Reporting and recordkeeping requirements.

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

Dated: November 7, 2013.

Shaun L. McGrath,

Regional Administrator, Region 8.

For the reasons set forth above, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart TT—[AMENDED]

■ 2. Amend § 52.2320 by adding paragraph (c)(76) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(76) On April 14, 2011 the State of Utah submitted revisions to its State Implementation Plan (SIP) that contained revised rules, submitted in their entirety, pertaining to regulation of Greenhouse Gases (GHGs) under the State's Prevention of Significant Deterioration (PSD) program.

(i) Incorporation by reference.

(A) Title R307 of the Utah Administrative Code (UAC), *Environmental Quality, Air Quality,* R307–401, *Permit: New and Modified Sources,* R307–401–9, *Small Source Exemption,* (5); and R307–405, *Permits: Major Sources in Attainment or Unclassified Areas (PSD),* R307–405–3, *Definitions,* except (2)(a), (b), (f), (5), and (6); effective January 1, 2011, as published in the Utah State Bulletin on September 15, 2010 and December 15, 2010.

[FR Doc. 2014–02083 Filed 2–5–14; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2013–0395; FRL–9904–24–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; Utah; Revisions to Utah Administrative Code—Permit: New and Modified Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to partially approve and partially disapprove State Implementation Plan (SIP) revisions submitted by the State of Utah on September 15, 2006. The September 15, 2006 revisions contain new, amended and renumbered rules in Utah Administrative Code (UAC) Title R–307 that pertain to the issuance of Utah air quality permits. The September 15, 2006 revisions supersede and entirely replace an October 9, 1998 submittal that initially revised provisions in Utah's air quality permit program, and partially supersede and replace a September 20, 1999 submittal. In this action, we are fully approving the SIP revisions in the September 15, 2006 submittal with the following exceptions: we are disapproving the State's rules R307–401–7 (Public Notice), R307–401–9(b) and portions of (9)(c) (Small Source Exemption), R307–401–12 (Reduction in Air Contaminants), and R307–410–5 (Documentation of Ambient Air Impacts for Hazardous Air Pollutants); we are limitedly approving and limitedly disapproving R307–410–6 (Stack Heights and Dispersion Techniques); and we are not acting on R307–101–2, R307–401–14, R307–401–15, and R307–401–16 for the reasons explained in this action. This action is being taken under section 110 of the Clean Air Act (CAA).

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

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2013–0395. 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 Street, Denver, Colorado 80202–1129. EPA requests 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: Kevin Leone, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6227, or *leone.kevin@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

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 words *Minor NSR* mean NSR established under section 110 of the Act and 40 CFR 51.160.

(iv) The initials *NSR* mean new source review, a phrase intended to encompass the stationary source regulatory programs that regulate the construction and modification of stationary sources as provided under CAA section 110(a)(2)(C), CAA Title I, parts C and D, and 40 CFR 51.160 through 51.166.

(v) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Utah* mean the State of Utah, unless the context indicates otherwise.

I. Background

The CAA (section 110(a)(2)(C)) and 40 CFR 51.160 require states to have legally enforceable procedures in their SIPs to prevent construction or modification of a source if it would violate any SIP control strategies or interfere with attainment or maintenance of the national ambient air quality standards (NAAQS). Such minor new source review (NSR) programs are for pollutants from stationary sources that do not require Prevention of Significant Deterioration (PSD) or nonattainment NSR permits. A state may customize the requirements of its minor NSR program as long as the program meets minimum requirements.

On September 15, 2006, Utah submitted revisions to its minor source NSR program. The September 15, 2006 revisions supersede and entirely replace an October 9, 1998 submittal that initially revised provisions in Utah's air quality permit program, and partially supersede and replace a September 20, 1999 submittal that renumbered the provisions in the October 9, 1998 submittal. A cross-walk table comparing

the provisions from the October 9, 1998, September 20, 1999, and September 15, 2006 submittals is included in the docket for this action.

Utah's September 15, 2006 submittal: (1) Revised R307–101–2 (Definitions); (2) added a new section R307–401 (Notice of Intent and Approval Order); (3) added a new section R307–410 (Permits: Emission Impact Analysis); and (4) moved rules in State rule section R307–413 (Permit: Exemptions and Special Provisions) to R307–401.[1] The purpose of the September 15, 2006 submittal was to separate minor source permitting and modeling requirements from major source permitting and modeling requirements within Title R307.

On June 12, 2013 (78 FR 35181), we proposed to act on Utah's September 15, 2006 submittal, with the following exceptions: (1) R307–101–2 (Definitions); and (2) R307–401–14 (Used Oil Fuel Burned for Energy Recovery), R307–401–15 (Air Strippers and Soil Venting Projects), and R307–401–16 (*De minimis* Emissions From Soil Aeration Projects). As we explained in our notice of proposed rulemaking (78 FR 35183), we need not act on R307–101–2 as submitted on September 15, 2006, because on September 2, 2008, we approved a superseding version of R307–101–2 that Utah adopted on February 6, 2008. See 73 FR 51222. We need not act on R307–401–14 through 16 in this action because we previously acted on such provisions. See 77 FR 37859 (June 25, 2012) (notice of proposed rulemaking); notice of final rulemaking, signed October 19, 2012, copy included in the docket for this action.[2]

In our June 12, 2013 proposed action, we proposed to: (1) Approve R307–401–1 through 6, R307–401–8, R307–401–9 (except for paragraph (b) and the portions of paragraph (c) that reference paragraph (b)), R307–401–10 through 11, R307–401–13, R307–401–17 through 20; and R307–410–1 through 4; (2) disapprove R307–401–7, R307–401–9(b) and portions of 9(c) that reference (9)(b), R307–401–12, and R307–410–5; and (3) partially approve and partially disapprove R307–410–6.[3] We provided a detailed explanation of the bases for our proposal. See 78 FR 35183–35188. We invited comment on all aspects of our proposal and provided a 30-day comment period. The comment period ended on July 12, 2013.

In this action, we are responding to the comments we received and taking final rulemaking action on the enumerated rules from the State's September 15, 2006 submittal.

II. Response to Comments

In response to our June 12, 2013 proposed rulemaking, we received one comment letter from Joro Walker and Rob Dubuc on behalf of Utah Physicians for a Healthy Environment and Western Resource Advocates (collectively ''Utah Physicians''). In this section, we summarize their comments and provide our responses.

Comment: R307–401–1 Utah Physicians support EPA's proposal to approve this provision.

Response: We acknowledge receipt of this comment and the support for our approval.

Comment: R307–401–2 Utah Physicians take no position on EPA's proposal relative to this provision.

Response: We acknowledge receipt of this comment.

Comment: R307–401–3 Utah Physicians support EPA's proposal to approve this provision.

Response: We acknowledge receipt of this comment and the support for our approval.

Comment: R307–401–4 Utah Physicians support EPA's proposal to approve this provision with the following exception:

> 401–4(1), which currently states that ''[a]ny control apparatus installed on an installation shall be adequately and properly maintained,'' should be revised to state: ''[a]ny control apparatus installed on an installation shall be adequately and properly maintained and operated[.]'' After all, unless a control apparatus is properly operated, maintenance is likely to be of little consequence.

Response: We conclude that the comment does not provide a basis for EPA to disapprove the regulation. While the language suggested by the commenters might strengthen the regulation, we find no basis to conclude that the language is required by the Act or our regulations. For example, CAA section 110(a)(2)(C) requires that the SIP include a program for the regulation of the modification and construction of any stationary source as necessary to assure the NAAQS are achieved. We do not find that the addition of the words ''and operated'' is necessary to assure the NAAQS are achieved. Similarly, our minor source NSR regulations, at 40 CFR 51.160 and 51.161 are relatively general in nature. They do not require that a state's minor source NSR regulations require any specific operation and maintenance procedures. Furthermore, to a substantial degree, it is the permit process itself, embodied in Utah's regulations, that provides the vehicle to identify and make enforceable specific measures necessary to protect the NAAQS. Any measures established through the SIP-approved permit process become federally enforceable, and specific emission limits are likely to be a more effective measure to ensure proper source operation than a general requirement to operate properly. We note, for example, that Utah's regulations include a requirement that sources meet BACT. See R307–401–8(1)(a). Finally, we think that the language ''shall be adequately and properly maintained'' could be interpreted broadly enough to include the ongoing operation of the control apparatus.

Comment: R307–401–5 Utah Physicians support EPA's proposal to approve this provision with the following two exceptions:

> 1. 40 CFR 160(c)(1) requires that the legal provisions in question ''must provide for the submission, by the owner or operator of the building, facility, structure, or installation to be constructed or modified, of such information on . . . [t]he nature and amounts of emissions to be emitted by it or emitted by associated mobile sources.'' This requirement is missing from Rule 401–5.
>
> 2. 401–5 should include a requirement that the source identify, including by providing flow or process diagrams, the location and characteristics of each emission unit that is a part of the building, facility, structure, or installation. The rule should mandate that source provide the ''[e]xpected composition and physical characteristics of [the] effluent stream both before and after treatment by any control apparatus, including emission rates, volume, temperature, air contaminant types, and concentration of air contaminants'' for each emission unit. Without this information, the public is not in a position to provide meaningful comment on the adequacy of the proposed permits, particularly whether the permits will result in a violation of applicable portions of the control strategy or interfere with attainment or maintenance of the NAAQS. Similarly, without this information, Utah is not in a position to determine whether the project will result in a violation of applicable portions of the control strategy or interfere with attainment or maintenance of the NAAQS.

Response: 1. 40 CFR 51.160(c)(1) requires the state program to provide for the owner or operator of the building,

[1] Utah repealed R307–413 in 2006.

[2] Our notice of final rulemaking has not been published yet in the **Federal Register**.

[3] It would have been more appropriate to say we were proposing to limitedly approve and limitedly disapprove R307–410–6. Limited approval/disapproval is the approach EPA has used historically where a rule provision meets some of the statutory and regulatory requirements and will strengthen the SIP, but does not meet all of the statutory and regulatory requirements, thus warranting disapproval. It is used in lieu of partial approval/partial disapproval where the compliant and non-compliant rule provisions are not separable.

facility, structure, or installation to submit ''such information on . . . [t]he nature and amounts of emissions to be emitted by it or emitted by associated mobile sources . . . as may be necessary to permit the State or local agency to make the determination referred to in paragraph (a) of this section.'' EPA concludes that R307–401 complies with this requirement. R307–401 applies to indirect sources as well as direct sources of pollution. R307–401–3(1)(a) and (b). R307–401–2 defines indirect source as ''a building, structure, facility or installation which attracts or may attract mobile source activity that results in emission of a pollutant for which there is a national standard.'' R307–401–5 requires any person subject to R307–401 to submit a notice of intent to the executive secretary. The notice of intent must include, among other things, ''a description of the nature of the processes involved,'' ''the type and quantity of fuels employed,'' the ''[e]xpected composition and physical characteristics of [the] effluent stream both before and after treatment by any control apparatus, including emission rates, volume, temperature, air contaminant types, and concentration of air contaminants,'' and ''other information necessary to appraise the possible effects of the effluent.'' R307–401–5(2)(a), (b), and (e). Finally, R307–401–5(k) requires that the notice of intent include ''[a]ny other information necessary to determine if the proposed source or modification will be in compliance with Title R307.'' As required by 40 CFR 51.160(c)(1), the language of R307–401–5 clearly requires the notice of intent to include information on the nature and amount of the proposed source's emissions. Given that R307–401 specifically applies to indirect sources and requires them to submit notices of intent as well, we find that the language of R307–401–5 applies to information regarding the nature and amount of emissions from associated mobile sources as well. We also note that the requirement in 40 CFR 51.160(c)(1) is modified by the language following 40 CFR 51.160(c)(2), which reads, ''as may be necessary to permit the State or local agency'' to determine whether the construction or modification would violate the control strategy or interfere with attainment or maintenance of the NAAQS.

2. We do not agree that the regulation must explicitly require the information the commenters describe or that the lack of the desired specificity renders the regulation deficient. Neither the CAA nor our minor source NSR regulations specifically dictate the level of specificity the commenters seek. We note, however, that the language of the State's regulation is broad enough to encompass much of the type of information the commenters seek, and that the State often may need unit-by-unit information to properly conduct the required analysis. Also, the commenters have a voice through the State's public participation process. If they believe more specific information is needed regarding a particular application, they can inform the State of their views. We conclude that R307–401–5 adequately addresses the requirements of 40 CFR 51.160(c)(1) and (2).

Comment: R307–401–6 Utah Physicians take no position on EPA's proposal relative to this provision.

Response: We acknowledge receipt of this comment.

Comment: R307–401–7 Utah Physicians support EPA's proposal to disapprove this provision.

Response: We acknowledge receipt of this comment and the support for our disapproval of this provision.

Comment: R307–401–8 Utah Physicians support EPA's proposal to approve this provision with the following two exceptions:

1. 401–8(2), which currently states that the ''approval order will require that all pollution control equipment be adequately and properly maintained.'' As indicated above, proper operation of the equipment should also be required.

2. 401–8(4) is improper and does not adequately provide Utah with the opportunity to determine whether the project will result in a violation of applicable portions of the control strategy or interfere with attainment or maintenance of the NAAQS. This is because approval of an initial stage may prevent the imposition of requirements on later stages that have been precluded by that initial construction, thereby biasing the outcome of the permitting process. For example, the completion of the initial stage may influence what is BACT for the subsequent stages.

Response: 1. For the reasons stated in our response to the comment above regarding R307–401–4(1), EPA disagrees that R307–401–8(2) is deficient or that disapproval is required.

2. EPA disagrees that 401–8(4) is improper and does not adequately provide Utah with the opportunity to determine whether a staged project will result in a violation of applicable portions of the control strategy or interfere with attainment or maintenance of the NAAQS. All phases of a staged construction project are still required to submit a notice of intent, as outlined in R307–401–5, which provides the public and the State the opportunity to determine whether the project will result in a violation of applicable portions of the control strategy or interfere with attainment or maintenance of the NAAQS. In addition, R307–401–8(4) requires previous determinations under R307–401–8(1) and (2) to be reviewed and modified as appropriate prior to the commencement and construction of each individual phase of the proposed source or modification. This would allow the State the opportunity to review the most recent plans and information in order to determine the most appropriate control requirements during subsequent phases of the project.

Comment: R307–401–9 Utah Physicians support EPA's proposal to disapprove aspects of this provision. Utah Physicians disagree with EPA's position that: ''R307–401–9 contains a safeguard that a source shall no longer be exempt and is required to submit a notice of intent if its actual emissions exceed the thresholds listed in R307–401–9(1)(a).'' The commenters state that R307–401–9 does not require the source to monitor or report actual emissions. Rather, under R307–401–9(3), the source need only provide: a description of the nature of the processes involved, equipment, anticipated quantities of materials used, the type and quantity of fuel employed and nature and quantity of the finished product; identification of expected emissions; estimated annual emission rates; any control apparatus used; and typical operating schedule. The commenters state that the rule does not require the reporting of actual emissions or specify that the information in the ''registry'' be updated, for example, annually. The commenters state that R307–401–9 does not give the state the opportunity to determine whether the project—or changes to the project—will result in a violation of applicable portions of the control strategy or interfere with attainment or maintenance of the NAAQS.

Response: We disagree with the commenters that the provisions of the regulation that we are approving are not sufficient. Under our minor source NSR regulations, a state's regulation must identify the types and sizes of facilities, buildings, structures, or installations which will be subject to review and must discuss the basis for determining which facilities will be subject to review. 40 CFR 51.160(e). We have reviewed the thresholds that Utah has established in R307–401–9 and the basis for those thresholds and determined they are reasonable based on a number of factors. See our proposal at 78 FR 35184–35185. In our proposal, we noted that an exempt source whose actual

emissions later exceed the thresholds would be required to submit a notice of intent. The State's registration program for sub-threshold minor sources will allow the State to track such sources to some degree. However, there is no requirement in our minor source NSR regulations that sources whom the State has appropriately determined should not be subject to review due to their small size must monitor and report actual emissions. Insisting on such action for such small sources would tend to defeat the purpose of the exemption and overwhelm the State with unnecessary information. Like numerous other standards and permitting requirements, sources are expected to self-determine whether they are subject to the applicable requirements of the regulation and comply with them. If a source ignores the requirements of the regulation, or erroneously concludes it is not subject to them, the source is subject to potential enforcement action. We are not convinced that the State is required to alter this approach for purposes of R307–401–9.

Comment: R307–401–10 Utah Physicians take no position on EPA's proposal relative to this provision.

Response: We acknowledge receipt of this comment.

Comment: R307–401–11 Utah Physicians take no position on EPA's proposal relative to this provision.

Response: We acknowledge receipt of this comment.

Comment: R307–401–12 Utah Physicians agree with EPA's proposal to disapprove this provision for the reasons EPA provides. Utah Physicians further note that the public must be provided with the opportunity to provide meaningful comment on the determination of whether the project does indeed reduce or eliminate air contaminants. Therefore, public notice should be required. Similarly, the public must be able to participate in the decision to modify any existing permit or to ensure that the reductions or eliminations are enforceable.

Response: We acknowledge receipt of this comment and the support for our disapproval of this provision.

Comment: R307–401–13 Utah Physicians agree with EPA's proposal to approve this provision.

Response: We acknowledge receipt of this comment and the support for our approval of this provision.

Comment: R307–401–18 Utah Physicians take no position on this provision.

Response: We acknowledge receipt of this comment.

Comment: R307–401–19 Utah Physicians support EPA's proposal to approve this provision.

Response: We acknowledge receipt of this comment and the support for our approval of this provision.

Comment: R307–401–20 Utah Physicians support EPA's proposal to approve this provision.

Response: We acknowledge receipt of this comment and the support for our approval of this provision.

Comment: R307–410 Utah Physicians support EPA's proposal to disapprove aspects of this rule for the reasons EPA states. In addition, Utah Physicians urge EPA to disapprove other aspects of this provision because they do not provide Utah with the opportunity to determine whether a project will result in a violation of applicable portions of the control strategy or interfere with attainment or maintenance of the NAAQS. Utah has repeatedly maintained that sources in nonattainment areas do not need to undertake emission impact analysis and do not need to model the impact of any nonattainment pollution on the airshed. For example, Utah does not require a source located in a $PM_{2.5}$ nonattainment area to model the impact of an increase in $PM_{2.5}$ emissions. EPA must disapprove the rule so it can be rewritten to more clearly require modeling of emissions in nonattainment areas. EPA has always understood R307–410 to apply to all sources, including those in nonattainment areas, and has repeatedly indicated that emission impact analysis in nonattainment areas for nonattainment pollutants is required by the Clean Air Act. Without such modeling, Utah cannot ensure compliance with a nonattainment area control strategy and cannot determine whether there will be additional NAAQS exceedances or violations. Thus, R307–410 does not comply with 40 CFR 51.160 or the Clean Air Act and fails to protect human health and the environment from air pollution.

Response: We do not agree that disapproval of other aspects of R307–410 is warranted. EPA has recognized that the CAA provides states a broad degree of discretion in developing their minor source programs. EPA's regulations at 40 CFR 51.160(c) require that a source provide sufficient information on the nature and amount of its emissions and its location, design, construction, and operation to enable the state to determine whether the source will cause a violation of the control strategy or interfere with attainment or maintenance of a NAAQS. The Utah SIP requires a notice of intent from each source above an exemption threshold describing the source's operation, location, control technology and emission stream, ''including emission rates, volume, temperature, air contaminant types, and concentration of air contaminants.'' R307–401–5(1)—(2). The notice of intent must also provide additional permitting information complying with offset requirements for ozone in two counties (R307–401–5(2)(j)(v)) and for PM 10 in two counties (R307–401–5(2)(j)(vi)). This information enables the state to prevent violations of the control strategy or threats to attainment or reasonable further progress.

The commenters express concern with potential emissions increases related to growth in $PM_{2.5}$ nonattainment areas. We do not read the CAA or our regulations as requiring modeling or impact analysis for every instance of minor source construction or modification, particularly in nonattainment areas, where it is generally assumed that any new emissions growth must be addressed to ensure attainment of the NAAQS. In our view, generally, the nonattainment area SIP will provide the more appropriate and more efficient venue to address minor source growth in nonattainment areas. The nonattainment area SIP will project minor source growth as part of any approvable attainment demonstration. Essentially, this should provide a buffer against future emissions growth from minor construction and modification projects. In the context of Utah's development of its $PM_{2.5}$ SIPs, we have suggested that Utah either adopt an offset program, as it has done for PM_{10}, or a minor source growth tracking program to help ensure that such growth does not exceed the attainment demonstration's projections. We anticipate working with Utah regarding the details of either approach, or another effective approach.

We also note that the language of the State's minor NSR regulations is broad enough to allow the State to require modeling or other form of impact analysis for applications for minor construction or modification projects in nonattainment areas, if necessary. R307–401–5(2)(k) requires the notice of intent to include ''[a]ny other information necessary to determine if the proposed source or modification will be in compliance with Title R307.'' We think it is reasonable to allow the State some flexibility in determining when such impact analysis may be necessary for minor construction or modification projects in nonattainment areas.

Comment: R307–410 Utah Physicians state that R307–410 conflicts with the Utah SIP, citing the following from Utah's PSD program, Section VIII:

''In addition to the PSD permitting program, Utah also requires new minor sources and minor modifications to all sources to apply best available control technology. R307–410 establishes modeling requirements to ensure that minor sources and modifications will not cause or contribute to a violation of the NAAQS.''

The commenters state that ''this provision is not limited to areas attaining the NAAQS and instead applies in locations where NAAQS are being violated, but where emissions may further contribute to that violation.'' Thus, the commenters assert that R307–410 does not comply with the Utah SIP.

Response: We understand Utah SIP Section VIII to apply to Utah's Prevention of Significant Deterioration (PSD) program, which applies in attainment areas, not nonattainment areas. Reading the quoted passage in the comment, we understand the language to be explaining that Utah requires best available control technology for minor sources as an additional requirement beyond what is required by the PSD program. Nothing in the language of the quoted passage indicates to us that Utah intended the language to modify the requirements of R307–410. We do not agree that R307–410 conflicts with this SIP language.

III. Changes From our Proposed Action and Basis for our Final Action

We have made one change from our proposed action. In our proposed action, we proposed to approve the provisions of R307–410, with the exception of R307–410–5, which we proposed to disapprove, and R307–410–6, which we proposed to partially approve and partially disapprove. In this final action, we are changing our proposed partial approval/partial disapproval of R307–410–6 to a limited approval/limited disapproval. This does not alter the intent behind our proposal, but changes the terminology and the approach to those that EPA has historically used when a provision meets some, but not all, of the statutory and regulatory requirements, approval of the provision would strengthen the SIP, and the compliant elements within the provision cannot be separated from the noncompliant elements.

We have fully considered the comments we received, and with the exception of the change noted above, have concluded that no changes from our proposal are warranted. Our action is based on an evaluation of Utah's rules against the requirements of CAA section 110(a)(2)(C) and our minor source NSR regulations at 40 CFR 51.160 through 51.164. We have also applied CAA section 110(l) in our evaluation of any changes Utah made in its September 15, 2006 submittal to the prior SIP-approved version of its minor source NSR program. Section 110(l) provides that EPA shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the CAA. This is particularly relevant to R307–401–9, which establishes de minimis thresholds below which sources need not obtain an approval order under R307–401. The State submitted a 110(l) demonstration for the de minimis thresholds contained in R307–401–9, and we evaluated that demonstration as part of our evaluation of Utah's rules.

We are approving those rules that meet the relevant requirements and disapproving those rules that do not meet the relevant requirements, or are not appropriate for inclusion in the SIP (the rules addressing hazardous air pollutants). Where a rule meets some requirements but not all, either we are partially approving and partially disapproving the compliant and noncompliant portions of the rule or limitedly approving and limitedly disapproving the rule. We have concluded that R307–401–9's establishment of de minimis thresholds will not interfere with attainment or reasonable further progress toward attainment of any NAAQS, or any other CAA requirement. Thus, our partial approval of R307–401–9 is consistent with CAA section 110(l).

For a detailed description of the bases for our actions on the individual rules, please refer to our notice of proposed rulemaking (78 FR 35181) and our response to comments in section II of this action.

IV. Final Action

From Utah's September 15, 2006 submittal, we are approving the following rules or parts of rules: R307–401–1 through 6; R307–401–8; R307–401–9 (except for paragraph (b) and the portions of paragraph (c) that reference paragraph (b)); R307–401–10 through 11; R307–401–13; R307–401–17 through 20; and R307–410–1 through 4. We are disapproving the following rules or parts of rules: R307–401–7; R307–401–9(b) and the portions of 9(c) that reference (9)(b); R307–401–12; and R307–410–5. We are limitedly approving and limitedly disapproving R307–410–6—that is, we are approving this provision because it will strengthen the SIP but are simultaneously disapproving it because it does not fully comply with applicable requirements.

V. Statutory and Executive Orders Review

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 U.S.C. 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 final 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 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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 CAA section 307(b)(2).)

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: December 4, 2013.

Debra H. Thomas,

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)(75) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(75) On September 15, 2006, the Governor submitted revisions to the Utah State Implementation Plan (SIP) permitting rules. The September 15, 2006 submittal contains new, amended and renumbered rules in Utah Administrative Code (UAC) Title R–307 that pertain to the issuance of Utah air quality permits. EPA is approving the following rules or parts of rules from the September 15, 2006 submittal: R307–401–1 through 6; R307–401–8; R307–401–9 (except for paragraph (b) and the portions of paragraph (c) that reference paragraph (b)); R307–401–10 through 11; R307–401–13; R307–401–17 through 20; and R307–410–1 through 4. EPA is disapproving the following rules or parts of rules from the September 15, 2006 submittal: R307–401–7; R307–401–9(b) and the portions of 9(c) that reference (9)(b); R307–401–12; and R307–410–5. EPA is limitedly approving and limitedly disapproving R307–410–6 from the September 15, 2006 submittal—this means EPA is approving this rule because it will strengthen the SIP but is simultaneously disapproving it because it does not fully comply with applicable requirements. EPA is not acting on the revisions to UAC R307–101–2 because the revisions have been superseded by later revisions to the rule, which EPA approved at § 52.2320(c)(67) (see 73 FR 51222). EPA is not acting on R307–401–14 through 16 because EPA previously acted on such provisions (notice of final rulemaking signed October 19, 2012).

(i) Incorporation by reference.

(A) Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality,* Rule R307–401, *Permits: New and Modified Sources,* Rule R307–401–1, *Purpose;* Rule R307–401–2, *Definitions;* Rule R307–401–3, *Applicability;* Rule R307–401–4, *General Requirements;* Rule R307–401–5, *Notice of Intent;* Rule R307–401–6, *Review Period;* Rule R307–401–8, *Approval Order;* R307–401–9, *Small Source Exemption* except for R307–401–9(1)(b) and the phrase ''or (b)'' in R307–401–9(1)(c); Rule R307–401–10, *Source Category Exemptions;* Rule R307–401–11, *Replacement-in-Kind Equipment;* Rule R307–401–13, *Plantwide Applicability Limits;* Rule R307–401–17, *Temporary Relocation;* Rule R307–401–18, *Eighteen Month Review;* Rule R307–401–19, *Analysis of Alternatives;* and Rule R307–401–20, *Relaxation of Limitations.* Title R307 of the Utah Administrative Code, *Environmental Quality, Air Quality,* Rule R307–410, *Permits: Emissions Impact Analysis,* Rule R307–410–1, *Purpose;* Rule R307–410–2, *Definitions;* Rule R307–410–3, *Use of Dispersion Models;* R307–410–4, *Modeling of Criteria Pollutant Impacts in Attainment Areas;* and R307–410–6, *Stack Heights and Dispersion Techniques.* Effective June 16, 2006, as published in the Utah State Bulletin on December 1, 2005, modified on April 1, 2006, and July 15, 2006. **Note:** The July 15, 2006 publication contains a typographical error in the title for Rule R307–410.

[FR Doc. 2014–02080 Filed 2–5–14; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 1039, 1042, and 1068

[EPA–HQ–OAR–2012–0102; FRL–9905–35–OAR]

RIN 2060–AR48; 2127–AL31

Nonroad Technical Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is adopting amendments to the technical hardship provisions under the Transition Program for Equipment Manufacturers related to the Tier 4 standards for nonroad diesel engines, and to the replacement engine exemption generally applicable to new nonroad engines. These provisions may have minor impacts on the costs and emission reductions of the underlying regulatory programs amended in this action, though in most cases these are simple technical amendments. For those provisions that may have a minor impact on the costs or benefits of the amended regulatory program, any potential impacts would be small and we have not attempted to quantify the potential changes.

DATES: This final rule is effective on March 10, 2014, except for § 1039.625(m) which will be effective on February 6, 2014.

FOR FURTHER INFORMATION CONTACT: Alan Stout, Environmental Protection Agency, Office of Transportation and Air Quality, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, Michigan 48105; telephone number: (734) 214–4805; email address: *stout.alan@epa.gov.*