

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

#### *Petitions for Judicial Review*

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 August 25, 2003. 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, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: May 22, 2003.

**Steven Rothblatt,**

*Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### **PART 52—[AMENDED]**

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

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

#### **Subpart P—Indiana**

■ 2. Section 52.770 is amended by adding paragraph (c)(159) to read as follows:

#### **§ 52.770 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(159) On January 31, 2003, Indiana submitted revised particulate matter regulations for Richmond Power and Light Company's coal burning power plant in Wayne County, Indiana. The submission amends 326 IAC 6-1-14. The revisions make the long-term emission limits consistent with the short-term limits approved by EPA on April 9, 1996. The new limits are 320 tons per years for boiler number 1 and 700 tons per years for boiler number 2.

(i) Incorporation by Reference

Amendments to Indiana Administrative Code Title 326: Air Pollution Control Board, Article 6: Particulate Rules, Rule 1: Non-attainment Area Limitations, Section 14: Wayne County PM emission requirements. Filed with the Secretary of State on March 10, 2003 and effective on April 9, 2003. Published in 26 *Indiana Register* 2318-19 on April 1, 2003.

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#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[SIP NO. UT-001-0048, UT-001-0049, FRL-7501-5]**

#### **Approval and Promulgation of Air Quality Implementation Plans; Utah; SIP Renumbering**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the Governor of Utah on June 27, 1994 and April 28, 2000. EPA is also approving Supplemental Administrative Documentation submitted on December 31, 2002. The June 27, 1994 submittal revises the numbering and format of Utah's State Implementation Plan (SIP). The April 28, 2000 submittal contains non-substantive changes to correct minor errors in the June 27, 1994 submittal. The December 31, 2002 submittal also contains non-substantive changes to the

June 27, 1994 submittal. The intended effect of this action is to make these provisions federally enforceable. In addition, EPA will be acting on other parts of these submittals at a later date. This action is being taken under section 110 of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective July 25, 2003.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-108 (Mail Code 6102T), 1301 Constitution Ave., NW., 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:**

Laurel Dygowski, EPA, Region 8, (303) 312-6144.

**SUPPLEMENTARY INFORMATION:** On March 25, 2003 (68 FR 14379), EPA published a notice of proposed rulemaking (NPR) for the State of Utah. The NPR proposed approval of State Implementation Plan (SIP) revisions submitted by the Governor of Utah on June 27, 1994 and April 28, 2000. The NPR also proposed approval of Supplemental Administrative Documentation submitted on December 31, 2002. The June 27, 1994 submittal revises the numbering and format of Utah's State Implementation Plan (SIP). The April 28, 2000 submittal contains non-substantive changes to correct minor errors in the June 27, 1994 submittal. The December 31, 2002 submittal also contains non-substantive changes to the June 27, 1994 submittal. In addition, we proposed to take no action on parts of these submittals or to act on parts of these submittals at a later date.

The following table cross references the renumbered and prior numbered SIP sections. The table identifies the renumbered SIP sections we are approving as replacing the prior numbered SIP sections.

STATE IMPLEMENTATION PLAN—TABLE OF CORRESPONDING SECTIONS

Title	Renumbered SIP section	Prior numbered SIP section
Legal Authority .....	Section I .....	Section 1.

## STATE IMPLEMENTATION PLAN—TABLE OF CORRESPONDING SECTIONS—Continued

Title	Renumbered SIP section	Prior numbered SIP section
Review of New and Modified Air Pollution Sources .....	Section II .....	Section 2.
Source Surveillance .....	Section III .....	Section 3.
Ambient Air Monitoring Program .....	Section IV .....	Section 4.
Resources .....	Section V .....	Section 5.
Intergovernmental Cooperation .....	Section VI .....	Section 6.
Prevention of Air Pollution Emergency Episodes .....	Section VII .....	Section 7.
Prevention of Significant Deterioration .....	Section VIII .....	Section 8.
Control Measures for Area and Point Sources .....	Section IX .....	Section 9.
Sulfur Dioxide .....	Part B .....	Part B.
Carbon Monoxide .....	Part C .....	Part C.
Ozone .....	Part D.1 .....	Part D.
Nitrogen Dioxide .....	Part E .....	Part E.
Lead .....	Part F .....	Part F.
Fluoride .....	Part G .....	Part G.
Mountainlands Association of Governments .....	XI, App. 1 .....	Section 9, App. A.
Wasatch Front Regional Council .....	XI, App. 2 .....	Section 9, App. B.
Involvement .....	Section XII .....	Section 10.
July 27, 1978 contract: Utah Dept. of Social Services and Mountainlands Assoc. of Govt .....	XII, App. 1 .....	Exhibit. 10.1a
July 21, 1978 contract: Utah Dept. of Social Services and Wasatch Front Regional Council .....	XII, App. 2 .....	Exhibit. 10.1b.
Analysis of Plan Impact .....	Section XIII .....	Section 11.
Comprehensive Emission Inventory .....	Section XIV .....	Section 12.
Utah Code Title 19, Chapter 2 .....	Section XV .....	Section 13.
Public Notification .....	Section XVI .....	Section 14.
Visibility Protection .....	Section XVII .....	Section 15.
Demonstration of GEP Stack Height .....	Section XVIII .....	Section 16.
Small Business Assistance Program .....	Section XIX .....	Section 17.

**I. Final Action**

We received no comments on the March 25, 2003 notice of proposed rulemaking. As proposed, we are approving State Implementation Plan (SIP) revisions submitted by the Governor of Utah on June 27, 1994 and April 28, 2000, except for provisions we are not acting on or provisions which we will act on at a later date. We are also approving Supplemental Administrative Documentation submitted by the State on December 31, 2002, except for provisions we are not acting on or provisions which we will act on at a later date.

The following identifies the renumbered SIP sections we are approving as replacing the prior numbered SIP sections: Section I and Section II, effective 11/12/93; Section III, effective 11/12/93, except III.C, effective 1/1/2003; Section IV, Section V and Section VI, effective 11/12/93; Section VII, effective 11/12/93, except VII.D, effective 1/1/2003; Section VIII, effective January 1, 2003; Section IX, Part B, effective 11/12/93, except the title and IX.B.3.d, effective 2/25/2000, and IX.B.3.a, IX.B.3.e, and IX.B.4, effective 1/1/2003; Section IX, Parts C, E, F and G, effective 11/12/93, except the titles, effective 2/25/2000; Section IX, Part D.1, effective 11/12/93, except for the title, effective 2/25/2000 and IX.D.1.d, effective 1/1/2003; Section XI, Appendix 1 and Appendix 2, effective

11/12/93; Section XII and Section XIII, effective 11/12/93; Section XIV, effective 11/12/93, except Table XIV.9, effective 2/25/2000; Section XV and Section XVI, effective 11/12/93; Section XVII, effective 11/12/93, except XVII.A, XVII.D and XVII.E, effective 2/25/2000; Section XVIII, effective 11/12/93, except XVIII.B, effective 2/25/2000; and Section XIX, effective 11/12/93.

We are also approving non-substantive changes to Section IX, Part C.7 and C.8, Section IX, Part D.2 and Section XXII, effective January 1, 2003.

In addition, we are taking no action on certain portions of the submittals because they have never been part of the SIP or they have been superseded by other submittals approved by the EPA into the SIP. The portions of the submittals that we are taking no action on are Section XX, Section X and Section XI.

Also, we will act on portions of the submittals in separate documents. We are taking action on Section IX, Part A and Part H and non-substantive changes to Section IX, Parts C.1–C.6 and Section XXI in separate documents.

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. We believe the

Utah SIP revisions that are the subject of this document will not interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act because the State is merely renumbering its SIP and the State's revisions are as no less stringent than requirements currently contained in their SIP.

**II. Statutory and Executive Order Reviews**

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

that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

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

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

The Congressional Review Act, 5 U.S.C. 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 August 25, 2003. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 13, 2003.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart TT—Utah

■ 2. Section 52.2320 is amended by adding paragraph (c)(56) to read as follows:

##### § 52.2320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(56) On June 27, 1994 and April 28, 2000, the Governor of Utah submitted revisions to the State Implementation Plan. On December 31, 2002, the State of Utah submitted Supplemental Administrative Documentation. The June 27, 1994 submittal revises the numbering and format of Utah's State Implementation Plan (SIP). The April 28, 2000 and December 31, 2002 submittals contain non-substantive changes to correct minor errors in the June 27, 1994 submittal. The provisions

identified below are approved into the SIP and supersede and replace the corresponding prior codification of the provisions of the SIP.

(i) Incorporation by reference.

(A) Utah State Implementation Plan Section I; Section II; Section III (except III.C); Section IV; Section V; Section VI; Section VII (except VII.D); Section IX, Part IX.B (except the title, IX.B.3.a, IX.B.3.d, IX.B.3.e, and IX.B.4); Section IX, Parts C, E, F and G (except the titles); Section IX, Part D.1 (except for the title and IX.D.1.d (5)); Section XI (Appendix 1 and Appendix 2 only); Section XII; Section XIII; Section XIV (except Table IX.9); Section XV; Section XVI; Section XVII (except XVII.A, XVII.D and XVII.E); Section XVIII (except XVIII.B); and Section XIX, effective 11/12/93.

(B) Utah State Implementation Plan Section IX, Part IX.B.3.d; Section IX, titles of Parts B, C, D.1, E, F and G; Section XIV, Table XIV.9; Section XVII, Parts XVII.A, XVII.D and XVII.E; and Section XVIII, Part XVIII.B, effective 2/25/2000.

(C) Utah State Implementation Plan Section III, Part III.C; Section VII, Part VII.D; Section VIII; Section IX, Parts IX.B.3.a, IX.B.3.e, IX.B.4, IX.C.7.b(3), IX.C.7.h(3), IX.C.8.b(3), IX.C.8.f(1)(a), IX.C.8.h(3)(a), IX.C.8.h(3)(c), IX.D.1.d(5), IX.D.2.b, IX.D.2.d(1)(a), IX.D.2.e(1), IX.D.2.f(1)(a), IX.D.2.h, IX.D.2.i and IX.D.2.j; and Section XXII, effective January 1, 2003.

(ii) Additional Material.

(A) October 3, 2002 letter from Rick Sprott, Utah Department of Air Quality, to Richard Long, EPA Region VIII, to address typographical errors and missing pages in the January 27, 1994 submittal.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 086-SIP; FRL-7518-4]

### Finding of Substantial Inadequacy of Implementation Plan; Call for California State Implementation Plan Revision

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing our February 13, 2003 proposed finding (68 FR 7327) that the California State Implementation Plan (SIP) is substantially inadequate for all nonattainment air pollution control districts in the State and for all