

by a modified permanganate test corrected to 50 percent consumption of the chemical.

(ii) *Total bleach line chlorine dioxide application rate*—mass of chlorine dioxide applied in all stages of the bleach line per mass of unbleached pulp (i.e., lb/ton or kg/kg).

(iii) *Chlorine-containing compounds*—compounds containing chlorine used in the bleach plant for bleaching, brightening, whitening, or viscosity control. These compounds include but are not limited to chlorine (Cl₂), sodium hypochlorite (NaOCl), chlorine dioxide (ClO₂) and chlorine monoxide (Cl₂O).

[FR Doc. 02-23741 Filed 9-18-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[SIP NO. UT-001-0043a, UT-001-44a; FRL-7376-7]

Approval and Promulgation of Air Quality Implementation Plans; Utah; New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and announcement of Utah NSPS Delegation.

SUMMARY: On January 8, 1999 and December 10, 1999, the Governor of Utah submitted revisions to the New Source Performance Standards (NSPS) rules in Utah's Air Conservation Regulations. We are announcing that on June 10, 2002 we delegated the authority for the implementation and enforcement of the NSPS to the State.

Given that the State has been delegated the authority for implementation and enforcement of the NSPS, we are removing the NSPS rules from the Utah SIP. In addition, we are approving updates to the NSPS "Delegation Status of New Source Performance Standards" table. These actions are being taken under sections 110 and 111 of the Clean Air Act.

DATES: This rule is effective on November 18, 2002, without further notice, unless EPA receives adverse comment by October 21, 2002. 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 8, 999 18th Street, Suite 300, 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 8, 999 18th Street, Suite 300, Denver, Colorado 80202. 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.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA, Region 8, (303) 312-6144.

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever "we" or "our" is used means EPA.

I. Summary of SIP Revisions

A. January 8, 1999 and December 10, 1999 Submittals

The January 8, 1999 and December 10, 1999 submittals revise UACR R-307-18 (since renumbered as R307-210) by updating the incorporation by reference for new source performance standards (NSPS) to reflect updated versions of the federal regulations. UACR R307-18 is the rule the State uses to implement our NSPS.

On June 10, 2002, we issued a letter delegating responsibility for all sources located, or to be located, in the State of Utah subject to the NSPS in 40 CFR part 60. The categories of new stationary sources covered by this delegation are as follows: NSPS in effect as of July 1, 1998; NSPS subparts Da and Db, promulgated September 16, 1998; NSPS subparts A, D, Da, Db, Dc, Ea, J, CC, NN, XX, AAA and SSS, promulgated February 12, 1999; NSPS subpart WWW, promulgated February 24, 1999; and NSPS subparts AA and AAa, promulgated March 2, 1999.

Since the State now has been delegated authority for NSPS in 40 CFR part 60, pursuant to 110(k)(6) of the Act, we are removing UACR R307-18 from the SIP. Also, we are updating the table in 40 CFR 60.4(c) to indicate that the 40 CFR part 60 NSPS are now delegated to the State and adding entries for newly delegated NSPS subparts.

The June 10, 2002 letter of delegation to the State follows:

Ref: 8P-AR
Honorable Mike Leavitt,
Governor of Utah, State Capitol, Salt Lake City, Utah 84113.

Dear Governor Leavitt: On January 8, 1999 and December 10, 1999 the State submitted revisions to the New Source Performance

Standards (NSPS) rules in Utah's Air Conservation Regulations (UACR) R307-18-1 (Re-numbered to 307-210-1). Specifically, the State revised its NSPS to incorporate the Federal NSPS in effect as of July 1, 1998. In addition, the State revised its NSPS to incorporate revisions to the following Subparts of 40 CFR part 60: Da and Db, promulgated September 16, 1998 (63 FR 49442); A, D, Da, Db, Dc, Ea, J, CC, NN, XX, AAA and SSS, promulgated February 12, 1999 (64 FR 7458)¹ WWW, promulgated February 24, 1999 (64 FR 9258)² and AA and AAa, promulgated March 2, 1999 (64 FR 10105).

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the State's regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of Utah and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of Utah. Therefore, pursuant to section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of Utah as follows:

(A) Responsibility for all sources located, or to be located, in the State of Utah subject to the standards of performance for new stationary sources promulgated in 40 CFR part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR part 60, as in effect on July 1, 1998 and revisions to Subparts Da and Db, promulgated September 16, 1998 (63 FR 49442); A, D, Da, Db, Dc, Ea, J, CC, NN, XX, AAA and SSS, promulgated February 12, 1999 (64 FR 7458); WWW, promulgated February 24, 1999 (64 FR 9258); and AA and AAa, promulgated March 2, 1999 (64 FR 10105). Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, and Ce. These subparts require state plans which are approved under a separate process pursuant to section 111(d) of the Act.

(B) Not all authorities of NSPS can be delegated to States under section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) Approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR part 60 being delegated in this letter, the enclosure lists examples of sections in 40 CFR part 60 that cannot be delegated to the State of Utah.

(C) As 40 CFR part 60 is updated, Utah should revise its regulations accordingly and

¹ It appears that Utah has cited the incorrect legal citation. The State cites the title page of the *Federal Register* notice. The Utah citation 64 FR 7457 should be 64 FR 7458. If we are interpreting this incorrectly, we ask that the State notify us immediately.

² It appears that Utah has cited the incorrect legal citation. The State cites the title page of the *Federal Register* notice. The Utah citation 64 FR 9257 should be 64 FR 9258. If we are interpreting this incorrectly, we ask that the State notify us immediately.

in a timely manner and submit to EPA requests for updates to its delegation of authority.

This delegation is based upon and is a continuation of the same conditions as those stated in EPA's original delegation letter of May 13, 1976 to the Honorable Calvin L. Rampton, then Governor of Utah, except that condition 3, relating to Federal facilities, was voided by the Clean Air Act Amendments of 1977. Please also note that EPA retains concurrent enforcement authority as stated in condition 2. In addition, if at any time there is a conflict between a State and Federal NSPS regulation, the Federal regulation must be applied if it is more stringent than that of the State, as stated in condition 10. EPA published its May 13, 1976 delegation letter in the notices section of the June 15, 1976 **Federal Register** (41 FR 24215), along with an associated rulemaking notifying the public that certain reports and applications required from operators of new or modified sources shall be submitted to the State of Utah (41 FR 24124). Copies of the **Federal Register** notices are enclosed for your convenience.

EPA is approving Utah's request for NSPS delegation for all areas within the State except for the following: lands within the exterior boundaries of the Skull Valley, Paiute, Navajo, Goshute, White Mesa, and Northwestern Shoshoni Indian Reservations; Indian country lands within the Uintah and Ouray Indian Reservation; and any other areas which are "Indian Country" within the meaning of 18 U.S.C. 1151.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of Utah will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** in the near future to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312-6005.

Sincerely yours,
Robert E. Roberts,
Regional Administrator.

Enclosures.

cc: Rick Sprott, Director, Division of Air Quality, Dianne Nielson, Executive Director, Department of Environmental Quality.

Enclosure to Letter Delegating NSPS in 40 CFR Part 60, Effective Through May 3, 1999, to the State of Utah

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELETED

40 CFR subparts	Section(s)
A	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and 60.11(e)(6), (7), and (8).
Da	60.45a.

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELETED—Continued

40 CFR subparts	Section(s)
Db	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc	60.48c(a)(4).
Ec	60.56c(i), 60.8
J	60.105(a)(13)(iii) and 60.106(i)(12).
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O	60.153(e).
S	60.194(d).
DD	60.302(d)(3).
GG	60.332(a)(3) and 60.335(f)(1).
VV	60.482-1(c)(2) and 60.484.
WW	60.493(b)(2)(i)(A) and 60.496(a)(1).
XX	60.502(e)(6)
AAA	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
BBB	60.543(c)(2)(ii)(B).
DDD	60.562-2(c).
GGG	60.592(c).
III	60.613(e).
JJJ	60.623.
KKK	60.634.
NNN	60.663(e).
QQQ	60.694.
RRR	60.703(e).
SSS	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
TTT	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WW W	60.754(a)(5).

II. Final Action

We are announcing the delegation of authority to the State for NSPS implementation and enforcement. We are removing UCAR R307-18 from the SIP and are updating the table in 40 CFR 60.4(c) to indicate that the 40 CFR part 60 NSPS is now delegated to the State and adding entries for newly delegated NSPS subparts.

Section 110(l) of the Clean Air Act 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 the NAAQS or any other applicable requirements of the Act. The Utah SIP revisions that are the subject of this document do not interfere with the maintenance of the NAAQS or any other applicable requirement of the Act because the State continues to have the

authority for the implementation and enforcement of the NSPS in Utah.

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 be filed. This rule will be effective November 18, 2002, without further notice unless the Agency receives adverse comments by October 21, 2002. 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.

III. Administrative Requirements

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 18, 2002. 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

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials

and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Zinc.

Dated: August 27, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

40 CFR part 52, 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 52.2352 is added to read as follows:

§ 52.2352 Change to approved plan.

Utah Air Conservation Regulation R307-18-1, New Source Performance Standards, is removed from the approved plan. On June 10, 2002, we issued a letter delegating responsibility for all sources located, or to be located, in the State of Utah subject to the NSPS in 40 CFR part 60. See the table in 40 CFR 60.4 for the status of NSPS delegated to the state of Utah.

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601 as amended by the Clean Air Act Amendments of 1990, Pub. L. 101-549, 104 Stat. 2399 (November 15, 1990; 402, 409, 415 of the Clean Air Act as amended, 104 Stat. 2399, unless otherwise noted).

Subpart A—General Provisions

2. In § 60.4, amend the table entitled "Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]" in paragraph (c) by revising the column heading for "UT" and the entries for subpart "Eb" and "Ec" to read as follows:

§ 60.4 Addresses.

* * * * *
(c) * * *

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS [(NSPS) FOR REGION VIII]

Subpart	CO	MT	ND	SD ¹	UT	WY
* * * * *	*		*		*	
* * * * *	*		*		*	
Eb-Large Municipal Waste Combustors				(*)	(*)	(*)
Ec-Hospital/Medical/Infectious Waste Incinerators	(*)		(*)	(*)	(*)	

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS [(NSPS) FOR REGION VIII]—Continued

Subpart	CO	MT	ND	SD ¹	UT	WY
* * * * *	*		*			*

(¹) Indicates approval of State regulation.

¹ Indicates approval of State Regulation as part of the State Implementation Plan (SIP).

* * * * *
 [FR Doc. 02-23378 Filed 9-18-02; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL-7378-4]

Approval of Section 112(l) Authority for Hazardous Air Pollutants; Delegation of Section 111 and Section 112 Standards; State of New Hampshire

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; delegation of authority.

SUMMARY: EPA is taking direct final action to approve New Hampshire Department of Environmental Services' (NH DES) request for delegation of authority to implement and enforce its New Source Performance Standards (NSPSs) and National Emission Standards for Hazardous Air Pollutants (NESHAPs) which have been adopted by reference into New Hampshire's state regulations from the Federal requirements set forth in the Code of Federal Regulations. In addition, EPA is taking direct final action to approve NH DES's mechanism for receiving delegation of future NESHAPs and NSPSs. This approval delegates standards for both major and area sources and will automatically delegate future regulations and amendments to regulations once NH DES incorporates these regulations and amendments into its regulations. EPA is taking this action in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on November 18, 2002, without further notice, unless EPA receives adverse comments by October 21, 2002. If EPA receives such comment, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Steven Rapp, Manager, Air Permits, Toxics and Indoor Programs Unit, Office of Ecosystem Protection (mail code CAP) at the EPA New

England office listed below and to Barbara L. Hoffman, Stationary Source Planning Manager, at the New Hampshire Department of Environmental Services office listed below. Copies of NH DES's request for approval are available for public inspection at the following locations: U.S. Environmental Protection Agency, EPA-New England, Office of Ecosystem Protection, One Congress Street, Suite 1100, Boston, MA 02114-2023.

New Hampshire Department of Environmental Services, Air Resources Division, 6 Hazen Drive, Concord, NH 03302-0095.

FOR FURTHER INFORMATION CONTACT:

Susan Lancey, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England, One Congress Street, Suite 1100 (CAP), Boston, MA 02114-2023, Telephone: (617) 918-1656.

SUPPLEMENTARY INFORMATION:

Outline

- I. Background
- II. Has EPA Previously Delegated NSPS and NESHAP Standards to New Hampshire?
- III. What Is NH DES Now Requesting?
- IV. What Criteria Must NH's Program Meet To Be Approved?
- V. Which Part 63 General Provisions Did NH DES Request Delegation for?
- VI. What Action Is EPA Taking?
- VII. Administrative Requirements

I. Background

Under section 112(l) of the CAA, EPA may delegate Federal section 112 rules without changes to states or approve state programs in lieu of the Federal section 112 rules. The Federal regulations governing EPA's approval of state and local rules or programs under section 112(l) are located at 40 CFR part 63, subpart E (See 65 FR 55810, dated September 14, 2000). Under these rules, EPA may approve state programs to implement and enforce the Federal section 112 rules without changes. This is referred to as straight delegation. In addition, EPA may approve state requests for one-time approval of their mechanism for taking delegation of future unchanged Federal section 112 rules, emission standards and requirements. To receive EPA approval for straight delegation, the requirements of 40 CFR 63.91 must be met.

II. Has EPA Previously Delegated NSPS and NESHAP Standards to New Hampshire?

NH DES has been delegated the authority by EPA to implement and enforce certain NSPS codified at 40 CFR part 60, certain NESHAPs codified at 40 CFR part 61, and certain NESHAP referred to as Maximum Achievable Control Technology (MACT) standards codified at 40 part CFR 63. This delegation of authority was approved by EPA in the **Federal Register** on August 14, 1996 (See 61 FR 42222). This delegation extended only to facilities subject to New Hampshire's title V permit program and applied to existing standards. Under this delegation mechanism, delegation occurred upon incorporation of the MACT standard into the source's title V operating permit. In the August 14, 1996 **Federal Register**, EPA also proposed to approve this delegation mechanism for delegation of future standards. On October 2, 1996 (See 61 FR 51370), EPA approved this delegation mechanism.

III. What Is NH DES Now Requesting?

On May 9, 2002, the NH DES submitted a request to EPA to receive straight delegation of authority to implement and enforce the NESHAP and NSPS¹ regulations for both major and area sources under a new delegation mechanism. NH DES is now requesting to take delegation of these standards by incorporating these standards into NH DES's regulations. On April 5, 2002, DES adopted a rule, Env-500, that incorporates by reference NSPS and NESHAP regulations as set forth in the Code of Federal Regulations as of July 1, 2001. In addition, NH DES incorporated 40 CFR part 63 subpart D, Regulations Governing Compliance Extensions for Early Reductions of Hazardous Air Pollutants. NH DES has incorporated all NSPS and NESHAP regulations as indicated in Table 1 and requested delegation of these standards. NH DES did not incorporate 40 CFR part 63, subpart M—national perchloroethylene air emission standards for dry cleaning facilities. NH DES intends to continue implementing and enforcing this standard only for

¹ Please note Federal rulemaking is not required for delegation of section 111 standards.