

**§ 320.22 Notice of hearing.**

(a) *Notification of parties.* At the discretion of the hearings officer, any hearing required under this part may be held in person, by telephone conference call, or by video teleconferencing as described in § 320.25(d). \* \* \*

\* \* \* \* \*

(c) *Ruling on objection.* The hearings officer shall rule on any objection timely filed by a party under this section and shall notify the party of his or her ruling thereon. The hearings officer may for good cause shown, or upon his or her own motion, reschedule the time and/or place of the hearing. If an individual objects to having a hearing by video teleconferencing, the hearings officer will find the individual's wish not to appear by video teleconferencing to be a good reason for changing the time or place of the scheduled hearing and will reschedule the hearing for a time or place where a telephone conference call or an in person hearing will be held. The hearings officer also may limit or expand the issues to be resolved at the hearing.

\* \* \* \* \*

■ 5. Revise § 320.25(d) to read as follows:

**§ 320.25 Hearing of appeal.**

\* \* \* \* \*

(d) Hearing by telephone or video teleconferencing. As stated in § 320.22(a), at the discretion of the hearings officer, any hearing required under this part may be conducted in person, by telephone conference call, or by video teleconferencing. The hearings officer may determine the hearing should be conducted by telephone conference call or video teleconferencing if use of these methods would be more efficient than conducting an in person hearing and the hearings officer does not determine that there is a circumstance in the particular case preventing the use of these methodologies to conduct the hearing.

By Authority of the Board.

Dated: September 6, 2006.

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. 06-8058 Filed 9-21-06; 8:45 am]

**BILLING CODE 7905-01-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R08-OAR-2006-0210; FRL-8220-5]

**Approval and Promulgation of State Implementation Plans; Utah; Revised Definitions of Volatile Organic Compounds and Clearing Index; Direct Final Rule**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of Utah on November 11 and November 23, 2005. The revisions are to the Utah Administrative Code (UAC) rule R307-101-2 and (1) incorporate by reference the federal definition of "Volatile Organic Compounds" (VOC), and (2) update the definition of "Clearing Index". The intended effect of this action is to make federally enforceable these revised definitions to the Utah SIP. This action is being taken under section 110 of the Clean Air Act.

**DATES:** This rule is effective on November 21, 2006 without further notice, unless EPA receives adverse comment by October 23, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final 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-2006-0210, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *E-mail:* [long.richard@epa.gov](mailto:long.richard@epa.gov) and [mastrangelo.domenico@epa.gov](mailto:mastrangelo.domenico@epa.gov).
- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 200, Denver, Colorado 80202-2466.
- *Hand Delivery:* Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R08-OAR-2006-0210. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://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 <http://www.regulations.gov> or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. 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 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

Domenico Mastrangelo, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202-2466, (303) 312-6436, [mastrangelo.domenico@epa.gov](mailto:mastrangelo.domenico@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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- V. Final Action
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**Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Utah* mean the State of Utah, unless the context indicates otherwise.

**I. General Information**

*A. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through <http://regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

**II. What is the Purpose of This Action?**

EPA is approving revisions to the definitions of Volatile Organic Compounds (VOC) and Clearing Index in Utah's rule R307-101-2. On November 11, 2005, the State of Utah submitted revisions to the definition of VOC. The revised VOC definition incorporates by reference 40 CFR 51.100(s). On November 23, 2005, the State of Utah submitted a revised definition of the Clearing Index. The revised definition of the Clearing Index reflects a more specific and expanded clearing index forecast generated by the National Weather Service (NWS).

**III. What is the State Process to Submit These Materials to EPA?**

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. 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 us.

The Utah Air Quality Board (UAQB) held a public hearing for the revised definition of VOC on May 24, 2005. The definition was adopted by the UAQB on July 6, 2005 and became State effective on July 7, 2005. The UAQB held a public hearing for the revised definition of Clearing Index on July 19, 2005. The definition was adopted by the UAQB on September 7, 2005 and became State

effective on September 8, 2005. The Governor submitted these SIP revisions to us on November 11 and November 23, 2005 respectively.

We have evaluated the Governor's submittal of these SIP revisions and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP materials for conformance with the completeness criteria in 40 CFR 51, Appendix V and determined that the submittals were administratively and technically complete.

**IV. EPA's Review of the State of Utah's November 11 and November 25, 2005 Submittals**

*1. Changes to the Definition of Volatile Organic Compounds*

Utah's revision to the definition of VOC in Rule R307-101-2 incorporates by reference federal regulation 40 CFR 51.100(s)(1) as updated by EPA on November 29, 2004 (69 FR 69290). This revision to the Utah SIP is, therefore, approvable.

*2. Changes to the Definition of the Clearing Index*

Utah's revised definition of the Clearing Index in Rule R307-101-2 reflects technological advances implemented by the National Weather Service (NWS). The value of the clearing index forecast provided by NWS is used to foresee the degree to which an area's air quality would be degraded by open burning operations or by industrial processes. In the 1970s the NWS began forecasting a daily clearing index for three air basins in the State of Utah. New technology, implemented in recent years, has allowed the NWS to upgrade its clearing index forecast to a three-day forecast for any point in the State instead of the previous three air basins. The NWS clearing index forecast is accessible online at no cost, through an interface on the NWS Web site. Based on the above, we have concluded the revised definition of the Clearing Index is approvable.

**V. Final Action**

EPA is approving, through direct final rulemaking, revisions to the definitions of VOC and of the Clearing Index in Utah's rule R307-101-2.

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a

NAAQS or any other applicable requirement of the CAA. The revised definitions of VOCs and of the Clearing Index will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective November 21, 2006 without further notice unless the Agency receives adverse comments by October 23, 2006. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## VI. Statutory and Executive Order Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 November 21, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 1, 2006.

**Kerrigan G. Clough,**

*Acting Regional Administrator, Region VIII.*

■ 40 CFR part 52 is amended to read as follows:

## PART 52—[AMENDED]

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

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

## Subpart TT—Utah

■ 2. Section 52.2320 is amended by adding paragraphs (c)(63) to read as follows:

### § 52.2320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(63) Revisions to the definition of "Volatile Organic Compounds," in UAC rule R307-101-2, as submitted by the Governor on November 11, 2005. Revisions to the definition of "Clearing Index," in UAC rule R307-101-2, as submitted by the Governor on November 23, 2005.

(i) Incorporation by reference.

(A) Utah Administrative Code rule R307-101-2, as adopted by the Utah Air Quality Board on July 6, 2005, effective on July 7, 2005. This incorporation by reference extends only to the definition of Volatile Organic Compounds and excludes any other provisions that R307-101-02 incorporates by reference.

(B) Utah Administrative Code rule R307-101-2, as adopted by the Utah Air Quality Board on September 7, 2005, effective on September 8, 2005. This incorporation by reference extends only to the definition of the Clearing Index and excludes any other provisions that R307-101-2 incorporates by reference.

[FR Doc. 06-7954 Filed 9-21-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0543; FRL-8217-8]

### Approval and Promulgation of Air Quality Implementation Plans; Wisconsin

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Wisconsin State Implementation Plan (SIP) for ozone. In these revisions, the State has incorporated changes EPA made to its definition of volatile organic compound (VOC) and its VOC control requirements for yeast manufacturing. As a result of EPA's approval, five chemical compounds will no longer be considered VOCs. The changes to VOC control requirements match the EPA maximum achievable control technology (MACT) limits for yeast manufacturers.

**DATES:** This direct final rule will be effective November 21, 2006, unless EPA receives adverse comments by October 23, 2006. If adverse comments are received, EPA will publish a timely withdrawal of the direct final 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-R05-OAR-2006-0543, by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.

- *E-mail*: mooney.john@epa.gov.

- *Fax*: (312) 886-5824.

- *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

- *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional

Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2006-0543. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information, the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

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telephone Matt Rau, Environmental Engineer, at (312) 886-6524 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Matt Rau, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, *rau.matthew@epa.gov*.

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- What Should I Consider as I Prepare My Comments for EPA?
- What Is EPA Approving?
- What Is the Background for This Action?
- What Is EPA's Analysis of the State Submission?
- What Are the Environmental Effects of This Action?
- What Action Is EPA Taking Today?
- Statutory and Executive Order Reviews.

#### I. What Should I Consider as I Prepare My Comments for EPA?

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**B. Tips for Preparing Your Comments.** When submitting comments, remember to:

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- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.