



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2024-0550; FRL-13050-02-R8]

Air Plan Approval; Colorado; Revisions to Colorado Procedural Rules and Common Provisions Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Colorado State Implementation Plan (SIP) that were submitted by the Colorado Department of Public Health and Environment (CDPHE) on May 20, 2022. CDPHE requested EPA approval of revisions to the Colorado's Procedural Rules and Common Provisions Regulation. The revised rules include non-substantive updates to rule language that are administrative in nature and were intended to provide for general cleanup and improved readability. The EPA is approving these SIP revisions because it has determined that they are in accordance with the requirements for SIP provisions under the Clean Air Act (CAA).

DATES: This direct final rule is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], without further notice, unless the EPA receives adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, the EPA will publish a timely withdrawal of the direct final rule, or the relevant provisions of the rule, in the *Federal Register* informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2024-0550, 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 <https://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

<https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2024-0550. All documents in the docket are listed on the *<https://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 *<https://www.regulations.gov>*, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Liz Ulrich, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, telephone number: (406) 457-5008, email address: ulrich.elizabeth@epa.gov.

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

I. Background

On May 20, 2022, the State of Colorado, through the CDPHE, submitted two rule revisions for inclusion into the Colorado SIP.¹ These revisions were adopted in 2021 by the Colorado Air Quality Control Commission (AQCC). The AQCC is appointed by the governor of Colorado and authorized by the Colorado General Assembly to oversee Colorado’s air quality program in accordance with the Colorado Air Pollution Prevention and Control Act.

The first rule revision involves minor administrative changes to one provision in the Procedural Rules, which are codified in the Code of Colorado Regulations (CCR) at 5 CCR 1001-1. Colorado’s Procedural Rules govern all procedures and hearings before the AQCC and certain procedures and hearings before the Air Pollution Control Division within CDPHE. The revisions submitted to the EPA involve section XI., which specifies certain requirements regarding the composition of the AQCC and disclosure by its members of potential conflicts of interest. CAA section 128(a)(1) mandates that “any board or body which approves permits or enforcement orders under this chapter shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this chapter.” 42 U.S.C. 7428(a)(1). The State’s revision to section XI. makes a grammatical change (specifically, changing “persons” to “person’s”). In addition, the State’s SIP submission reflects a revised numbering format, from Arabic numerals (as found in the current SIP²) to Roman numerals.

The second rule revision involves minor administrative changes to one provision in the Common Provisions Regulation, which is codified at 5 CCR 1001-2. Section I. of the Common Provisions Regulation establishes definitions, a statement of intent, and general provisions

¹ The first SIP Submittal, “Colorado Common Provisions, Clerical Change in Section XI.A.” The cover letter is dated May 16, 2022, but the SIP was submitted to EPA on May 20, 2022. This submittal was deemed complete by operation of law on November 20, 2022.

The second SIP Submittal, “CO Common Provisions_10212021.” The letter is dated May 16, 2022, but the SIP was submitted to the EPA on May 20, 2022. This SIP Submittal was deemed complete by operation of law on November 20, 2022.

Both SIP submissions are available in the docket for this action.

² See 40 CFR 52.320, table c.

applicable to all emission control regulations adopted by the AQCC.³ The revisions submitted to the EPA involve section I.A., which concerns materials incorporated by reference and are clerical or administrative in nature. The first change replaces the word “section” with the section symbol (i.e., “§”), and the second provides updated information on how copies of materials incorporated by reference may be obtained.⁴

The SIP submission also contains information related to the State’s revision of certain “state-only” provisions throughout the Procedural Rules and the Common Provisions Regulation. However, the EPA is acting only on the revisions the State submitted for incorporation into the Colorado SIP: revisions to section XI. of 5 CCR 1001-1 and section I.A. of 5 CCR 1001-2.

II. What action is EPA taking?

The EPA is approving minor administrative revisions to Colorado’s SIP, which the State presented in two separate submittals, related to procedures governing AQCC rulemaking and the availability of materials incorporated by reference. The revisions update the Procedural Rules codified at 5 CCR 1001-1 and the Common Provisions Regulation codified at 5 CCR 1001-2, which the EPA had previously approved and incorporated into the Colorado SIP.

The EPA is approving the revisions to the Procedural Rules and Common Provisions Regulation in the Colorado SIP because they do not interfere with applicable requirements of the CAA and are approvable under CAA section 110(l).⁵

We are publishing this action without prior proposal because we view these SIP revisions as noncontroversial and anticipate no relevant adverse comments. The revisions are administrative in nature and do not constitute substantive changes to Colorado’s SIP. However, in the “Proposed Rules” section of this *Federal Register* publication, we are publishing a separate action that will serve as the proposed rule to approve the revisions to Colorado’s SIP

³ 5 CCR 1001-2, section I.A.

⁴ Specifically, the statement “Materials incorporated by reference may also be available through the United States Government Printing Office, online at <https://www.govinfo.gov>.” replaces “or may be examined at the State Publications Depository and Distribution Center.”

⁵ 42 U.S.C. 7410(l).

submitted by the CDPHE on May 20, 2022. If adverse comments are received on this direct final rule, we will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If the EPA receives adverse comment, we will publish a timely withdrawal in the *Federal Register* informing the public that this direct final rule, or the relevant provisions of this rule, will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule. If we receive adverse comment on a distinct provision of this rulemaking, we will publish a timely withdrawal in the *Federal Register* indicating which provisions we are withdrawing. The provisions that are not withdrawn will become effective on the date set out above, notwithstanding adverse comment on any other provision.

III. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference (IBR). In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the IBR of CCR described in the amendments set forth to 40 CFR part 52, below. The EPA has made, and will continue to make, these materials generally available through <https://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 IBR'd 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 IBR'd in the next update to the SIP compilation.⁶

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR

⁶ 62 FR 27968 (May 22, 1997).

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 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- 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.
- 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).

- Is subject to the Congressional Review Act (CRA), and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 16, 2025.

Cyrus M. Western,

Regional Administrator,

Region 8.

For the reasons stated in the preamble, the Environmental Protection Agency is amending 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 G—Colorado

2. In § 52.320, the table in paragraph (c) is amended by:

a. Under the heading “5 CCR 1001-01, Procedural Rules” revising the entry “State Implementation Plan”; and

b. Under the heading “5 CCR 1001-02, Common Provisions Regulation” revising the entry “I. Definitions, Statement of Intent, and General Provisions Applicable to all Emission Control Regulations adopted by the Colorado Air Quality Control Commission”.

The revisions read as follows:

§ 52.320 Identification of plan.

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(c) * * *

Title	State effective date	EPA Effective date	Final rule citation/date	Comments
5 CCR 1001-01, Procedural Rules				
State Implementation Plan	9/14/2021	[insert date 30 days after date of publication in the Federal Register]	90 FR [insert Federal Register page where the document begins], [insert date of publication in the Federal Register]	Includes revised numbering format and grammatical change.
5 CCR 1001-02, Common Provisions Regulation				

<p>I. Definitions, Statement of Intent, and General Provisions Applicable to all Emission Control Regulations adopted by the Colorado Air Quality Control Commission</p>	<p>12/15/2021</p>	<p>[insert date 30 days after date of publication in the Federal Register]</p>	<p>90 FR [insert Federal Register page where the document begins], [insert date of publication in the Federal Register]</p>	<p>Revisions were made to I.A., replaces the word “section” with “§”, and updates how copies of materials incorporated by reference may be obtained.</p> <p>Except I.G. Definitions, “Construction” and “Day”</p>
<p style="text-align: center;">* * * * *</p>				

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