

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 9, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. (See section 307(b)(2).)

#### List of Subjects 40 CFR Part 52

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

Dated: June 3, 2002.

**William W. Rice,**

*Acting Regional Administrator, Region 7.*

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### EPA-APPROVED IOWA REGULATIONS

#### PART 52—[AMENDED]

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

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

#### Subpart Q—Iowa

2. In § 52.820 the table in paragraph (c) is amended under Chapter 22—Controlling Pollution by:

a. Revising the entry for "567–22.1".

b. Revising the entry for "567–22.3"..

The revisions read as follows:

#### § 52.820 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

Iowa citation	Title	State effective date	EPA approval date	Comments
<b>Iowa Department of Natural Resources, Environmental Protection Commission [567]</b>				
*	*	*	*	*
<b>Chapter 22—Controlling Pollution</b>				
567–22.1 .....	Permits Required for New or Existing Stationary Sources.	3/14/01	October 9, 2002 67 FR 62889	
*	*	*	*	*
567–22.3 .....	Issuing Permits .....	3/14/01	October 9, 2002 67 FR 62889	Subrule 22.3(6) has not been approved as part of the SIP.
*	*	*	*	*

\* \* \* \* \*

[FR Doc. 02–25590 Filed 10–8–02; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[UT–001–0038, UT–001–0039, UT–001–0040; FRL–7262–2]

#### Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Vehicle Inspection and Maintenance Programs; Salt Lake County and General Requirements and Applicability

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

**ACTION:** Final rule.

**SUMMARY:** On March 21, 2002, EPA published a notice of proposed rulemaking (NPR) that proposed approval of revisions to Utah's state air quality implementation plan (SIP). The revisions update Utah's vehicle inspection and maintenance (I/M)

programs. On August 14, 2001 and on August 15, 2001, the Governor of Utah submitted revisions to the SIP affecting the State's motor vehicle I/M programs. The August 14, 2001, submittal revised Utah's Rule R307–110–33, which incorporates by reference Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County to allow Salt Lake County to take 100% credit for their test and repair vehicle I/M network, rather than the previously required EPA default of a 50% emissions reduction credit. The August 15, 2001, submittal revises Utah's Rule R307–110–31, which incorporates by reference Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability to require mandatory implementation of the inspection of vehicle On-Board Diagnostic (OBD) systems starting January 1, 2002. In this action, EPA is approving the revisions to Utah's Rule R307–110–33 and Rule R307–110–31.

**EFFECTIVE DATE:** November 8, 2002.

**ADDRESSES:** Richard R. Long, Director, Air and Radiation Program, Mail code 8P–AR, 999 18th Street, Suite 300,

Denver, Colorado 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202 and copies of the Incorporation by Reference material are available at the United States Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Kimes, EPA, Region VIII, (303) 312–6445.

#### SUPPLEMENTARY INFORMATION:

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

Throughout this document wherever "R307–110–33" is used alone it is

assumed to mean "R307-110-33, which incorporates by reference Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County" and wherever "R307-110-31" is used alone it is assumed to mean "R307-110-31, which incorporates by reference Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability."

#### Table of Contents

- I. Summary of EPA's Final Action
- II. What Is the State's Process to Submit These Materials to EPA?
  - A. R307-110-33, Which Incorporates by Reference Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County
  - B. R307-110-31, Which Incorporates by Reference Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability
- III. Evaluation of the State's Submittals
  - A. R307-110-33, Which Incorporates by Reference Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County
  - B. R307-110-31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability
- IV. Public Comment
- V. Final Rulemaking Action
- VI. Consideration of Clean Air Act Section 110(l)
- VII. Administrative Requirements

#### I. Summary of EPA's Final Action

We are approving revisions to the SIP that were submitted by the Governor of Utah on August 14, 2001 and August 15, 2001. The August 14, 2001, submittal updates Utah's Rule R307-110-33. Specifically, this revision allows Salt Lake County to receive full credit (100%) for its test and repair vehicle Inspection and Maintenance (I/M) network. Salt Lake County has demonstrated that its test and repair I/M network is as effective as a test only I/M network and is eligible to take full emission reduction credit rather than the previously required EPA default of a 50% emissions reduction credit. The revised rule R307-110-33 being approved in this action supersedes and replaces the existing State rule.

The August 15, 2001, submittal updates Utah's Rule R307-110-31. This revision required the mandatory implementation of the inspection of vehicle On-Board Diagnostic (OBD) systems starting January 1, 2002 in all areas implementing an I/M program. Therefore, this requirement is applicable for Davis County, Salt Lake County, Utah County, and Weber County. As a convenience to vehicle owners, Davis, Utah, and Weber Counties are already implementing this program. Salt Lake County began

implementing the program on January 1, 2002. The revised rule R307-110-33 being approved in this action supersedes and replaces the existing R307-110-33 rule.

#### II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the Clean Air Act (CAA) addresses our actions on submissions of revisions to a State Implementation Plan (SIP). The CAA requires states to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted by the State, after reasonable notice and public hearing, and prior to the revision being submitted by a state to us.

##### *A. R307-110-33, Which Incorporates by Reference Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County*

The Utah Air Quality Board (UAQB) held a public hearing on June 21, 2001, to include in the Salt Lake County SIP element a demonstration that Salt Lake County's test and repair I/M network is as effective as a test only I/M network, and allow the County to claim 100% credit instead of 50% credit in emissions reduction. The UAQB adopted the revisions to R307-110-33, on August 1, 2001. This SIP revision became State effective on August 2, 2001, and was submitted by the Governor of Utah to us on August 14, 2001.

##### *B. R307-110-31, Which Incorporates by Reference Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability*

The UAQB held a public hearing on June 21, 2001, to consider amendments to postpone the Federally required inspection of the OBD systems on newer vehicles, because the Federal implementation date had been postponed until January 1, 2002 (66 FR 18156). The UAQB adopted the revisions to R307-110-31 on August 1, 2001. This SIP revision became State effective on August 2, 2001, and was submitted by the Governor of Utah to us on August 15, 2001.

We have evaluated the Governor's submittals and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. As required by section 110(k)(1)(B) of the CAA, we reviewed these SIP revision materials for conformance with the completeness criteria in 40 CFR part 51, appendix V and determined that the Governor's submittals were

administratively and technically complete. Our completeness determination was sent on October 18, 2001, through a letter from Jack W. McGraw, Acting Regional Administrator, to Governor Michael O. Leavitt.

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

We have thoroughly reviewed the Utah rules that are the subject of this rulemaking and have found the revisions to meet all applicable requirements. A detailed evaluation of the rule revisions submitted by the State can be found in the notice of proposed rulemaking (NPR) for these rules found at 57 FR 9425, March 1, 2001. The NPR provided a detailed evaluation of how the State submittal meets the CAA requirements and the entire evaluation is not repeated here. The evaluation below is a limited summary of the evaluation found in the NPR.

##### *A. R307-110-33, Which Incorporates by Reference Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County*

In this action, we are approving revisions to Utah's Rule R307-110-33, as adopted by the UAQB on August 1, 2001, and State effective on August 2, 2001. The Salt Lake County vehicle I/M program is in place to reduce vehicle emissions so that the Federal carbon monoxide National Ambient Air Quality Standard (NAAQS) and the Federal 1-hour ozone NAAQS are not exceeded. The changes in Rule R307-110-33 involve a demonstration that Salt Lake County's test and repair I/M network is as effective as a test only I/M network.

Section 182(b)(4) of the CAA requires that Salt Lake County implement an I/M program at least as effective as EPA's Basic Performance Standard as specified in 40 CFR 51.352. Our July 24, 2000, rulemaking (see 65 FR 45526) deleted our prior requirement of an automatic 50% emission credit discount for decentralized test and repair I/M programs if it can be demonstrated that the test and repair I/M network is as effective as a test only I/M network.

We are approving Utah's SIP revision to Rule R307-110-33, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County. Salt Lake County's test and repair network was demonstrated to be as effective as a test-only network.

##### *B. R307-110-31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability*

In this action, we are also approving SIP revisions to Utah's Rule R307-110-

31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability, as adopted by the Utah Air Quality Board on August 1, 2001, and State effective on August 2, 2001.

The Governor had previously submitted a revision to Rule R307-110-31 on February 22, 1999, that we did not take action on. The February 22, 1999 submittal committed the State of Utah to implement testing of vehicle OBD systems by January 1, 2001, as was required by the 40 CFR part 51 subpart S Inspection/Maintenance Program Requirements. On April 5, 2001, we extended the Federal date for mandatory implementation of the inspection of vehicle OBD systems, in 40 CFR part 51 Subpart S, to January 1, 2002 (*see* 66 FR 18156). The Governor's August 15, 2001 submittal meets the requirements of our April 5, 2001 rulemaking (*see* 66 FR 18156) and supersedes and replaces the previous SIP revision to Rule R307-110-31 submitted by the Governor on February 22, 1999. The Governor's August 15, 2001, SIP revision simply incorporates the Federal OBD rule change.

#### IV. Public Comment

No public comment was received in response to the EPA's proposed rulemaking on these Utah SIP revisions.

#### V. Final Rulemaking Action

In this Final Rulemaking Action, we are approving revisions to the SIP affecting the State's motor vehicle I/M programs submitted by the Governor of Utah. The approved revisions include the August 14, 2001, submittal revising Utah's Rule R307-110-33, which incorporates by reference Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County and the August 15, 2001, submittal revising Utah's Rule R307-110-31 which incorporates by reference, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability to require mandatory implementation of the inspection of vehicle On-Board Diagnostic (OBD) systems starting January 1, 2002. The final rule is effective November 8, 2002.

#### VI. Consideration of Clean Air Act Section 110(l)

Section 110(l) of the Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable progress towards attainment of a National Ambient Air Quality Standard (NAAQS) or any other applicable requirements of the Act. This SIP revision is consistent

with Federal requirements and does not interfere with any applicable requirements of the Act. Therefore, we conclude that our approval of Utah's Rule R307-110-33 and R307-110-31 meets the requirements of section 110(l) of the Act.

#### VII. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 9, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: August 8, 2002.

Robert E. Roberts,

Regional Administrator, Region VIII.

## PART 52—[AMENDED]

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

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

### Subpart TT—Utah

2. Section 52.2320 is amended by adding paragraph (c)(48) and (c)(49) to read as follows:

#### § 52.2320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(48) On August 14, 2001, the Governor of Utah submitted a revision to Utah's SIP to update UACR R307–110–33, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County. The changes involve a demonstration that Salt Lake County's test and repair I/M network is as effective as a test only I/M network.

(i) Incorporation by reference.

(A) UACR R307–110–33, which incorporates by reference Utah SIP, Section X, Vehicle Inspection and Maintenance Program, Part C, Salt Lake County and appendices 1.a, 1.b, and 1.c, adopted by the UAQB August 1, 2001 and State effective on August 2, 2001.

(49) On August 15, 2001, the Governor of Utah submitted a revision to Utah's SIP to update UACR R307–110–31, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability. This revision required the mandatory implementation of the inspection of vehicle On-Board Diagnostic (OBD) systems starting January 1, 2002 in all areas implementing an I/M program.

(i) Incorporation by reference.

(A) UACR R–307–110–31 which incorporates by reference Utah SIP, Section X, Vehicle Inspection and Maintenance Program, Part A, General Requirements and Applicability adopted by the UAQB on August 1, 2001 and State effective on August 2, 2001.

[FR Doc. 02–25588 Filed 10–8–02; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[MA–01–7203a; FRL –7387–5a]

### Approval and Promulgation of State Plans For Designated Facilities and Pollutants: Massachusetts; Plan for Controlling MWC Emissions From Existing Large MWC Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** EPA is approving the Sections 111(d)/129 State Plan originally submitted by the Massachusetts Department of Environmental Protection (MA DEP) on January 11, 1999, and revised on November 16, 2001. This State Plan is for implementing and enforcing provisions at least as protective as the federal Emission Guidelines (EGs) applicable to existing Municipal Waste Combustors (MWCs) units with capacity to combust more than 250 tons/day of municipal solid waste (MSW).

**EFFECTIVE DATE:** This final rule will become effective on November 8, 2002.

**ADDRESSES:** Documents which EPA has incorporated by reference for previous rulemaking are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B102, 1301 Constitution Avenue NW., Washington, DC 20460. You may examine copies of materials the MA DEP submitted to EPA relative to this action during normal business hours at the following locations:

Environmental Protection Agency-New England, Region 1, Air Permits Program, Office of Ecosystem Protection, Suite 1100, One Congress Street, Boston, Massachusetts 02114–2023.

Massachusetts Department of Environmental Protection, Bureau of Waste Prevention, Division of Business Compliance, One Washington Street, Boston, Massachusetts 02108, (617) 556–1120.

The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

**FOR FURTHER INFORMATION CONTACT:** John Courcier at (617) 918–1659, or by e-mail at [courcier.john@epa.gov](mailto:courcier.john@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

I. What action is EPA taking today?

II. Why did EPA withdraw its original approval?

III. How has EPA addressed the adverse comments on its original direct final approval?

IV. Why is EPA approving the State's Plan at this time?

V. When does the State Plan become effective and what becomes of the Federal Plan?

VI. By what date must MWCs in Massachusetts achieve compliance?

VII. Administrative Requirements

### I. What Action Is EPA Taking Today?

EPA is approving the above referenced State Plan with revisions. EPA finds the State Plan to be at least as protective as EPA's Emission Guidelines. See 40 CFR part 60, subpart Cb.

### II. Why Did EPA Withdraw Its Original Approval?

This rulemaking was originally published as a direct final notice in the July 14, 1999 **Federal Register**. See 64 FR 37923 for additional information. Subsequent to this notice, EPA received numerous adverse and supportive comments. Because of the adverse comments, EPA withdrew the direct final notice on September 1, 1999. See 64 FR 47680. EPA has responded to these adverse comments under III below.

### III. How Has EPA Addressed the Adverse Comments on Its Original Direct Final Approval?

As mentioned under section II above, EPA published its direct final and proposed approval of the State's MWC Plan, including the MWC rule, on July 14, 1999. The plan was to become effective on September 13, 1999, unless EPA received adverse comment by August 13, 1999. Subsequently, we did receive timely comments objecting to the State's Plan and EPA's approval of it. Following the September 1, 1999 withdrawal of EPA's proposed direct final approval, EPA received additional adverse comments as well as supportive comments. The adverse comments received include the following:

- The MA DEP's mercury limit is arbitrary and has not been demonstrated to be consistently achievable.
- There are no test methods that have been validated at the 28 µg/dscm level.
- MA DEP did not provide the public with adequate notice and opportunity to comment, in that MA DEP modified the mercury standard to be more stringent after the close of the public comment period, and did not provide further opportunity for comment.

The full text of written comments and EPA's responses can be found in the docket located at EPA's Boston office.