

(b) *Effective period.* This section is effective from 12:01 a.m. (HST) on January 22, 2007, until 11:59 p.m. (HST) on February 18, 2007.

(c) *Regulations.* The general regulations governing security zones contained in 33 CFR 165.33 apply. Entering into, transiting through, or anchoring within this zone is prohibited unless authorized by the Captain of the Port or a designated representative thereof.

(d) *Enforcement.* The Coast Guard will begin enforcement of the security zone described in this section upon M/V TONG CHENG's arrival into the Captain of the Port Honolulu Zone.

(e) *Informational notice.* The Captain of the Port of Honolulu will cause notice of the enforcement of the security zone described in this section to be made by broadcast notice to mariners.

(f) *Authority to enforce.* Any Coast Guard commissioned, warrant, or petty officer, and any other Captain of the Port representative permitted by law, may enforce this temporary security zone.

(g) *Waiver.* The Captain of the Port may waive any of the requirements of this section for any person, vessel, or class of vessel upon finding that application of the security zone is unnecessary or impractical for the purpose of maritime security.

(h) *Penalties.* Vessels or persons violating this section are subject to the penalties set forth in 33 U.S.C. 1232 and 50 U.S.C. 192.

Dated: January 21, 2007.

V.B. Atkins,

Captain, U.S. Coast Guard, Captain of the Port, Honolulu.

[FR Doc. E7-1611 Filed 1-31-07; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 60

[EPA-R08-OAR-2005-UT-0007; FRL-8275-2]

### Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Administrative Procedures

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

**ACTION:** Direct final rule and delegation of authority.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Governor of Utah on August 15, 2001. This SIP submittal deletes Utah's rules R307-102-3,

"Administrative Procedures and Hearings," and R307-414-3, "Request for Review." EPA is removing Utah's rules R307-102-3 and R307-414-3 from Utah's federally approved SIP, because these rules are not required to be in Utah's SIP. This action is being taken under section 110 of the Clean Air Act.

EPA is also providing notice that on November 8, 2006, Utah was delegated authority to implement and enforce certain New Source Performance Standards, as of July 1, 2005. In addition, we are approving updates to the NSPS "Delegation Status of New Source Performance Standards" table.

**DATES:** This rule is effective on April 2, 2007, without further notice, unless EPA receives adverse comment by March 5, 2007. 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 Number EPA-R08-OAR-2005-UT-0007, by one of the following methods:

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

- *E-mail:* [ostrand.laurie@epa.gov](mailto:ostrand.laurie@epa.gov) and [fiedler.kerri@epa.gov](mailto:fiedler.kerri@epa.gov).

- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- *Mail:* Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

- *Hand Delivery:* Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. 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 Number EPA-R08-OAR-2005-UT-0007. 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](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 [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web

site is an "anonymous access" systems, 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 [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, 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 [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, CO 80202-1129. 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:** Kerri Fiedler, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, CO 80202-1129, phone (303) 312-6493, and e-mail at: [fiedler.kerri@epa.gov](mailto:fiedler.kerri@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

- I. General Information
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- III. EPA's Evaluation of the Submittal

IV. Section 110(l) of the Clean Air Act  
 V. Final Action  
 VI. Statutory and Executive Order Reviews

### 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 word *State* means 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 [www.regulations.gov](http://www.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 State's 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 (AQB) held a public hearing on September 28, 2000, to address revisions to Utah's Administrative Procedures: adding R307-103, amending R307-120-8 and R307-415-6d, and deleting R307-102-3, R307-415-10 and R307-414-3. The AQB adopted the revisions on December 6, 2000, and they became State effective on December 7, 2000. Utah's Rule R307-103-2 was further revised at a public hearing held by the AQB on February 21, 2001, and was adopted by the AQB on April 4, 2001. Utah's Rule R307-103-2 became State effective on April 12, 2001. These SIP revisions were submitted by the Governor of Utah to us on August 15, 2001.

Based on a letter from Richard W. Sprott, Director, Utah Division of Air Quality (UDAQ), to Richard Long, Director, Air and Radiation Program, dated May 18, 2005, Utah's Rules R307-120-8, R307-415-6d, and R307-415-10 were submitted for our reference only and should not be incorporated into the federally approved SIP. Furthermore, Utah's Rule R307-103 has been withdrawn based on a letter from the Governor of Utah, dated November 3, 2006. Therefore, we are only proposing to approve the removal of Utah's rules R307-102-3 and R307-414-3 from Utah's federally approved SIP. We have evaluated the Governor's submittal and have concluded that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA.

The Utah Air Quality Board (AQB) held a public hearing on May 18, 2006, to address revisions to Utah's Standards of Performance for New Stationary Sources (NSPS), R307-210. The revisions were adopted by the AQB and they became State effective on June 15, 2006. These revisions were submitted by the Governor of Utah to us on August 25, 2006.

### III. EPA's Evaluation of the Submittal

#### A. Utah's Rule R307-102-3, "Administrative Procedures and Hearings"

We are approving the removal of Utah's Rule R307-102-3, "Administrative Procedures and Hearings," from Utah's federally approved SIP. Rule R307-102-3 designates whether certain proceedings and actions are to be conducted formally or informally. We approved this rule into the SIP on July 6, 1999 (64 FR 36248). These provisions are not required by the CAA and are, therefore, not required to be in Utah's SIP. However, the state has now deleted rule R307-102-3 and we are approving its removal from the SIP.

#### B. Utah's Rule R307-414-3, "Request for Review"

We are approving the removal of Utah's Rule R307-414-3, "Administrative Procedures and Hearings," from Utah's federally approved SIP. Rule R307-414-3 contains provisions on how to appeal the fee for UDAQ review of applications for new construction or modification requests. We approved this rule into the SIP on July 8, 1994 (59 FR 35036). The CAA does not require that such provisions be in Utah's SIP. The state has now deleted rule R307-414-3 and we are approving the removal from the SIP.

#### C. Delegation of Authority

The August 25, 2006 submittal revises Utah's Rule R307-210, "Stationary Sources" by updating the incorporation by reference for new source performance standards (NSPS) to reflect updated versions of the federal regulations. R307-210 is the rule the State uses to implement our NSPS.

On November 8, 2006, 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:

Ref: 8P-AR

Dianne R. Nielson, Executive Director,  
 Department of Environmental Quality,  
 150 North 1950 West, Salt Lake City, UT  
 84114-4820

Dear Ms. Nielson: On August 25, 2006, the State submitted a revision to the Utah Air Quality Rules to the United States Environmental Protection Agency (EPA). Specifically, the State revised section R307-210-1. Standards of Performance for New Stationary Sources (NSPS), to incorporate the July 1, 2005 Code of Federal Regulations, and to make minor changes to the general provisions. This revision, in effect, updates the citation of the incorporated Federal NSPS to July 1, 2005.

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those NSPS, so long as the States' 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, 2005, except subparts Cb, Cc, Cd, Ce, BBBB and DDDD, which the State has excluded. Additionally, 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 in order to implement. Enclosed with this letter is a list of examples of sections in 40 CFR Part 60 related to the NSPS being delegated in this letter that cannot be delegated to the State of Utah.

(C) The Utah Department of Environmental Quality (DEQ) and EPA will continue a system of communication sufficient to guarantee that each office is always kept informed and current regarding compliance status of the subject sources and interpretation of the regulations.

(D) Enforcement of the NSPS in the State will be the primary responsibility of the DEQ. If the DEQ determines that such enforcement is not feasible and so notifies EPA, or where the DEQ acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Act, as amended, with respect to sources within the State of Utah subject to NSPS.

(E) The State of Utah will at no time grant a variance or waiver from compliance with NSPS regulations. Should DEQ grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and initiate enforcement action against the source pursuant to Section 113 of the Act. The granting of such relief by the DEQ shall also constitute grounds for revocation of the delegation by EPA.

(F) If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR Part 60), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent

Federal regulation, this portion of the delegation may be revoked.

(G) If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the DEQ.

(H) Acceptance of this delegation of presently promulgated NSPS does not commit the State of Utah to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's request of August 25, 2006.

(I) Upon approval of the Regional Administrator of EPA Region 8, the Director of DEQ may sub-delegate his authority to implement and enforce the NSPS to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

(J) The State of Utah must require reporting of all excess emissions from any NSPS source in accordance with 40 CFR Part 60.7(c).

(K) Performance tests shall be scheduled and conducted in accordance with the procedures set forth in 40 CFR Part 60 unless alternate methods or procedures are approved by the EPA Administrator. Although the Administrator retains the exclusive right to approve equivalent and alternate test methods as specified in 40 CFR Part 60.8(b)(2) and (3), the State may approve minor changes in methodology provided these changes are reported to EPA Region 8. The Administrator also retains the right to change the opacity standard as specified in 40 CFR Part 60.11(e).

(L) Determinations of applicability such as those specified in 40 CFR Part 60.5 and review of plans, as provided for in 40 CFR Part 60.6, shall be consistent with those determinations already made and reviews conducted by the EPA.

(M) Alternatives to continuous monitoring procedures or reporting requirements, as outlined in 40 CFR Part 60.13(i), may be approved by the State with the prior concurrence of the Regional Administrator.

(N) If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS requirements, the State shall notify EPA Region 8 and obtain a determination on the applicability of the NSPS regulations.

(O) Information shall be made available to the public in accordance with 40 CFR Part 60.9. Any records, reports, or information provided to, or otherwise obtained by, the State in accordance with the provisions of these regulations shall be made available to the designated representatives of EPA upon request.

(P) All reports required pursuant to the delegated NSPS should not be submitted to the EPA Region 8 office, but rather to the DEQ.

(Q) As 40 CFR Part 60 is updated, Utah should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

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 at (303) 312-6241 or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312-6005, or toll-free at 1-800-227-8917.

Sincerely,  
 Carol L. Campbell for Stephen S. Tuber  
 Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance  
 Enclosure  
 cc: Richard W. Sprott, Director, Division of Air Quality  
 Enclosure to Letter Delegating NSPS in 40 CFR Part 60, Effective Through July 1, 2005, to the State of Utah

**EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED**

40 CFR Subparts	Sections
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 (e).
Da .....	60.45a.
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 .....	60.195(b).
DD .....	60.302(d)(3).
GG .....	60.332(a)(4).
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).

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

40 CFR Subparts	Sections
III .....	60.613(e).
JJJ .....	60.623.
KKK .....	60.634.
NNN .....	60.663(f).
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.
WWW .....	60.754(a)(5).
CCCC .....	The authorities identified in 60.2030(c).

IV. Section 110(l) of the Clean Air Act

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 of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. The revisions are administrative in nature, will not affect emissions, and will not interfere with requirements of the Act. Therefore, these revisions do not interfere with attainment or maintenance of the NAAQS or other applicable requirements of the Act.

V. Final Action

EPA is approving a SIP revision submitted by the Governor of Utah on August 15, 2001. This SIP revision deletes rules R307-102-3, "Administrative Procedures and Hearings," and R307-414-3, "Request for Review." We are removing Utah's rules R307-102-3 and R307-414-3 from Utah's federally approved SIP. The Clean Air Act (CAA) does not require these rules to be in Utah's SIP. The specific changes being approved in this document are explained in more detail above (see III.A., and III.B.).

In addition, as requested by the Utah Governor with his August 25, 2006 submittal, we are providing notice that we granted delegation of authority to Utah on November 8, 2006, to implement and enforce the NSPS promulgated in 40 CFR part 60, effective as of July 1, 2005 (except subparts Cb, Cd, Ce, BBBB, and DDDD). However, the State's NSPS authorities do not include those authorities which

cannot be delegated to the states, as indicated in the delegation letter to the state (see III.C.).

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 April 2, 2007 without further notice unless the Agency receives adverse comments by March 5, 2007. 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 Reviews

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 (Pub. L. 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. section 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 April 2, 2007. 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, Intergovernmental relations, Reporting and recordkeeping requirements.

*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: January 22, 2007.

**Robert E. Roberts,**  
*Regional Administrator, Region VIII.*

■ For the reasons stated in the preamble, chapter I, title 40 of the Code of Federal Regulations 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 amended by adding paragraph (e) to read as follows:

**§ 52.2352 Change to approved plan.**

\* \* \* \* \*

(e) Utah Administrative Code (UAC) rule R307–102–3, Administrative Procedures and Hearings, and R307–414–3, Request for Review, are removed from Utah’s approved State Implementation Plan (SIP). These provisions are not required by the CAA and are, therefore, not required to be in Utah’s SIP. These provisions were last approved in 40 CFR 52.2320(c)(59)(i)(A).

**PART 60—[AMENDED]**

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

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

**Subpart A—General Provisions**

■ 4. In § 60.4(c), amend the table entitled "Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]" by revising the entries for subpart "AAAA" and "CCCC" to read as follows:

**§ 60.4 Addresses.**

\* \* \* \* \*

(c) \* \* \*

**DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS [(NSPS) for region VIII]**

Subpart	CO	MT	ND	SD	UT	WY
AAAA-Small Municipal Waste Combustors .....		(*)	(*)	.....	(*)	(*)
CCCC-Commercial and Industrial Solid Waste Incineration Units .....		(*)	(*)	.....	(*)	(*)

(\*) Indicates approval of State regulation.

\* \* \* \* \*  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 261**

[EPA–R02–RCRA–2006–0804; FRL–8275–4]

**Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (also, "EPA" or "the Agency" or "we") in this preamble is granting a petition submitted by General Electric

(GE), King of Prussia, Pennsylvania, to exclude (or delist), on a one-time basis, certain solid wastes that have been deposited and/or accumulated in two on-site drying beds and two on-site basins at GE’s RCA del Caribe facility in Barceloneta, Puerto Rico from the lists of hazardous wastes contained in the regulations. These drying beds and basins were used exclusively for disposal of its chemical etching wastewater treatment plant (WWTP) sludge.

This action is specific to the RCA del Caribe site, bears no precedential effect on other delistings and conditionally excludes the petitioned waste from the list of hazardous wastes only if the waste is disposed of in a Subtitle D landfill which is permitted, licensed, or registered by a State or Commonwealth to manage industrial solid waste. The

exclusion was proposed on March 19, 2004.

**DATES:** *Effective Date:* February 1, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R02–RCRA–2006–0804. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. 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 either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the RCRA Programs Branch, Division of Environmental Planning and Protection, U.S. Environmental Protection Agency,