



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2019-0063; FRL-9996-96-Region 8]

**Approval and Promulgation of Air Quality Implementation Plans; State of Utah;
Revisions to Nonattainment Permitting Regulations**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve State Implementation Plan (SIP) revisions submitted by the State of Utah on March 27, 2014, and August 7, 2018. The submittals revise the portions of the Utah Administrative Code (UAC) that pertain to the issuance of Utah air quality permits for major sources in nonattainment areas. This action is being taken under the Clean Air Act (CAA or Act).

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

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2019-0063. All documents in the docket are listed on the <http://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

through <http://www.regulations.gov>, or please contact the person identified in the “For Further Information Contact” section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6227, leone.kevin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The EPA is taking final action to fully approve two revisions submitted by the State of Utah on March 27, 2014, and August 7, 2018. The EPA published a proposed rulemaking for these submittals on June 5, 2019 (84 FR 26049). As stated in our proposed rulemaking, Utah submitted revisions to their nonattainment New Source Review (NNSR) permitting program on August 20, 2013. The August 20, 2013 submittal added volatile organic compounds (VOCs) as a fine particulate matter (PM_{2.5}) precursor to the NNSR program; however, the submittal did not establish a significant emissions rate (SER) for VOC to determine when a modification at an existing major source would be a major modification subject to NNSR review. On March 27, 2014, Utah submitted a revision to address the omission and establish the VOC SER. The EPA determined that Utah needed to submit further revisions to address the remaining deficiencies in the NNSR permitting program in order for the EPA to fully approve Utah’s August 20, 2013 submittal. These deficiencies are outlined in our proposed rulemaking.

On September 30, 2016 Utah submitted to the EPA a letter committing to address the remaining deficiencies in the State’s nonattainment permitting program in R307-403 that were

not addressed in the August 20, 2013 submittal (see docket). Based on the September 30, 2016 commitment letter, on February 3, 2017 (82 FR 918), the EPA conditionally approved Utah's August 20, 2013 submittal. On October 5, 2017 (82 FR 46417), we approved a June 29, 2017 submittal that, among other things, addressed the deficiency in R307-403-6 identified in our conditional approval.

On August 7, 2018, Utah submitted further revisions to address the remaining deficiencies in their NNSR program. This submittal also provides a technical demonstration for exempting ammonia as a PM_{2.5} precursor in the Logan, Utah-Idaho PM_{2.5} nonattainment areas and a technical basis for setting an ammonia SER of 70 tons per year in the Salt Lake City and Provo PM_{2.5} nonattainment areas.

We provided a detailed explanation of the basis for our proposed approval in our June 5, 2019, rulemaking, which will not be restated here. See 84 FR 26049. We invited comment on all aspects of our proposal and provided a 30-day comment period. The comment period ended on July 5, 2019.

II. Response to Comments

We received no comments during the public comment period.

III. Final Action

As outlined in our proposed rulemaking, the EPA is taking final action to approve the addition of new and revised rules and renumbering to rules R307-101 and R307-403 that were submitted by Utah on March 27, 2014 and August 7, 2018. This final action, in tandem with our October 5, 2017 approval of R307-403-6, converts the February 3, 2017 conditional approval to a full approval.

Specifically, we are taking final action to approve the following revisions: R307-101 (General Requirements) - R307-101-2 (*Definitions*); R307-403 (Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas) – R307-403-1 (*Purpose and Definitions*): R307-403-1(1) – (3), R307-403-1(4)(b), R307-403-1(4)(c); R307-403-2 (*Applicability*): R307-403-2(1), R307-403-2(6)(d); R307-403-2(10); R307-403-2(10)(a) – (c); R307-403-2(13); R307-403-3 (*Review of Major Sources of Air Quality Impact*): R307-403-3, R307-403-3(1), R307-403-3(3), R307-403-3(3)(a), R307-403-3(c), R307-403-3(d), R307-403-3(3)(e); R307-403-4 (*Offsets: General Requirements*): R307-403-4(1), R307-403-4(2), R307-403-4(3), R307-403-4(4); R307-403-5 (*Offsets: Particulate Matter Nonattainment Areas*): R307-403-5(1), R307-403-5(1)(a), R307-403-5(1)(b), R307-403-5(1)(c), R307-403-5(1)(d), R307-403-5(1)(e), R307-403-5(2), R307-403-5(2)(a), R307-403-5(2)(b), R307-403-5(2)(b)(i) – (iii), R307-403-5(2)(d), R307-403-5(4)(a), R307-403-5(4)(b), R307-403-5(4)(d), R307-403-5(e), R307-403-5(f); R307-403-7 (*Offsets: Baseline*); and R307-403-9 (*Construction in Stages*).

IV. Incorporation by Reference

In this document, 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 State of Utah's revisions to its State Implementation Plan as described in section III. of this preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that

plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.¹

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, 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

¹ 62 FR 27968 (May 22, 1997).

- 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 CAA; 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 section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 19, 2019.

Gregory Sopkin,
Regional Administrator,
Region 8.

40 CFR part 52 is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority for citation for part 52 continues to read as follows:

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

Subpart TT – Utah

2. Section 52.2320(c) is amended in the table:

a. Under the centered heading “R307-101. General Requirements,” by revising the entry for “R307-101-2.”

b. Under the centered heading “R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas”:

i. By revising the entries for “R307-403-1” and “R307-403-2;”

ii. By adding in numerical order entries for “R307-403-3;” “R307-403-4;” and “R307-403-5;”

iii. By revising the entry for “R307-403-6;”

iv. By adding in numerical order entries for “R307-403-7” and “R307-403-9;” and

v. By revising the entries for “R307-403-10” and “R307-403-11.”

The revisions and additions read as follows:

§52.2320 Identification of plan.

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(c) * * *

Rule No.	Rule title	State effective date	Final rule citation, date	Comments
R307-101. General Requirements				

R307-101-2	Definitions	08/02/2018	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
*	*	*	*	*
R307-403. Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas				

R307-403-1	Purpose and Definitions	08/02/2018 12/04/2013	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
R307-403-2	Applicability	08/02/2018	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
R307-403-3	Review of Major Sources of Air Quality Impact	08/02/2018	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
R307-403-4	Offsets: General Requirements	08/02/2018	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
R307-403-5	Offsets: Particulate Matter Nonattainment Areas	08/02/2018	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
R307-403-6	Offsets: Ozone Nonattainment Areas	08/02/2018	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
R307-403-7	Offsets: Baseline	08/02/2018	[Insert Federal Register citation], [Insert date of publication in	

			the Federal Register].	
R307-403-9	Construction in Stages	08/02/2018	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
R307-403-10	Analysis of Alternatives	08/02/2018	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
R307-403-11	Actual PALS	08/02/2018	[Insert Federal Register citation], [Insert date of publication in the Federal Register].	
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