



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2019-0688; FRL-10005-97-Region 8]

**Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Revisions
to the Utah Division of Administrative Rules; R307-101-3**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Utah Division of Administrative Rules (DAR), specifically R307-101-3 submitted by the State of Utah on August 19, 2019, and R307-405-2 and R307-410-3 submitted by the State of Utah on December 16, 2019. The R307-101-3 submittal requests a State Implementation Plan (SIP) revision to change the date of the referenced Code of Federal Regulations (CFR) from July 1, 2016 to July 1, 2017. The R307-405-2 submittal revises the CFR date from the July 1, 2011 version to July 1, 2018 and the R307-410-3 submittal updates the version of the 40 CFR part 51, appendix W incorporated by reference from the July 1, 2005 version to the July 1, 2018 version. This action is being taken under the Clean Air Act (CAA or Act).

DATES: Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2019-0688, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the www.regulations.gov index. 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air and Radiation Division, 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: Amrita Singh, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6103, singh.amrita@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

On August 19, 2019, the EPA received revisions for R307-101-3, General Requirements; Version of Code of Federal Regulations Incorporated by Reference from the State of Utah. Revisions submitted for R307-101-3 update the version of the 40 CFR used in a majority of R307 rules adopted by the Utah Air Quality Board. This update allows R307 rules that reference section R307-101-3 to update the incorporation date with only one rule amendment. States periodically updates their SIPs to incorporate by reference the most current 40 CFR to correlate environmental regulations. This rule, as submitted by the State, does not cover rules that specify their own date for the version of the CFR that are incorporated by reference. We previously acted on R307-101-3, where we had updated the CFR reference date, on July 11, 2019 (84 FR 27039) and received no comments.

On December 16, 2019 the EPA received revisions for (1) R307-405-2. Permits: Major Sources in Attainment or Unclassified Areas (PSD). Applicability; and (2) R307-410-3 Permits. Emissions Impact Analysis. The revisions submitted for R307-405-2 and R307-410-3 update the version of the CFR that is incorporated by reference throughout the Utah Air Quality rules. We previously acted on R307-405-2 on January 29, 2016 as a direct final rule and received no comments. The federal Prevention of Significant Deterioration (PSD) permitting program in 40 CFR 52.21 is incorporated by reference in Rule R307-405 and the version of the CFR is specified in sub-section R307-405-2. This rule change updates the version of 40 CFR 52.21 that is incorporated in R307-405 from the July 1, 2011 version to the July 1, 2018 version.

Finally, the EPA received revisions to R307-410-3 Permits: Emissions Impact Analysis with the December 16, 2019 submittal. Section R307-410-3 is amended to update the version of 40 CFR part 51, appendix W incorporated by reference from the July 1, 2005 version to July 1, 2018. We originally acted on R307-410 on two separate occasions: February 6, 2014 (79 FR 7072) and July 19, 2016 (81 FR 46838). The February 6, 2014 action approved revisions to R307-410-1, -3, and -4. The July 19, 2016 action approved revisions to R307-410-2 and -6. These actions were direct finals and did not receive any public comments specific to updating the incorporation by reference date for 40 CFR.

II. The EPA's Evaluation

Section 110(k) of the CAA address the EPA's rulemaking action on SIP submissions by states. The CAA requires states to observe certain procedural requirements in developing SIP revisions for submittal to the EPA. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to the EPA.

On January 3, 2018, the State of Utah's Department of Environmental Quality, Air Quality Board approved for public comment revisions to Rule R307-101-3, General Requirements; Version of Code of Federal Regulations Incorporated by Reference. The revisions that were being proposed for R307-101-3, updated the date of reference of 40 CFR from July 1, 2016 to July 1, 2017. The comment period began on February 1, 2018 and ended on March 5, 2018. No public comments were received nor was a public hearing requested. On May 23, 2018, R307-101-3 was finalized by the Air Quality Board and became effective. Subsequently, on August 19, 2019 Utah submitted this SIP revision of R307-101-3 to the EPA. This update allows

R307 rules that reference section R307-101-3 to update the CFR incorporation date to July 1, 2017, with only one rule amendment.

On August 7, 2019, the State of Utah's Department of Environmental Quality, Air Quality Board, approved for public comment revisions to R307-405-2. Permits: Major Source in Attainment or Unclassified Areas (PSD). Applicability; and R307-410-3 Permits: Emissions Impact Analysis. The rule changes to R307-405-2 update the version of 40 CFR 52.21 to the July 1, 2018 version. The revisions to R307-410-3 align with the requirements in the July 1, 2018 version of 40 CFR part 51, appendix W. The comment period began on September 1, 2019 and ended on October 1, 2019. No public comments were received nor was a public hearing requested. On November 25, 2019, R307-405-2 and R307-410-3 was finalized by the Air Quality Board and became effective. Subsequently, on December 16, 2019 Utah submitted this SIP revision of R307-405-2 and R307-410-3 to the EPA.

III. Proposed Action

The EPA is proposing to approve the SIP revision submitted on August 19, 2019, to R307-101-3, General Requirements; Version of Code of Federal Regulations Incorporated by Reference, where the version of the 40 CFR is being changed from July 1, 2016 to July 1, 2017. Additionally, the EPA is proposing to approve revisions submitted on December 16, 2019, to: (1) R307-405-2 Permits: Major Sources in Attainment or Unclassified Areas (PSD). Applicability; and (2) R307-410-3 Permits. Emissions Impact Analysis. R307-405-2 revisions are updating the version of 40 CFR to July 1, 2018, and R307-410-3 revisions are updating the version of 40 CFR part 51, appendix W to the July 1, 2018 version.

IV. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Utah Division of Air Quality (UDAQ) rules promulgated in the DAR, R307-101-3, R307-405-2, and R307-410-3 as discussed in section III. of the 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).

V. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. Accordingly, this action merely proposes to approve 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, 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 CAA; 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 proposed 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, 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: March 5, 2020.

Gregory Sopkin,
Regional Administrator,
EPA Region 8.

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