

List of Subjects in 40 CFR Part 52

Air pollution control, Approval and promulgation of implementation plans, Environmental protection, Incorporation by reference, and Sulfur oxides.

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

Dated: June 17, 2020.

John Busterud,

Regional Administrator, Region IX.

For the reasons stated in the preamble, EPA amends Chapter I, title 40 of the Code of Federal Regulations 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 DD Nevada

■ 2. Amend § 52.1472 by revising paragraph (j) to read as follows:

§ 52.1472 Approval status.

* * * * *

(j) 2010 1-hour sulfur dioxide NAAQS: The SIPs submitted on June 3, 2013, are disapproved for CAA elements 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J) for the NDEP and Washoe County portions of the Nevada SIP.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R08-OAR-2019-0688; FRL-10010-35-Region 8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Utah Division of Administrative Rules, specifically R307-101-3 submitted by the State of Utah on August 19, 2019, and R307-405-02 and R307-410-03 submitted by the State of Utah on December 16, 2019. The submittal for R307-101-3 requests a State Implementation Plan (SIP) revision to change the date incorporated by reference from the Code of Federal

Regulations (CFR) to July 1, 2016 to July 1, 2017. Amendments to R307-405-02 and R307-410-03 update the part of the CFR incorporated by reference in the rules to the July 1, 2018 version. This action is being taken under the Clean Air Act (CAA or Act).

DATES: This rule is effective on August 10, 2020.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2019-0688. 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: 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 March 13, 2020 (85 FR 14606), the EPA proposed approval of the Revisions to the Utah Division of Administrative Rules, specifically, R307-101-3, R307-405-02, and R307-410-03. The EPA received revisions to R307-101-3, General Requirements; Version of Code of Federal Regulations Incorporated by Reference from the State of Utah on August 19, 2019. These revisions allow R307 rules that reference section R307-101-3 to update the incorporation date with only one rule amendment.

The EPA received revisions to (1) R307-405-02. Permits: Major Sources in Attainment or Unclassified Areas (PSD) Applicability; and (2) R307-410-03 Permits. Emissions Impact Analysis on December 16, 2019. The revisions submitted for both R307-405-02 and R307-405-02 update the version of the CFR that is incorporated by reference throughout the Utah Air Quality rules. The rule change for R307-405-02 updates the version of 40 CFR 52.21 from the July 11, 2011 version to the July 1, 2018 version. Lastly, the amendment to rule R307-410-03

updates the version of 40 CFR part 51, appendix W, incorporated by reference from the July 1, 2005 version to the July 1, 2018 version.

II. Response to Comments

The comment period for our March 13, 2020 (85 FR 14606), proposed rule was open for 30 days. The EPA did not receive any comments.

III. Final Action

The EPA is approving the SIP revision to R307-101-3, General Requirements; Version of the Code of Federal Regulations Incorporated by Reference submitted on August 19, 2019. Additionally, EPA is also approving revisions to (1) R307-405-02 Permits: Major Sources in Attainment or Unclassified Areas (PSD) Applicability; and (2) R307-410-03 Permits. Emission Impact Analysis which were both submitted on December 16, 2019.

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 incorporating by reference the Utah Air Quality rules promulgated in R307-101-3, R307-405-02, and R307-410-03 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). Therefore, these materials have been approved by the EPA for inclusion in the State implementation plan, 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 Orders Review

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 approves state law as meeting Federal requirements and does not impose additional requirements beyond

¹ 62 FR 27968 (May 22, 1997).

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 (Pub. L. 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 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. 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 September 8, 2020. 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, Sulfur dioxide, Volatile organic compounds.

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

Dated: May 29, 2020.

Gregory Sopkin,
Regional Administrator, Region 8.

Accordingly, 40 CFR part 52 is amended 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. In § 52.2320, the table in paragraph (c) is amended by revising the entries for “R307–101–3”, “R307–405–02”, and “R307–410–03” to read as follows:

§ 52.2320 Identification of plan.

* * * * *
(c) * * *

Rule No.	Rule title	State effective date	Final rule citation, date	Comments
R307–101–3 ...	Version of Code of Federal Regulations Incorporated by Reference.	5/23/2018	[Insert Federal Register citation], 7/10/2020.	
R307–405–02	Applicability	11/25/2019	[Insert Federal Register citation], 7/10/2020.	
R307–410–03	Use of Dispersion Models	11/25/2019	[Insert Federal Register citation], 7/10/2020.	