Coatings; R307-353, Plastic Parts Coatings; R307-354, Automotive Refinishing Coatings; R307-355, Control of Emissions from Aerospace Manufacture and Rework Facilities; R307-356, Appliance Pilot Light; R307-357, Consumer Products; and R307-361, Architectural Coatings.

A previous rule, Rule R307-340 Surface Coating Processes, was replaced in these submittals by the specific rules for coatings listed above. Utah correspondingly repealed R307-340. In addition, Rule R307-342, Adhesives and Sealants, replaces an unrelated rule, R307-342 Qualifications of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks. The removal of the previous version of R307-342 is addressed by the State's February 2, 2012 submittal, which repeals R307-342 and amends R307-328, Gasoline Transfer and Storage, to account for the repeal of R307-342.

These rule submissions, except for revisions to R307-101-2, R307-103, and R307-328, and the repeal of R307-342, were requested for approval as RACM components of the PM_{2.5} SIP submitted by the State of Utah. Two of the non-RACM rule revisions do not pertain at all to the Utah PM_{2.5} SIPs: revisions to R307-328 and the repeal of R307-342. At the request of the State, EPA is not finalizing our proposed approval of a third non-RACM rule; R307-103, Administrative Procedures.

For details of our evaluation of these rules, see the proposed notice and associated TSD.

II. Response to Comments.

EPA did not receive any comments on our proposed action.

III. Final Action.

For the reasons stated in our proposed notice and associated TSD, EPA is finalizing

approval of revisions to Administrative Rule R307-101-2, along with the additions/revisions/peals in R307-300 Series; Requirements for Specific Locations (Within Nonattainment and Maintenance Areas), R307-303, R307-307, R307-335, R307-340 (repealed), R307-342 (repealed and replaced), R307-343, R307-344, R307-345, R307-346, R307-347, R307-348, R307-349, R307-350, R307-351, R307-352, R307-353, R307-354, R307-355, R307-356, R307-357, and R307-361 for incorporation into the Utah SIP as submitted by the State of Utah on May 9, 2013, June 8, 2013, February 18, 2014, April 17, 2014, May 20, 2014, July 10, 2014, August 6, 2014, and December 9, 2014. We are also finalizing approval of Utah's determination that the above rules in R307-300 Series; Requirements for Specific Locations (Within Nonattainment and Maintenance Areas) constitute RACM for the Utah PM_{2.5} SIP for the specific source categories addressed; however, we are not acting to determine that Utah's PM_{2.5} attainment plan has met all requirements regarding RACM under subparts 1 and 4 of Part D, title I of the Act. We intend to act separately on the remainder of Utah's PM_{2.5} attainment plan.

EPA is finalizing the conditional approval of revisions for R307-312 found in the May 9, 2013 submittal and for R307-328 found in the February 2, 2012 submittal. Additionally, EPA is finalizing the conditional approval of Utah's determination that R307-312 constitutes RACM for the Utah PM_{2.5} SIP for aggregate processing operations. As stated above, we are not determining, however, that Utah's PM_{2.5} attainment plan has met all requirements regarding RACM under subparts 1 and 4 of Part D, title I of the Act. Under section 110(k)(4) of the Act, EPA may approve a SIP revision based on a commitment by the State to adopt specific enforceable measures by a date certain, but not later than one year after the date of approval of the plan revision. On August 4, 2015, Utah submitted a commitment letter to adopt and submit

specific revisions within one year of our final action on these submittals; specifically to remove the phrase “or equivalent method” in one rule and to specify three equivalent methods in the other rule. Since we are finalizing our conditional approval, Utah must adopt and submit the specific revisions it has committed to within one year of our finalization. If Utah does not submit these revisions within one year, or if we find Utah’s revisions to be incomplete, or we disapprove Utah’s revisions, this conditional approval will convert to a disapproval. If any of these occur and our conditional approvals convert to a disapproval, that will constitute a disapproval of a required plan element under part D of title I of the Act, which starts an 18-month clock for sanctions, see CAA section 179(a)(2), and the two-year clock for a federal implementation plan (FIP) to address the disapproved plan element, see CAA section 110(c)(1)(B).

EPA is not finalizing our proposed approval of R307-103, Administrative Procedures. The State informed us that they did not intend for R307-103 to be submitted for incorporation into the SIP. As the administrative procedures in R307-103 are unrelated to PM_{2.5} attainment plan requirements, this does not affect the remainder of our action. With the exception of provisions to meet the requirements of section 128 of the Act, which Utah plans to address separately, these administrative procedures are not required to be incorporated into the SIP.

Finally, EPA is finalizing approval of the repeal of R307-342, Qualification of Contractors and Test Procedures for Vapor Recovery Systems for Gasoline Delivery Tanks, submitted by DAQ on February 2, 2012.

IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of

the Utah Department of Air Quality rules promulgated in the DAR, R307-300 Series as discussed in section III, Final Action, of this preamble. EPA has made, and will continue to make, these documents generally available electronically through 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 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 of state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this final 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 (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, 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 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 **[Insert date 60 days after date of publication 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 organization compounds.

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

Dated: September 28, 2015.

Shaun L. McGrath,
Regional Administrator,
Region 8.

Editorial note: This document was received for publication by the Office of the Federal Register on February 19, 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)(83) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(83) On February 2, 2012, May 9, 2013, June 8, 2013, February 18, 2014, April 17, 2014, May 20, 2014, July 10, 2014, August 6, 2014, and December 9, 2014, the Governor submitted revisions to the Utah State Implementation Plan (SIP) rules. The EPA is approving the repeal of R307-340 and R307-342. The EPA is approving the submitted revisions and associated nonsubstantive changes to the following rules: R307-307, R307-351-2, R307-351-4, and R307-355-5. The EPA is conditionally approving the submitted revisions to the following rules: R307-101 (including nonsubstantive changes to R307-101-2), R307-312-5(2)(a), and R307-328-4(6). The EPA is approving the submitted revisions to the following rules: R307-303, R307-307, R307-312 (except R307-312-5(2)(a) which is conditionally approved), R307-328 (except R307-328-4(6) which is conditionally approved), R307-335, R307-342, R307-343, R307-344, R307-345, R307-346, R307-347, R307-348, R307-349, R307-350, R307-351 (except R307-351-2 which is approved with nonsubstantive changes), R307-352, R307-353, R307-354, R307-355

(except R307-355-5 which is approved with nonsubstantive changes), R307-356, R307-357, R307-357-4, and R307-361.

(i) Incorporation by reference.

(A) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-101, General Requirements, R307-101-2, Definitions; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012, and published as effective in the Utah State Bulletin on February 15, 2013.

(B) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-303, Commercial Cooking; effective April 10, 2013, as proposed in the Utah State Bulletin on August 1, 2012, December 1, 2012 and March 1, 2013 and published as effective in the Utah State Bulletin on May 1, 2013.

(C) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-328, Gasoline Transfer and Storage; effective June 7, 2011, as proposed in the Utah State Bulletin on February 1, 2011 and May 1, 2011, and published as effective in the Utah State Bulletin on June 15, 2011.

(D) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-335, Degreasing and Solvent Cleaning Operations; effective January 1, 2013, as proposed in the Utah State Bulletin on August 1, 2012 and December 1, 2012, and published as effective in the Utah State Bulletin on January 15, 2013.

(E)(1) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-342, Adhesives and Sealants; effective August 1, 2013, as proposed in the Utah State Bulletin on

March 1, 2013 and July 1, 2013, and published as effective in the Utah State Bulletin on August 15, 2013.

(2) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-357, Consumer Products (except R307-357-4, Standards); effective August 1, 2013, as proposed in the Utah State Bulletin on March 1, 2013 and July 1, 2013, and published as effective in the Utah State Bulletin on August 15, 2013.

(F)(1) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-343, Emissions Standards for Wood Furniture Manufacturing Operations; effective May 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012, January 1, 2013 and April 1, 2013, and published as effective in the Utah State Bulletin on May 15, 2013.

(2) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-353, Plastic Parts Coatings; effective May 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012, January 1, 2013 and April 1, 2013, and published as effective in the Utah State Bulletin on May 15, 2013.

(G)(1) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-312, Aggregate Processing Operations for PM2.5 Nonattainment Areas; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(2) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-344, Paper, Film and Foil Coatings; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(3) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-345, Fabric and Vinyl Coatings; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(4) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-346, Metal Furniture Surface Coatings; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(5) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-347, Large Appliance Surface Coatings; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(6) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-348, Magnet Wire Coatings; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(7) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-349, Flat Wood Panel Coatings; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(8) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-352, Metal Container, Closure and Coil Coatings; effective February 1, 2013, as proposed in the

Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(9) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-354, Automotive Refinishing Coatings; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(H) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-350, Miscellaneous Metal Parts and Products Coatings; effective December 3, 2013, as proposed in the Utah State Bulletin on August 1, 2013 and November 1, 2013, and published as effective in the Utah State Bulletin on January 1, 2014.

(I) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-356, Appliance Pilot Light; effective January 1, 2013, as proposed in the Utah State Bulletin on August 15, 2012, and December 1, 2012, and published as effective in the Utah State Bulletin on January 15, 2013.

(J) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-357, Consumer Products, R307-357-4, Consumer Products, Standards; effective May 8, 2014, as proposed in the Utah State Bulletin on April 1, 2014, and published as effective in the Utah State Bulletin on June 1, 2014.

(K) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-361, Architectural Coatings; effective October 31, 2013, as proposed in the Utah State Bulletin on July 1, 2013 and October 1, 2013, and published as effective in the Utah State Bulletin on November 15, 2013.

(L) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-307, Road Salting and Sanding; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(M) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-351, Graphic Arts; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

(N) Title R307 of the Utah Administrative Code, Environmental Quality, Air Quality, R307-355, Control of Emissions from Aerospace Manufacture and Rework Facilities; effective February 1, 2013, as proposed in the Utah State Bulletin on October 1, 2012 and January 1, 2013, and published as effective in the Utah State Bulletin on February 15, 2013.

[FR Doc. 2016-03898 Filed: 2/24/2016 8:45 am; Publication Date: 2/25/2016]