ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2016–0311; FRL–9951–04–Region 8]

Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Revisions to the Utah Division of Administrative Rules, R307–300 Series; Area Source Rules for Attainment of Fine Particulate Matter Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of portions of the fine particulate matter ($PM_{2.5}$) State Implementation Plan (SIP) and other general rule revisions submitted by the State of Utah. The revisions affect the Utah Division of Administrative Rules (DAR), R307–300 Series; Requirements for Specific Locations. The revisions had submission dates of May 9, 2013, May 20, 2014, September 8, 2015, and March 8, 2016. The March 8, 2016 submittal contains rule revisions to address our February 25, 2016 conditional approval of several Utah DAR R307–300 Series rules submitted on February 2, 2012, May 9, 2013, and May 20, 2014. These area source rules control emissions of direct $PM_{2.5}$ and $PM_{2.5}$ precursors, which are sulfur dioxides (SO_2), nitrogen oxides (NO_X) and volatile organic compounds (VOC). Additionally, the EPA is proposing to approve the State's reasonably available control measure (RACM) determinations for the rule revisions that pertain to the $PM_{2.5}$ SIP. This action is being taken under section 110 of the Clean Air Act (CAA or Act).

DATES: Written comments must be received on or before September 19, 2016.

ADDRESSES: Submit your comments, identified by EPA–R08–OAR–2016–0311 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *http://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 at *http://www.regulations.gov* or in hard copy at the EPA Region 8, Office of Partnerships and Regulatory Assistance, Air Program, 1595 Wynkoop Street, Denver, Colorado, 80202–1129. The 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: Crystal Ostigaard, Air Program, EPA, Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6602, *ostigaard.crystal@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

a. *Submitting CBI.* Do not submit CBI to EPA through *http://www.regulations.gov* or email. 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.

b. *Tips for Preparing Your Comments.* When submitting comments, remember to:

i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

ii. 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.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns, and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. Regulatory Background

On October 17, 2006 (71 FR 61144), the EPA strengthened the level of the 24-hour $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS), lowering the primary and secondary standards from 65 micrograms per cubic meter ($\mu g/m^3$), the 1997 standard, to 35$\mu g/m^3$. On November 13, 2009 (74 FR 58688), the EPA designated three nonattainment areas in Utah for the 24-hour $PM_{2.5}$ NAAQS of 35 $\mu g/m^3$. These are the Salt Lake City, Utah; Provo, Utah; and Logan, Utah-Idaho nonattainment areas. The EPA originally designated these areas under CAA title I, part D, subpart 1, which required Utah to submit an attainment plan for each area no later than three years from the date of their nonattainment designations. These plans needed to provide for the attainment of the $PM_{2.5}$ standard as expeditiously as practicable, but no later than five years from the date the areas were designated nonattainment.

Subsequently, on January 4, 2013, the U.S. Court of Appeals for the District of Columbia held that the EPA should have implemented the 2006 $PM_{2.5}$ 24-hour standard based on both CAA title I, part D, subpart 1 and subpart 4. *NRDC* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013). Under subpart 4, nonattainment areas are initially classified as moderate, and

moderate area attainment plans must address the requirements of subpart 4 as well as subpart 1. Additionally, CAA subpart 4 sets a different SIP submittal due date and attainment year. For a moderate area, the attainment SIP is due 18 months after designation, and the attainment year is the end of the sixth calendar year after designation. On June 2, 2014 (79 FR 31566), the EPA finalized the Identification of Nonattainment Classification and Deadlines for Submission of State Implementation Plan (SIP) Provisions for the 1997 Fine Particulate ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS) and 2006 $PM_{2.5}$ NAAQS (''the Classification and Deadline Rule''). This rule classified to moderate the areas that were designated in 2009 as nonattainment, and set the attainment SIP submittal due date for those areas at December 31, 2014. This rule did not affect the moderate area attainment date of December 31, 2015.

On March 23, 2015, the EPA proposed the Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements (''$PM_{2.5}$ Implementation Rule''), 80 FR 15340, which partially addresses the January 4, 2013 court ruling. This proposed rule details how air agencies should meet the statutory SIP requirements that apply under subparts 1 and 4 to areas designated nonattainment for any $PM_{2.5}$ NAAQS, such as: General requirements for attainment plan due dates and attainment demonstrations; provisions for demonstrating reasonable further progress (RFP); quantitative milestones; contingency measures; Nonattainment New Source Review (NNSR) permitting programs; and RACM (including reasonably available control technology (RACT)), among other things. The statutory attainment planning requirements of subparts 1 and 4 were established to ensure that the following goals of the CAA are met: (i) That states implement measures that provide for attainment of the $PM_{2.5}$ NAAQS as expeditiously as practicable; and, (ii) that states adopt emissions reduction strategies that will be the most effective, and the most cost-effective, at reducing $PM_{2.5}$ levels in nonattainment areas.

The $PM_{2.5}$ Implementation Rule proposed a process for states to determine the control strategy for $PM_{2.5}$ attainment plans. The process consists of identifying all technologically and economically feasible control measures, including control technologies for all sources of direct $PM_{2.5}$ and $PM_{2.5}$ precursors in the emissions inventory for the nonattainment area which are not otherwise exempted from consideration for controls.[1] From that list of measures, the state must identify those that it can implement within four years of designation of the area (and which would thus meet the statutory requirements for RACM and RACT) and any ''additional reasonable measures,'' which the EPA is proposing in the $PM_{2.5}$ Implementation Rule to define as those technologically and economically feasible measures that the state can only implement on sources in the nonattainment area after the four-year deadline for RACM and RACT has passed. *See* proposed 40 CFR 51.1000. The EPA is currently in the process of preparing its final action on the proposed rule.

B. RACT and RACM Requirements for $PM_{2.5}$ Attainment Plans

Section 172(c)(1) of the Act (from subpart 1) requires that attainment plans, in general, provide for the implementation of all RACM as expeditiously as practicable (including RACT) and shall provide for attainment of the national primary ambient air quality standards. Section 189(a)(1)(C) (from subpart 4) requires moderate area attainment plans to contain provisions to assure that RACM is implemented no later than four years after designation.

The EPA stated its interpretation of the RACT and RACM requirements of subparts 1 and 4 in the 1992 General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990, 57 FR 13498 (Apr. 6, 1992). For RACT, the EPA followed its ''historic definition of RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.'' 57 FR 13541. Like RACT, the EPA has historically considered RACM to consist of control measures that are reasonably available, considering technological and economic feasibility. *See* $PM_{2.5}$ Implementation Rule, 80 FR 15373.

C. Utah's $PM_{2.5}$ Attainment Plan Submittals

Under section 110(k)(4) of the Act, the EPA may approve a SIP revision based on a commitment by the state to adopt specific enforceable measures by a date certain, but not later than one year after the date of approval of the plan revision. If we finalize our proposed conditional approval, Utah must adopt and submit the specific revisions it has committed to within one year of our finalization. If Utah does not submit these revisions within one year, or if we find Utah's revisions to be incomplete, or we disapprove Utah's revisions, this conditional approval will convert to a disapproval. If any of these occur and our conditional approval converts to a disapproval, that will constitute a disapproval of a required plan element under part D of title I of the Act, which starts an 18-month clock for sanctions, see section 179(a)(2), and the two-year clock for a federal implementation plan (FIP), see section 110(c)(1)(B).

Prior to the January 4, 2013 decision of the D.C. Circuit Court of Appeals, Utah developed a $PM_{2.5}$ attainment plan intended to meet the requirements of subpart 1. The EPA submitted written comments dated November 1, 2012, to the Utah Division of Air Quality (UDAQ) on Utah's draft $PM_{2.5}$ SIP, technical support document (TSD), and area source and other rules. After the court's decision, Utah amended its attainment plan to address requirements of subpart 4. On December 2, 2013, the EPA provided comments on Utah's revised draft $PM_{2.5}$ SIPs for the Salt Lake City and Provo areas, including the TSDs and rules in Section IX, Part H. These written comments from the EPA included some comments applicable to the rules we are proposing to act on today. The comment letters can be found within the docket for this action on *www.regulations.gov*.

In addition, Utah provided a commitment letter dated August 4, 2015, committing to revise R307–101, General Requirements; R307–312, Aggregate Processing Operations for $PM_{2.5}$ Nonattainment Areas; and R307–328, Gasoline Transfer and Storage. The EPA issued a conditional approval of the revisions on February 25, 2016 (81 FR 9343), based on the commitment letter. In that action, the EPA also approved other area source rules and conditionally approved the determination of RACM for these specific rules from Utah's moderate $PM_{2.5}$ SIPs. When the EPA takes final action on today's proposal, it will complete the action on the revisions described earlier and the determination of RACM for these specific rules from Utah's moderate $PM_{2.5}$ SIPs.

Furthermore, Utah submitted revisions to R307–302, Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties on May 9, 2013, May 20, 2014, and September 8, 2015. With this action, the EPA is proposing to conditionally approve R307–302 based

[1] Such exemptions could be due to a demonstrated lack of significant contribution of a certain $PM_{2.5}$ precursor to the area's elevated $PM_{2.5}$ concentrations or due to a presumptive determination that a certain source category contributes only a *de minimis* amount toward $PM_{2.5}$ levels in a nonattainment area.

on the May 19, 2016 commitment letter submitted by UDAQ. This rule is applicable to the Utah SIPs for $PM_{2.5}$ nonattainment areas.

III. EPA's Evaluation of Utah's Submittals

SIP revisions for R307–101 were submitted on May 9, 2013, May 20, 2014, and March 8, 2016. For R307–312, revisions were submitted on May 9, 2013, and March 8, 2016. Revisions for R307–328 were submitted on February 2, 2012, and March 8, 2016. In an August 4, 2015 commitment letter, UDAQ committed to revise R307–101, R307–312 and R307–328 and EPA conditionally approved these rules on February 25, 2016 (81 FR 9343). Additionally, SIP revisions were submitted for R307–302 on May 9, 2013, May 20, 2014, and September 8, 2015. However, the EPA identified an issue with R307–302 relating to startup, shutdown, and malfunction provisions, and Utah provided a commitment letter dated May 19, 2016, that contains a commitment to revise R307–302 to address this issue. The EPA is proposing conditional approval of the three submittals based on Utah's May 19, 2016 commitment letter. These final rule submissions, except for revisions to R307–101 and R307–328, are submitted as RACM components of the $PM_{2.5}$ SIP submitted by the State of Utah. The area source rules for RACM, R307–302 and R307–312, provide specific requirements for emissions of direct $PM_{2.5}$, VOCs, NO_X, and SO_2 from a few specific categories of sources. All of these rule revision submittals and commitment letters can found on *www.regulations.gov*.

The following is a summary of EPA's evaluation of the rule revisions. In general, we reviewed the rules for: enforceability; RACM requirements (for those rules submitted as RACM); and other applicable requirements of the Act.

1. R307–101, General Requirements

Rule R307–101 provides general requirements that pertain to all UDAQ R307 rules, which constitute the basis for control of air pollution sources in the State of Utah. The primary section is R307–101–2 Definitions, which provide definitions that are applicable to all R307 rules, except for those definitions as specified in individual rules. UDAQ committed in its letter dated August 4, 2015, to remove the definition of ''$PM_{2.5}$ precursor,'' as that definition is not used for regulatory purposes in Utah's SIP. Additionally, a ''Nonsubstantive Rule Amendment'' was made by Utah to correct a citation to the United States Code of Federal Regulations 40 CFR 51.100. In accordance with Utah Code Title 19, Chapter 2, Air Conservation Act, Utah Code Title 63G, Chapter 3, Administrative Rulemaking Act, and Utah Administrative Code, R15, Administrative Rules, this change was made without public comment, as appropriate for a non-substantive change. This submittal was made by UDAQ on May 20, 2014, and was included in the conditional approval finalized by the EPA on February 25, 2016. With UDAQ's March 8, 2016 submittal, the definition ''$PM_{2.5}$ precursor'' was removed, which satisfies the commitment letter on which the EPA's conditional approval was based and completes the EPA's actions on the May 9, 2013 and May 20, 2014 submittals for R307–101 from UDAQ. (February 25, 2016; 81 FR 9343.)

Additionally, UDAQ submitted to the EPA other revisions to R307–101–2 on March 8, 2016. These revisions included revisions to the ''Clean Air Act'' definition and ''Maintenance Area'' definition, specific to coarse particulate matter (PM_{10}). The definition for ''Clean Air Act'' was revised to mean ''federal Clean Air Act as found in 42 U.S.C. Chapter 85.'' The revisions to the ''Maintenance Area'' definition, specific to PM_{10}, updated the date on when the Board adopted the maintenance plans for Salt Lake County, Utah County, and Ogden City to ''December 2, 2015.''

The Board proposed for public comment the removal of the definition ''$PM_{2.5}$ Precursor'' in R307–101–2 on October 7, 2015, and the public comment period was held from November 1, 2015, through December 1, 2015. No comments were received and no hearing was requested for this comment period. The Board adopted the revision to R307–101–2 on February 3, 2016, and it became effective on February 4, 2016. Amendments to R307–101–2 were proposed by the Board on December 2, 2015, and were out for a comment period of January 1, 2016, through February 2, 2016. No comments were received and no hearing was requested for this comment period. The final revision of Rule R307–101–2 was adopted by the Board on March 2, 2016, and became effective on March 3, 2016, and is applicable to the entire state of Utah.

With UDAQ's March 8, 2016 submittal, section R307–101 was revised to represent what was in the commitment letter, which satisfies the EPA's conditional approval. Additionally, the EPA is proposing to approve the other definition revisions to R307–101 as stated earlier.

2. R307–302, Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties

Rule R307–302 is an existing rule that was approved by the EPA on February 14, 2006 (71 FR 7679). This rule establishes emission standards for fireplaces and solid fuel burning devices used in residential, commercial, institutional and industrial facilities and associated outbuilding used to provide comfort heating.

The Board proposed revisions to R307–302 for public comment on October 7, 2015, with the public comment period held from November 1 to December 1, 2015. No comments were received and no public hearing was requested. The Board adopted the latest revision to R307–302 on February 3, 2016, and it became effective on February 4, 2015.

The EPA requested that UDAQ commit to revise R307–302–5 which states ''R307–302–5. Opacity for Heating Appliances. Except during no-burn periods as required by R307–302–2 and 4, visible emissions from solid fuel burning devices and fireplaces shall be limited to a shade or density no darker than 20% opacity as measured by EPA Method 9, except for the following: (1) An initial fifteen minute start-up period, and (2) A period of fifteen minutes in any three-hour period in which emissions may exceed the 20% opacity limitation for refueling.'' The requested change is to provide continuous controls to cover startup, shutdown, and malfunction requirements. UDAQ committed in its May 19, 2016 letter to add continuous controls that extend to startup, shutdown, and malfunction, by establishing a prohibition on fuel types that can't be burned in a solid fuel burning device at any time.

Utah's RACM and rule analysis can be found in the docket posted on regulations.gov. For direct $PM_{2.5}$, the RACM analysis considered the effect of lowering the wood burning prohibition action level from 35 $\mu g/m^3$ to 25 $\mu g/m^3$ and alternatively to 15 $\mu g/m^3$, and the sales restriction of solid fuel devices to only EPA-approved wood stoves. In choosing a wood burning prohibition action level, UDAQ determined that 25 $\mu g/m^3$ was representative of RACM, and chose to establish the 15 $\mu g/m^3$ action level as a contingency measure. UDAQ also established a sales restriction on solid fuel devices to EPA-approved wood stoves, with a phase-in schedule of 90% by 2014, 92.5% by 2017, and 95% by 2019.

The EPA agrees with the revisions that UDAQ has committed to and is proposing a conditional approval of the

revisions to R307–302; and also proposing to find that R307–302, as revised, constitutes RACM for the Nonattainment Areas for Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, and Weber Counties for the Utah $PM_{2.5}$ SIP, with the commitment to adopt measures to address startup, shutdown, and malfunction events.

3. R307–312, Aggregate Processing Operations for $PM_{2.5}$ Nonattainment Areas

R307–312 establishes emission standards for sources in the aggregate processing industry, including aggregate processing equipment, hot mix asphalt plants, and concrete batch plants. The rule applies to all crushers, screens, conveyors, hot mix asphalt plants, and concrete batch plants located within a $PM_{2.5}$ nonattainment and maintenance area as defined in 40 CFR 81.345 (July 1, 2011). The provisions of R307–312 do not apply to temporary hot mix asphalt plants.

The EPA requested that UDAQ commit to revise R307–312–5(2)(a) which states ''Production shall be determined by scale house records or equivalent method on a daily basis.'' The EPA requested that UDAQ identify what could be used as an ''equivalent method'' in its rule. UDAQ committed in their August 4, 2015 letter to remove ''equivalent method'' and state ''Production shall be determined by scale house records, scale house or belt scale records, or manifest statements on a daily basis.'' The EPA finalized this commitment and conditional approval on February 25, 2016 (81 FR 9343). With UDAQ's March 8, 2016 submittal, section R307–312–5(2)(a) was revised to represent what was in the commitment letter, which satisfies the condition specified in the conditional approval and completes the EPA's action on the May 9, 2013 submittal for R307–312 from UDAQ.

The Board proposed revisions to R307–312 for public comment on October 7, 2015, with the public comment period held from November 1 to December 1, 2015. No comments were received and no public hearing was requested. The Board adopted the revision to R307–312 on February 3, 2016, and it became effective on February 4, 2016.

Utah's RACM and rule analysis can be found in the docket posted on *regulations.gov.* For direct $PM_{2.5}$, the RACM analysis considered the following as technologically feasible control measures for aggregate processing: water application, enclosures, and add-on control devices, including a baghouse, electrostatic precipitator, wet scrubber, and cyclone. UDAQ considered enclosures and add-on controls to not be economically feasible for aggregate processing equipment and determined water application to be RACM at a cost-effectiveness of $650/ton. However, water application was not considered feasible for the one existing concrete batch plant; and UDAQ determined RACM to be the existing baghouse and fabric filter controls. The RACM analysis considered the following add-on controls as technologically feasible for filterable particulate matter (PM) from hot mix asphalt plants: baghouse, electrostatic precipitator, wet scrubber, and cyclone. UDAQ did not find any controls technologically feasible for condensable PM. The analysis considered all the add-on controls to be economically feasible; and UDAQ correspondingly set a direct $PM_{2.5}$ limit of 0.024 gr/dscf. For NO_X, UDAQ considered low-NO_X burners, NSCR, SCR, and use of natural gas to be technically feasible. UDAQ determined that use of natural gas was RACM.

The EPA agrees with the revisions that UDAQ has made to R307–312 and is proposing approval. Additionally, the EPA is proposing to find that R307–312, as revised, constitutes RACM for the Nonattainment Areas for Aggregate Processing Operations for the Utah $PM_{2.5}$ SIP. This proposal is based on our review of the RACM analysis provided in Utah's $PM_{2.5}$ SIP.

4. R307–328, Gasoline Transfer and Storage

R307–328 establishes controls of gasoline vapors during the filling of gasoline cargo tank and storage tanks in Utah. The rule is based on federal control technique guidance documents. This requirement is commonly referred to as stage I vapor recovery.

The EPA requested that UDAQ commit to revise R307–328–4(6) which stated ''A gasoline storage and transfer installation that receives inbound loads and dispatches outbound loads (''bulk plant'') need not comply with R307–328–4 if it does not have a daily average throughput of more than 3,900 gallons (15,000 or more liters) of gasoline based upon a 30-day rolling average. Such installations shall on-load and off-load gasoline by use of bottom or submerged filling or alternate equivalent methods. The emission limitation is based on operating procedures and equipment specifications using RACT as defined in EPA documents EPA 450/2–77–026 October 1977, ''Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals,'' and EPA–450/2–77–035 December 1977, ''Control of Volatile Organic Emissions from Bulk Gasoline Plants.'' The design effectiveness of such equipment and the operating procedures must be documented and submitted to and approved by the executive secretary.'' The requested change was to remove the ''alternative equivalent method'' from this section. UDAQ committed in their August 4, 2015 letter to remove ''alternative equivalent method'' and state: ''A gasoline storage and transfer installation that receives inbound loads and dispatches outbound loads (''bulk plant'') need not comply with R307–328–4 if it does not have a daily average throughput of more than 3,900 gallons (15,000 or more liters) of gasoline based upon a 30-day rolling average. Such installations shall on-load and off-load gasoline by use of bottom or submerged filling. The emission limitation is based on operating procedures and equipment specifications using RACT as defined in EPA documents EPA 450/2–77–026 October 1977, ''Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals,'' and EPA–450/2–77–035 December 1977, ''Control of Volatile Organic Emissions from Bulk Gasoline Plants.'' The design effectiveness of such equipment and the operating procedures must be documented and submitted to and approved by the executive secretary.''

The EPA finalized this commitment and conditional approval on February 25, 2016 (81 FR 9343). The Board proposed revisions to R307–328 for public comment on October 7, 2015, with the public comment period held from November 1 to December 1, 2015. No comments were received and no public hearing was requested. The Board adopted the revision to R307–328 on February 3, 2016, and it became effective on February 4, 2016. With UDAQ's March 8, 2016 submittal, the section, R307–328–4(6), was revised to represent what was in the commitment letter, which satisfies the EPA's conditional approval and completes the EPA's action on the February 2, 2012 submittal for R307–328 from UDAQ. Therefore, the EPA is proposing approval of the rule, R307–328.

IV. What action is EPA proposing?

The EPA is proposing approval of the revisions to Administrative Rules R307–101–2, along with the revisions in R307–300 Series; Requirements for Specific Locations (Within Nonattainment and Maintenance Areas), R307–302 (conditional approval, described later), R307–312, and R307–328 for incorporation to the Utah SIP as submitted by the State of Utah on May

9, 2013, May 20, 2014, September 8, 2015, and March 8, 2016. This proposal will complete the EPA's February 25, 2016 (81 FR 9343) conditional approval action on the February 2, 2012, May 9, 2013, and May 20, 2014 submittals for R307–101, R307–312, and R307–328 from UDAQ. We are proposing to approve Utah's determination that R307–312 constitutes RACM for the Utah $PM_{2.5}$ SIP; however, we are not proposing to determine that Utah's $PM_{2.5}$ attainment plan has met all requirements regarding RACM under subparts 1 and 4 of Part D, title I of the Act. We intend to act separately on the remainder of Utah's $PM_{2.5}$ attainment plan.

The EPA is proposing to conditionally approve revisions to R307–302 and conditionally approve Utah's determination that R307–302 constitutes RACM for the Utah $PM_{2.5}$ SIP for solid fuel burning devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties. As stated earlier, we are not proposing to determine that Utah's $PM_{2.5}$ attainment plan has met all requirements regarding RACM under subparts 1 and 4 of part D, title I of the Act. Under section 110(k)(4) of the Act, the EPA may approve a SIP revision based on a commitment by the State to adopt specific enforceable measures by a date certain, but not later than one year after the date of approval of the plan revision. On May 19, 2016, Utah submitted a commitment letter to adopt and submit specific revisions within one year of our final action on these submittals; specifically to include continuous controls to cover start-up, shutdown, and malfunction requirements. If we finalize our proposed conditional approval, Utah must adopt and submit the specific revisions it has committed to within one year of our final action. If Utah does not submit these revisions within one year, or if we find Utah's revisions to be incomplete, or we disapprove Utah's revisions, this conditional approval will convert to a disapproval. If any of these occur and our conditional approvals convert to a disapproval, that will constitute a disapproval of a required plan element under part D of title I of the Act, which starts an 18-month clock for sanctions, see CAA section 179(a)(2), and the two-year clock for a FIP, see CAA section 110(c)(1)(B).

V. Consideration of Section 110(l) of the CAA

Under section 110(l) of the CAA, the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirements concerning attainment and RFP toward attainment of the NAAQS, or any other applicable requirement of the Act. In addition, section 110(l) requires that each revision to an implementation plan submitted by a state shall be adopted by the state after reasonable notice and public hearing.

The Utah SIP revisions that the EPA is proposing to approve do not interfere with any applicable requirements of the Act. The DAR section R307–300 Series submitted by the UDAQ on February 2, 2012, May 9, 2013, May 20, 2014, September 8, 2015, and March 8, 2016, are intended to strengthen the SIP and to serve as RACM for certain area sources for the Utah $PM_{2.5}$ SIP. Therefore, CAA section 110(l) requirements are satisfied.

VI. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the UDAQ rules promulgated in the DAR, R307–300 Series as discussed in section III of this preamble. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and/or at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VII. 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 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 (Public Law 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 CAA; and
- does not provide the 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, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian Country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: August 5, 2016.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

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