



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2019-0643; FRL-10013-92-Region 8]

### **Air Quality State Implementation Plans; Approval and Promulgation of Implementation Plans; Utah; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving multiple elements of the infrastructure State Implementation Plan (SIP) requirements for the 2015 ozone National Ambient Air Quality Standard (NAAQS) for Utah, along with taking no action on three Utah infrastructure SIP elements. The EPA is approving Utah's January 29, 2020 SIP submission for the following Clean Air Act (CAA) section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(II) Prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). The EPA is not proposing any action in this rule on elements (D)(i)(I) (Prongs 1 and 2), and (D)(i)(II) (Prong 4). The EPA is taking this action pursuant to the CAA.

**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-2019-0643. 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., 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:** Kate Gregory, telephone number: (303) 312-6175, email address: *gregory.kate@epa.gov*. Mail can be directed to the Air and Radiation Division, U.S. EPA, Region 8, Mail-code 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

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

## **I. Background**

On March 12, 2008, the EPA promulgated a new NAAQS for ozone, revising the levels of primary and secondary 8-hour ozone standards from 0.08 parts per million (ppm) to 0.075 ppm.<sup>1</sup> More recently, on October 1, 2015, the EPA revised the NAAQS for ozone, further strengthening the primary and secondary 8-hour standards to 0.070 ppm.<sup>2</sup> The October 1, 2015 standards are known as the 2015 ozone NAAQS.

Section 110(a)(1) of the CAA directs each state to make an infrastructure SIP submission to the EPA within 3 years of promulgation of a new or revised NAAQS. Infrastructure requirements for SIPs are provided 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. The elements that are the subject of this action are described in detail in our notice of proposed rulemaking (NPRM)

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<sup>1</sup> Final rule, National Ambient Air Quality Standards for Ozone, 73 FR 16436, 16483.

<sup>2</sup> Final rule, National Ambient Air Quality Standards for Ozone, 80 FR 65292, 65362.

published on June 1, 2020 for the State of Utah’s infrastructure SIP revision, which was submitted to the EPA on January 29, 2020.<sup>3</sup>

Comments on our June 1, 2020 NPRM were due on or before July 1, 2020. We received no comments on the proposal.

## II. Final Action

In this rulemaking, we are approving multiple elements of the infrastructure SIP requirements for the 2015 ozone NAAQS for Utah; we are taking no action here on three infrastructure SIP elements. The actions we are approving are contained in Table 1 below. The EPA is approving Utah’s January 29, 2020 SIP submission for the following CAA section 110(a)(2) infrastructure elements for the 2015 ozone NAAQS: (A), (B), (C), (D)(i)(II) Prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M). The EPA is taking no action in this rule on elements (D)(i)(I) (Prongs 1 and 2) and (D)(i)(II) (Prong 4).

**TABLE 1: INFRASTRUCTURE ELEMENTS THAT THE EPA IS ACTING ON**

Key:

A - *Approve*.

D - *Disapprove*.

NA - *No Action*.

<b>2015 Ozone NAAQS Infrastructure SIP Elements: Utah</b>	
(A): Emission Limits and Other Control Measures	A
(B): Ambient Air Quality Monitoring/Data System	A
(C): Program for Enforcement of Control Measures	A

<sup>3</sup> See Proposed Rule, Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards; Utah, 85 FR 33052, 33053-33058.

(D)(i)(I): Prong 1 Interstate Transport - significant contribution	NA
(D)(i)(I): Prong 2 Interstate Transport - interference with maintenance	NA
(D)(i)(II): Prong 3 Interstate Transport - prevention of significant deterioration	A
(D)(i)(II): Prong 4 Interstate Transport – visibility	NA
(D)(ii): Interstate and International Pollution Abatement	A
(E): Adequate Resources	A
(F): Stationary Source Monitoring System	A
(G): Emergency Episodes	A
(H): Future SIP revisions	A
(J): Consultation with Government Officials, Public Notification, PSD and Visibility Protection	A
(K): Air Quality and Modeling/Data	A
(L): Permitting Fees	A
(M): Consultation/Participation by Affected Local Entities	A

### III. 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);
- 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. Accordingly, 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. 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 20, 2020.

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Gregory Sopkin,  
Regional Administrator,  
Region 8.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 §52.2355 by adding paragraph (e) to read as follows:

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

\* \* \* \* \*

(e) Gary R. Herbert, Governor, State of Utah, provided submissions to meet the infrastructure requirements for the State of Utah for the 2015 ozone NAAQS on January 29, 2020. The State's Infrastructure SIP is approved with respect to the 2015 ozone NAAQS for the following CAA section 110(a)(2) infrastructure elements: (A), (B), (C), (D)(i)(II) Prong 3, (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

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