Original amendment submission date	Date of final publication	Citation/description
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August 2, 1999	December 6, 1999	62 IAC 1701. Appendix A; 1784.14(b)(1), (b)(1)(A) (i) and (ii), (b)(1)(B), (e)(3)(D); 1784.20(a), (a)(1) and (2), (b), (b)(1) through (10); 1817.41(j); 1817.121(a)(1) through (4), (c)(1) through (3).

[FR Doc. 99–31516 Filed 12–3–99; 8:45 am]
BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[UT–001–0016a; FRL–6482–9]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Road Salting and Sanding, Control of Installations, Revisions to Salting and Sanding Requirements and Deletion of Non-Ferrous Smelter Orders, Incorporation by Reference, and Nonsubstantive Changes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On February 1, 1995, the Governor of the State of Utah submitted State Implementation Plan (SIP) revisions for the purpose of establishing new requirements for road sanding and salting in section 9.A.6.7 (referred to by the State as section IX.A.6.g in a renumbering revision that has yet to be approved by EPA) of the SIP and in UACR R307–1–3, updating the incorporation by reference in R307–2–1, deleting obsolete measures for nonferrous smelters in R307–1–3, and nonsubstantive changes to R307–1–1 and R307–1–3. This action is being taken under section 110 of the Clean Air Act (Act).

DATES: This rule is effective on February 4, 2000 without further notice, unless EPA receives adverse comment by January 5, 2000. 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: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the state documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114–4820.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, we mean the Environmental Protection Agency (EPA).

Table of Contents

I. EPA's Final Action

What Action is EPA Taking in this Direct Final Rule?

We are approving the Governor's submittal of February 1, 1995, that establishes new requirements for road salting and sanding in section 9.A.6.7 (referred to by the State as section IX.A.6.g) of the SIP and in UACR R307–1–3. Concurrently, the State's ''Incorporation by Reference'' was changed in UACR R307–2–1. This same submittal also deletes obsolete rules for nonferrous smelter orders in UACR R307–1–3, and makes nonsubstantive changes to R307–1–1 and R307–1–3.

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective February 4, 2000 without further notice unless the Agency receives adverse comments by January 5, 2000. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

II. Summary of SIP Revision

A. What Revisions Were Made to the SIP?

This revision made changes to the road salting and sanding requirements in section 9.A.6.7 (referred to by the State as section IX.A.6.g) of the SIP and in UACR R307–1–3. This regulatory revision achieves the 20% emission reduction relied upon in the SIP's attainment demonstration. The State revised the SIP and UACR R307–1–3.2.7 to establish the use of salt that is at least 92% sodium chloride as Reasonably Available Control Technology (RACT) for road anti-skid treatment. Entities applying a material other than this are required to either demonstrate that the material generates no more emissions than salt which is at least 92% sodium chloride, or to sweep the affected roadways using vacuum street sweeper technology within three days of the end of the storm for which the material was applied. Recordkeeping requirements were also imposed. Concurrent with this action, the State's incorporation by reference under R307–2–1 was updated to change the recently amended date of the SIP from December 18, 1992 to December 9, 1993.

In addition to the changes to road salting and sanding, UACR R307–1–3.10, ''Non-Ferrous Smelter Orders,'' was deleted due to its being obsolete because the nonferrous smelter orders expired on January 1, 1988.

After the revised rules were adopted, the State identified a number of typographical errors in the printed version of the road salting and sanding rules in ''Control of Installations.'' This

was corrected through a nonsubstantive change revision (DAR filing #15820) in R307–1–3.2.7. The State also made a definition change to the definition for PM_{10} precursor at this time. This was corrected through a nonsubstantive change revision (DAR filing #15819) in UACR R307–1–1. The revisions were included in the submittal to EPA on February 1, 1995 as well.

B. Did Utah Follow the Proper Procedures for Adopting These Revisions?

The Clean Air Act (Act) requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the Act provides that each SIP revision be adopted after going through a reasonable notice and public hearing process prior to being submitted by a State.

Copies of the proposed changes were made available to the public and the State held public hearings for the changes to R307–2–1 ''Incorporation by Reference'' and SIP section 9.A.6.7, ''Road Salting and Sanding'' (DAR filing #14834) as well as for the changes to R307–1–3 ''Control of Installations'' for the road salting and sanding changes and the deletion of ''Non-Ferrous Smelter Orders'' (DAR filing #14833) on October 5, 1993, October 6, 1993, October 7, 1993 and October 13, 1993. The State made changes in response to public comments and the rule revisions to R307–2–1 and SIP section 9.A.6.7 were adopted by the Air Quality Board on January 3, 1994 and became effective on January 31, 1994; the revisions to R307–1–3 were adopted by the Air Quality Board on November 5, 1993 and became effective on January 3, 1994. The nonsubstantive changes which were made to R307–1–1, ''Foreword and Definitions'' and R307–1–3 ''Control of Installations'' (DAR filing #15819 and #15820) were effective on June 1, 1994. These revisions were formally submitted by the Governor on February 1, 1995. This submission was found to be administratively and technically complete in a letter to the Governor dated July 27, 1995.

III. Background

What Problems Does Today's Rule Address?

On February 1, 1995, the Governor submitted revisions to the road salting and sanding provisions in the SIP and the State rules, along with a deletion of the Non-Ferrous Smelter Orders, and an updated incorporation by reference and other nonsubstantive changes. This submission was found to be administratively and technically complete in a letter to the Governor dated July 27, 1995.

Road salt and sand are minor emission sources in Salt Lake and Utah Counties, with design day impacts ranging from 0% to 3.2% for salt and 0% to 7.5% for sand and other road dust. The original SIP (approved in 1994) required all agencies applying salt, sand or other anti-skid materials to roadways in the nonattainment areas to submit a plan to the State documenting the methods and schedule that would be used to achieve a 25% reduction in roadway surface loading of these materials, which was in turn anticipated to provide a 20% reduction in ambient contributions from this source category.

In addition, the State committed to complete a study to gather more information on this source category in order to confirm the expected 20% reduction. This study was completed in 1992. It demonstrated that road salting was not a contributor to PM_{10} in the nonattainment areas. The roadways sampled during the study were found to be cleaner after storm events than prior to the events, leading the State to the conclusion that road salting did not contribute PM_{10} emissions to the nonattainment area. As a result of this finding, the State revised the SIP and R307–1–3.2.7 to establish evaporative salt (the type used during the study) as Reasonably Available Control Technology for road anti-skid treatment. Entities applying a material other than at least 92% sodium chloride salt are required to either demonstrate that the material generates no more emissions than this salt, or to sweep the affected roadways using vacuum street sweeper technology within three days of the end of the storm for which the material was applied. Recordkeeping requirements were also imposed.

This regulatory revision achieves the 20% emission reduction relied upon in the SIP's attainment demonstration. As noted above, salt that is at least 92% sodium chloride (used by the majority of road maintenance agencies in the nonattainment areas) was found to have no impact on PM_{10} concentrations. Vacuum sweeper technology has been found through a number of EPA and non-EPA studies to reduce PM_{10} emissions from roadways by approximately 34%, exceeding the 20% emission reduction target in the SIP.

In addition to the changes to road sanding and salting, UACR R307–1–3.10, ''Non-Ferrous Smelter Orders,'' allowing nonferrous smelters to postpone compliance, was deleted due to this provision being obsolete. Pursuant to CAA section 119, nonferrous smelters could postpone their compliance with the statutes, but compliance could not be postponed beyond January 1, 1988.

After the revised rules were adopted, the State identified a number of typographical errors in the printed version of the rules. The State also made a minor change to the definition for PM_{10} precursor at this time. These were corrected through nonsubstantive change revisions (DAR filing #15820 and #15819). This revision was submitted to EPA on February 1, 1995 as well.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will 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), because it 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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 rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

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 February 4, 2000. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 9, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

40 CFR part 52, subpart TT of chapter I, title 40 is amended 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 paragraph (c)(43) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(43) On February 1, 1995 the Governor of Utah submitted revisions to the Utah SIP to revise the provisions for road salting and sanding in Section 9, part A of the SIP and in UACR R307–1–3, updating the incorporation by reference in R307–2–1, deleting obsolete measures for nonferrous smelters in R307–1–3, and making nonsubstantive changes to UACR R307–1–1 and R307–1–3.

(i) Incorporation by reference.

(A) UACR R307–1–3, a portion of ''Control of Installations,'' revisions to road salting and sanding requirements and deletion of non ferrous smelter orders, as adopted by Utah Air Quality Board on November 5, 1993, effective on January 3, 1994.

(B) UACR R307–2–1, ''Incorporation by Reference,'' revised date for incorporation by reference of the State Implementation Plan, as adopted by Utah Air Quality Board on January 31, 1994.

(C) UACR R307–1–1, ''Foreword and Definitions,'' nonsubstantive change made to definition of ''PM_{10} precursor,'' effective on June 1, 1994.

(D) UACR R307–1–3, ''Control of Installations,'' nonsubstantive changes to road salting and sanding, effective on June 1, 1994.

(ii) Additional Material.

(A) February 22, 1999 letter from Ursula Trueman, Director, Utah Division of Air Quality, to Richard Long, Director, EPA Region VIII Air and Radiation Program, transmitting nonsubstantive change correction to R307–2–1, ''Incorporation by Reference,'' that was left out of the February 1, 1995 SIP submittal.

(B) March 16, 1999 letter from Larry Svoboda, Unit Leader, EPA Region VIII Air and Radiation Program, to Ursula Trueman, Director, Utah Division of Air Quality, explaining EPA's interpretation of nonsubstantive revision to definition of ''PM_{10} precursor.''

(C) April 28, 1999 letter from Richard Sprott, Planning Branch Manager, Utah Division of Air Quality, to Larry Svoboda, Unit Leader, EPA Region VIII Air and Radiation Program, providing explanation for and background to the ''PM_{10} precursor'' definition.

(D) August 26, 1999 fax from Jan Miller, Utah Division of Air Quality, to Cindy Rosenberg, EPA Region VIII Air and Radiation Program, transmitting documentation for effective date of the ''PM_{10} precursor'' definition.

[FR Doc. 99–31533 Filed 12–3–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIP NOS. MT–001–0012a; MT–001–0013a; MT–001–0014a; MT–001–0015a; FRL–6482–76]

Approval and Promulgation of Air Quality Implementation Plans; Montana; Emergency Episode Plan, Columbia Falls, Butte and Missoula Particulate Matter State Implementation Plans, Missoula Carbon Monoxide State Implementation Plan

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 Montana. The revisions update the State of Montana's Emergency Episode Plan; Columbia Falls, Butte and Missoula's Particulate Matter (particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10)) Plans; and the Missoula carbon monoxide (CO) Plan. The intended effect of this action is to make the federally approved SIP consistent with the State adopted SIP with respect to the Emergency Episode Plan, Columbia Falls, Butte and Missoula's PM–10 SIPS and Missoula's CO SIP. EPA is taking this action under sections 110 and 179 of the Clean Air Act (Act). EPA is also updating out-of-date sections in 40 CFR part 52, subpart BB—Montana.

DATES: This rule is effective on February 4, 2000 without further notice, unless EPA receives adverse comment by January 5, 2000. 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: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, EPA, Region VIII, (303) 312–6437.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean EPA. On July 8, 1997, the Governor of Montana submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of minor modifications to the Butte, Columbia Falls and Missoula PM–10 control plans, the Missoula CO control plan, and an update to the Montana Emergency Episode Plan.

I. Summary of SIP Revision

A. Columbia Falls PM–10 Control Plan

The July 8, 1997 SIP submittal revised the State's SIP narrative page numbering for the Columbia Falls PM–10 control plan and Table 15.11.14A, Columbia Falls 24-hour Demonstration of Compliance Implementation of Contingency Measure, and Table 15.11.15B, Columbia Falls 24-hour Demonstration of Compliance. The Tables are contained in the SIP narrative.

The revisions to the above tables make minor modifications to the attainment, maintenance and contingency measures demonstrations. In a recent review of the Columbia Falls attainment demonstration the State believed that the 24-hour attainment