consider the use of any voluntary consensus standards.

Executive Order 13045

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 Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the rule on children, and explain why the regulation is preferable to other potentially effective and reasonably feasible alternatives.

This rule is not subject to this Executive Order because it is not economically significant as defined in Executive Order 12866. In addition, it does not concern an environmental or safety risk that we have reason to believe may have a disproportionate effect on children.

Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires agencies to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The phrase ''policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Therefore, Executive Order 13175 does not apply to this rule.

Environmental Documentation

This action will not have any adverse environmental impact and therefore environmental documentation under the National Environmental Policy Act is not required for this rule.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as amended 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. We 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. 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).

Executive Order 12898

Executive Order 12898 requires that, to the greatest extent practicable and permitted by law, each Federal agency must make achieving environmental justice part of its mission. Executive Order 12898 provides that each Federal agency conduct its programs, policies, and activities that substantially affect human health or the environment in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons (including populations) from participation in, denying persons (including populations) the benefits of, or subjecting persons (including populations) to discrimination under such programs, policies, and activities because of their race, color, or national origin. This rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts.

Executive Order 13211

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 33 CFR Part 211

Claims, Flood control, Public lands, Real property acquisition, Reservoirs, Rights-of-way, Waterways.

Dated: January 31, 2014.

Scott Whiteford,

Director of Real Estate.

PART 211—[REMOVED]

For the reasons set out in the preamble, under the authority of 5 U.S.C. 301, the Corps amends 33 CFR chapter II by removing part 211.

[FR Doc. 2014–02604 Filed 2–5–14; 8:45 am]

BILLING CODE 3720–58–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0746; FRL–9902–49-Region 8]

Approval and Promulgation of Implementation Plans; Utah; Revisions to Utah Rule R307–107; General Requirements; Breakdowns

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving changes to Utah's rule R307–107, which pertains to source emissions during breakdowns. Utah's prior version of rule R307–107 had several deficiencies related to the treatment of excess emissions from sources during malfunction events. On April 18, 2011, EPA finalized a rulemaking which found that the Utah State Implementation Plan (SIP) was substantially inadequate to attain or maintain the national ambient air quality standards (NAAQS) or to otherwise comply with the requirements of the Clean Air Act (CAA) because it included rule R307–107. Concurrent with this finding, EPA issued a SIP call that required the State to revise its SIP by either removing R307–107 or correcting its deficiencies, and to submit the revised SIP to EPA by November 18, 2012. On August 16, 2012, the State submitted to EPA revisions to R307–107. EPA is approving these revisions because they correct the identified SIP deficiencies concerning the treatment of excess emissions during malfunctions and, therefore, satisfy EPA's April 18, 2011 SIP call. This final approval eliminates all potential clocks for sanctions and for EPA to promulgate a federal implementation plan (FIP) related to the April 18, 2011 SIP call.

DATES: This final rule is effective March 10, 2014.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2012–0746. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 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, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Adam Clark, U.S. Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–7104, *clark.adam@epa.gov.*

SUPPLEMENTARY INFORMATION:

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Definitions

For the purpose of this document, the following definitions apply:

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 *FIP* mean or refer to federal implementation plan.

iv. The initials *NAAQS* mean or refer to National Ambient Air Quality Standards.

v. The initials *NESHAPS* mean or refer to National Emission Standards for Hazardous Air Pollutants.

vi. The initials *NSPS* mean or refer to New Source Performance Standards.

vii. The initials *SIP* mean or refer to state implementation plan.

viii. The words *State* or *Utah* mean the State of Utah, unless the context indicates otherwise.

ix. The initials *UDAQ* mean or refer to the Utah Division of Air Quality, Utah Department of Environmental Quality.

I. Background

On April 18, 2011, EPA published a final rulemaking in the **Federal Register** (76 FR 21639) that found that the Utah SIP was substantially inadequate to attain or maintain the NAAQS or to otherwise comply with the requirements of the CAA because it included rule R307–107. As explained in more detail in that rulemaking, we evaluated R307–107 to determine whether it was consistent with CAA requirements for SIP provisions. EPA's longstanding interpretation of CAA requirements applicable to SIP provisions related to the treatment of excess emissions during startup, shutdown, and malfunction (SSM) events is reflected in a series of EPA guidance documents and rulemaking actions. In particular, we explained that R307–107: (1) Did not treat all exceedances of SIP and permit limits as violations; (2) could have been interpreted to grant the Utah executive secretary exclusive authority to decide whether excess emissions constituted a violation; and (3) improperly applied to Federal technology-based standards such as New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS). We concluded that R307–107 undermined EPA's, Utah's, and citizens' ability to enforce emission limitations that have been relied on in the SIP to ensure attainment and maintenance of the NAAQS or meet other CAA requirements. 76 FR 21640, April 18, 2011. The failure to meet fundamental CAA requirements for SIP provisions rendered R307–107 substantially inadequate.

Accordingly, we issued a SIP call under CAA sections 110(a)(2)(H) and 110(k)(5) which required the State to revise its SIP by either removing R307–107 or correcting its deficiencies, and to submit the revised SIP to us by November 18, 2012. Id. We also explained that if the State failed to submit a complete SIP revision by November 18, 2012, or if we disapproved a submitted SIP revision intended to address the deficiencies identified in the SIP call, clocks would be triggered for mandatory sanctions and for EPA to promulgate a FIP. Id. at 21640–41.

On June 17, 2011, U.S. Magnesium challenged our finding of substantial inadequacy and SIP call in the United States Court of Appeals for the 10th Circuit. In particular, U.S. Magnesium argued that we had failed to base the finding of substantial inadequacy on specific factual findings concerning the impacts of the excess emissions that occurred during the events affected by the deficient SIP provision on attainment and maintenance of the NAAQS. On August 6, 2012, the 10th Circuit upheld EPA's finding of substantial inadequacy and SIP call.

On August 16, 2012, the State submitted to EPA revisions to R307–107 for the purpose of correcting the deficiencies described in the SIP call. In this SIP revision, the State specifically eliminated the exemption for excess emissions during malfunction events that was inconsistent with fundamental requirements of the CAA for emission limitations in SIP provisions. The State likewise revised prior regulatory language that appeared to grant state personnel the exclusive authority to determine whether a violation had occurred, thereby precluding independent enforcement by EPA and citizens if the State made a non-violation determination. As revised, R307–107 now only pertains to the State's exercise of its own enforcement discretion in the case of violations that occur due to excess emissions during malfunctions, and that exercise of discretion by the State will have no bearing upon potential enforcement by EPA or citizens. The State's August 16, 2012, SIP submission thus eliminated the deficiencies in R307–107 and made it consistent with fundamental CAA requirements for SIP provisions applicable to excess emissions during malfunction events. Accordingly, we proposed to approve the State's revisions on May 9, 2013. 78 FR 27165.

II. Response to Comments

We received one comment letter on our proposed approval from the organizations Western Resource Advocates and Utah Physicians for a Healthy Environment. The letter primarily expressed support for our proposed approval, but requested that the State's revised R307–107 ''include a requirement that any reports of excess emissions be posted on the Division of Air Quality Web site in a manner readily available to public review.''

We acknowledge the commenters' support for our proposed action. Regarding the comment that the State's rule should require that reports of excess emissions be posted on the Utah Division of Air Quality (UDAQ) Web site, the commenters do not indicate whether they think the lack of such a requirement constitutes a deficiency under the CAA that warrants our disapproval of the rule now, or whether they would like the State to revise the rule in the future to provide for such posting. The totality of the commenters' letter suggests that they would like us to approve revised R307–107 now.

Regardless of the commenters' intent, we do not find that the revised rule's lack of such a requirement for posting of excess emissions reports on a State Web site requires our disapproval of the revised rule. The commenters have not specified, and we are not aware of, a CAA or regulatory provision that specifically requires a state to post excess emissions reports on an internet

Web site in order to meet SIP requirements. CAA section 110(a) generally requires that SIP provisions be legally and practicably enforceable, but such requirements long predate the advent of the internet. CAA section 110(a)(2)(F) only requires that emissions reports be available at reasonable times for public inspection. So long as the information in these reports is treated as emissions data, available to the public by other means, posting the reports on the internet is not necessary. While we agree that it may be helpful for a state to post such reports on a Web site, at this time we do not interpret CAA section 110(a) as requiring it. Were the State to revise R307–107 to include such a requirement for posting of excess emissions reports on a State Web site, however, this could serve to strengthen and enhance compliance with applicable SIP emission limits.

We find that the revised R307–107 submitted by the State addresses the deficiencies we identified in our April 18, 2011 SIP call and, consistent with CAA section 110(l), our approval of the revised rule will not interfere with any applicable requirement of the CAA. Our approval of the revised rule will enhance the State's, our, and citizens' ability to enforce the Utah SIP.

III. Final Action

For the reasons discussed in our notice of proposed rulemaking (78 FR 27165) and in our response to comments, we are approving the revisions to rule R307–107 of the Utah SIP that the State submitted to us on August 16, 2012. We are approving these revisions because they correct the deficiencies identified in our April 18, 2011 SIP call. We wish to emphasize one point we discussed in our notice of proposed rulemaking. Revised R307–107 only addresses the State's exercise of its enforcement discretion and contains no language that suggests that a State decision not to pursue an enforcement action for a particular violation bars EPA or citizens from taking an enforcement action. Therefore, EPA interprets revised R307–107, consistent with EPA's interpretations of the CAA, as not barring EPA and citizen enforcement of violations of applicable requirements when the State decides not to undertake enforcement.

This approval eliminates all potential clocks for mandatory sanctions and for EPA to promulgate a FIP related to the April 18, 2011 SIP call.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 USC 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond 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 Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 USC 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 USC 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 USC 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 April 7, 2014. 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) of the Clean Air Act.)

List of Subjects in 40 CFR Part 52

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

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

Dated: October 23, 2013.

Howard M. Cantor,

Acting Regional Administrator, Region 8.

40 CFR part 52 is amended to read 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—[AMENDED]

■ 2. Section 52.2320 is amended by adding paragraph (c)(74) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(74) On August 16, 2012 the State of Utah submitted as a SIP revision a

revised version of its breakdown rule, Utah Administrative Code (UAC) R307–107, which replaces the prior version of UAC R307–107.

(i) Incorporation by reference.

(A) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality,* Rule R307–107, *General Requirements: Breakdowns.* Effective July 31, 2012; as published in the Utah State Bulletin on March 1, 2012, modified on July 1, 2012, and August 15, 2012. Note: The August 15, 2012 publication contains a typographical error in the title of Rule R307–107.

[FR Doc. 2014–02079 Filed 2–5–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2012–0300; FRL–9903–27–Region 8]

Approval and Promulgation of State Implementation Plans; Utah: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is partially approving and partially disapproving revisions to the Utah State Implementation Plan (SIP) relating to regulation of Greenhouse Gases (GHGs) under Utah's Prevention of Significant Deterioration (PSD) program and other SIP provisions. These revisions were submitted to EPA on April 14, 2011 by the Governor. The GHG-related SIP revisions are designed to align Utah's regulations with the GHG emission thresholds established in EPA's ''PSD and Title V Greenhouse Gas Tailoring Final Rule,'' which EPA issued by notice dated June 3, 2010. In today's action, EPA is approving the GHG (as it relates to the PSD program) revisions because the Agency has determined that this SIP revision, which is already adopted by Utah as a final effective rule, is in accordance with the Clean Air Act (CAA or Act) and EPA regulations regarding PSD permitting for GHGs.

DATES: This final rule is effective March 10, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R08–OAR–2012–0300. All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 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, 8:00 a.m. to 4:00 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jody Ostendorf, Air Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202–1129, (303) 312–7814, *ostendorf.jody@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA.

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I. Background for Our Final Action

The background for today's final rule and EPA's national actions pertaining to GHGs is discussed in detail in our September 5, 2013 proposal (see 78 FR 54602). The comment period was open for 21 days and we received no written comments. However, we did receive a phone call of clarification from the State of Utah, which is explained below and documented in a Memo to the Docket dated September 30, 2013.

II. What final action is EPA taking?

Utah has adopted and submitted regulations that are substantively similar to the federal requirements for the permitting of GHG-emitting sources subject to PSD. As presented in our proposed notice, we conclude that the revisions are consistent with the requirements of 40 CFR 51.166, in particular the requirements set out in EPA's final GHG Tailoring Rule, and that the revisions should be approved into Utah's SIP.

R307–401–9 (Small Source Exemption), was revised by the State to exclude sources from the requirement to obtain an approval order if their GHG emissions are below the thresholds established by EPA, and adopted into the State rules (R307–401–9(5)). Therefore, preconstruction permits for GHGs are only required under the PSD permitting program, thus exempting minor sources from GHG permitting. We are approving the rule amendment as submitted by the State and this revision.

R307–405–3 (Definitions), was also revised by the State to amend the definition of ''subject to regulation'' to include ''greenhouse gases (GHGs)'' as defined in 40 CFR 86.1818–12(a). R307–405–3 was modified to establish thresholds for permitting of GHGs under the PSD program. Definitions for the terms ''GHGs'', ''emissions increase'' and ''tpy CO_2 equivalent emissions (CO_2e)'', were added to this rule. Applicability thresholds for several different types of permitting scenarios were also added. Therefore, we are approving the state's additions to R307–405–3(9) as they are consistent with the federal rule provisions in 40 CFR 51.166(b)(48).

Our final review determines that there are eight provisions in the R307–405–3 in the State submittal that are identical in rule number and language to the definitions we approved in our July 15, 2011 approval (76 FR 41712) and we are approving these definitions as resubmitted. These provisions include: R307–405–3(1)(adopting by reference the definitions in 40 CFR 52.21(b) with exceptions as noted in the rules); R307–405–3(2)(c)(definition of ''Reviewing Authority''); R307–405–3(2)(d)(definition of ''Administrator''); R307–405–3(2)(e)(definitions or portions of definitions vacated by the DC Circuit Court of Appeals on March 17, 2006); R307–405–3(3)(definition of ''Air Quality Related Values''); R307–405–3(4)(definition of ''Heat Input''); R307–405–3(7)(definition of ''Good Engineering Practice''); and R307–405–3(8)(definition of ''Dispersion Technique'').

We proposed to approve R307–405–3(2)(e) and indicated in our proposal that this is a new rule that is not currently in the SIP. The rule explains that ''certain definitions or portions of definitions that apply to the equipment repair and replacement provisions are not incorporated into the SIP because these provisions were vacated by the DC Circuit Court of Appeals.'' Upon further research we found that we previously approved this rule in our final action on July 15, 2011 (76 FR 41712). Therefore, we are reapproving the resubmittal of this provision.

Additionally, in our proposed action we indicated there is a definition that had a new rule number, and upon further research we found that we had previously approved the definition with that rule number in our July 15, 2011