



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2013-0561, FRL-9949-99-Region 8]

Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2008 Lead, 2008 Ozone, 2010 NO₂, 2010 SO₂, and 2012 PM_{2.5} National Ambient Air Quality Standards; Utah

AGENCY: Environmental Protection Agency

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving elements of State Implementation Plan (SIP) revisions from the State of Utah to demonstrate the State meets infrastructure requirements of the Clean Air Act (CAA) for the National Ambient Air Quality Standards (NAAQS) promulgated for ozone on March 12, 2008, lead (Pb) on October 15, 2008, nitrogen dioxide (NO₂) on January 22, 2010, sulfur dioxide (SO₂) on June 2, 2010 and fine particulate matter (PM_{2.5}) on December 14, 2012. The EPA is also approving 110(a)(2)(D)(ii) for the 1997 and 2006 PM_{2.5} NAAQS. Finally, the EPA is approving SIP revisions the State submitted regarding state boards.

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

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2013-0561. 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., 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 <http://www.regulations.gov> or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The 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: Abby Fulton, Air Program, U.S.

Environmental Protection Agency (EPA), Region 8, Mail Code 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6563, fulton.abby@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Infrastructure requirements for SIPs are set forth 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.

In our proposed rule, the EPA proposed to approve and take no action on some infrastructure elements for the 2008 Pb, 2008 ozone, 2010 NO₂, 2010 SO₂ and 1997, 2006 and 2012 PM_{2.5} NAAQS from the State's certifications.¹ In this rulemaking, we are taking final

¹ "Where an air agency determines that the provisions in or referred to by its existing EPA approved SIP are adequate with respect to a given infrastructure SIP element (or subelement) even in light of the promulgation of a new or revised NAAQS, the air agency may make a SIP submission in the form of a certification." EPA's

action to approve infrastructure elements from the State's certifications. We are also taking final action to approve new Utah Administrative Code (UAC) provisions submitted on March 14, 2016 to satisfy requirements of element (E)(ii), state boards.

II. Response to Comments

During the public comment period, we received a comment regarding regional haze in California national parks. This comment does not apply to this rulemaking.

We also received comments from the Sierra Club claiming that Utah's SIP is inadequate with respect to air monitoring and modeling requirements of Sections 110(a)(2)(B) and 110(a)(2)(K) for the 2010 SO₂ NAAQS. The Sierra Club also contends that Utah's SO₂ infrastructure SIP certification does not satisfy requirements of CAA Section 110(a)(1) and (2) because it lacks enforceable emission limits to ensure the implementation, attainment, and maintenance of the 2010 SO₂ NAAQS within Utah, as well as adequate provisions prohibiting sources within the State from emitting SO₂ in amounts which will contribute to nonattainment and interfere with maintenance of the SO₂ NAAQS in neighboring states.

Comments received from Western Resource Advocates (WRA) contend that, because of language regarding startup, shutdown, and malfunction exemptions in Utah's minor and major source permits, Utah's prevention of significant deterioration (PSD) program cannot ensure emissions will not cause or contribute to a violation of any NAAQS or PSD increment, or that Utah's minor source permitting program protects NAAQS. WRA therefore asserts that Utah's infrastructure SIP does not meet requirements of Section 110(a)(2)(A) and (C). WRA also states

"Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2)," September 13, 2013, at 7.

that Utah's infrastructure SIP does not meet the requirements of Section 110(a)(2)(F) because monitoring frequency of emissions is inadequate and that the State's SIP does not meet the public notice requirements of Section 127.

The EPA generally disagrees with the Sierra Club and WRA's comments. A separate document provides detailed responses to all significant comments received and is included in the docket associated with this action.

III. Final Action

For reasons expressed in the proposed rule and the response to comments document, the EPA is taking final action to approve infrastructure elements from the State's certifications as shown in Table 1. Elements we are taking no action on are reflected in Table 2. We are also approving new UAC rules that the State submitted on March 14, 2016 to satisfy requirements of Section 110(a)(2)(E)(ii), which pertains to state boards (Table 1).

A comprehensive summary of infrastructure elements and new UAC rules being approved into the Utah SIP through this final rule action are provided in Table 1 and Table 2.

TABLE 1. LIST OF UTAH INFRASTRUCTURE ELEMENTS AND REVISIONS THAT THE EPA IS APPROVING

Approval
<u>December 3, 2007 submittal</u> – 1997 PM_{2.5} NAAQS: (D)(ii)
<u>September 21, 2010 submittal</u> – 2006 PM_{2.5} NAAQS: (D)(ii)
<u>January 19, 2012 submittal</u> – 2008 Pb NAAQS: (A), (C), (D)(i)(II) element 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
<u>June 2, 2013 submittal</u> - 2010 SO₂ NAAQS: (A), (C), (D)(i)(II) element 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).

January 31, 2013 submittal - 2008 Ozone NAAQS: (A), (B), (C), (D)(i)(II) element 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
January 31, 2013 submittal- 2010 NO₂ NAAQS: (A), (C), (D)(i)(II) element 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
December 4, 2015 submittal- 2012 PM_{2.5} NAAQS: (A), (C), (D)(i)(II) element 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L) and (M).
March 14, 2016 submittal – New UAC Rules, CAA Section 128 R307-104-1, R307-104-2 and R307-104-3.

**TABLE 2 - LIST OF UTAH INFRASTRUCTURE ELEMENTS AND REVISIONS THAT THE
EPA IS TAKING NO ACTION ON**

No Action (Revision to be made in separate rulemaking action.)
January 19, 2012 submittal - 2008 Pb NAAQS: (B), (D)(i)(I) elements 1 and 2, (D)(i)(II) element 4.
January 31, 2013 submittal – 2008 Ozone NAAQS: (D)(i)(I) elements 1 and 2, (D)(i)(II) element 4.
January 31, 2013 submittal – 2010 NO₂ NAAQS: (B), (D)(i)(I) elements 1 and 2, (D)(i)(II) element 4.
June 2, 2013 submittal – 2010 SO₂ NAAQS: (B), (D)(i)(I) elements 1 and 2, (D)(i)(II) element 4.
December 4, 2015 submittal – 2012 PM_{2.5} NAAQS: (B), (D)(i)(I) elements 1 and 2, (D)(i)(II) element 4.

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 of the UAC discussed in section III, Final Action of this preamble. The 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 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 (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 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the 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. 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. 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).

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 CAA Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Greenhouse gases, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

July 19, 2016.
Dated:

Shaun L. McGrath,
Acting Regional Administrator,
Region 8.

40 CFR part 52 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 TT - Utah

2. Amend § 52.2320, paragraph (c) table, by adding in numerical order, center heading “R307-104. Conflict of Interest” and entries “R307-104-01”, “R307-104-02”, and “R307-104-03” to read as follow:

§ 52.2320 Identification of plan.

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(c) * * *

Rule No.	Rule title	State effective date	Final rule citation, date	Comments
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R307-104. Conflict of Interest.				
R307-104-01	Authority	6/01/2016	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
R307-104-02	Purpose	6/01/2016	[Insert Federal Register citation], [Insert date of publication	

			in the Federal Register].	
R307-104-03	Disclosure of conflict of interest	6/01/2016	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
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3. Amend § 52.2355 by adding paragraph (c) to read as follows:

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

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(c) Gary R. Herbert, Governor, State of Utah, provided submissions to meet the infrastructure requirements for the State of Utah for the 1997 PM_{2.5} NAAQS on December 3, 2007; 2006 PM_{2.5} NAAQS on September 21, 2010; 2008 Pb NAAQS on January 19, 2012; 2008 ozone NAAQS on January 31, 2013; 2010 NO₂ NAAQS on January 31, 2013; 2010 SO₂ NAAQS on June 2, 2013; and 2012 PM_{2.5} on December 4, 2015. 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 element (D)(ii) of Section 110(a)(2). The State's Infrastructure SIP is approved with respect to the 2008 ozone NAAQS with respect to CAA Section 110(a)(1) and the following elements of Section 110(a)(2): (A), (B), (C), (D)(i)(II) prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). The State's Infrastructure SIP is approved with respect to the 2008 Pb, 2010 SO₂, 2010 NO₂, and 2012 PM_{2.5}

NAAQS with respect to CAA Section 110(a)(1) and the following elements of Section 110(a)(2):

(A), (C), (D)(i)(II) prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

[FR Doc. 2016-18154 Filed: 8/1/2016 8:45 am; Publication Date: 8/2/2016]