rights-of-way, Reporting and recordkeeping requirements, Sulfur.

For the reasons given in the preamble, the Bureau of Safety and Environmental Enforcement amends Title 30, Chapter II, Subchapter B, Part 250 Code of Federal Regulations as follows.

PART 250—OIL AND GAS AND SULFUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:


2. Revise § 250.1403 to read as follows:

   § 250.1403 What is the maximum civil penalty?

   The maximum civil penalty is $42,704 per day per violation.

Richard T. Cardinale,

Acting Assistant Secretary for Land and Minerals Management.

[FR Doc. 2017–02326 Filed 2–2–17; 8:45 am]

BILLING CODE 4310–MR–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Revisions to Nonattainment Permitting Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The EPA is taking final action to conditionally approve all but one of the State Implementation Plan (SIP) revisions submitted by the State of Utah on August 20, 2013, with supporting administrative documentation submitted on September 12, 2013. These submittals revise the Utah Administrative Code (UAC) that pertain to the issuance of Utah air quality permits for major sources in nonattainment areas. The EPA is not taking final action on the portion of the August 20, 2013 submittal that revised rule R307–420 at this time. The EPA is taking final action to conditionally approve the other revisions because, while the submitted revisions to Utah’s nonattainment permitting rules do not fully address the deficiencies in the state’s program, Utah has committed to address additional remaining deficiencies in the state’s nonattainment permitting program no later than a year from the EPA finalizing this conditional approval. Upon the EPA finding of a timely meeting of this commitment in full, the final conditional approval of the SIP revisions would convert to a final approval of Utah’s plan. This action is being taken under section 110 of the Clean Air Act (CAA) (Act).

DATES: This final rule is effective March 6, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2016–0620. 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 at www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests you contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this rule 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.

I. Background

On August 20, 2013, with supporting administrative documentation submitted on September 12, 2013, Utah sent the EPA revisions to their nonattainment permitting regulations, specifically to address deficiencies the EPA identified in their nonattainment permitting regulations that affected the EPA’s ability to approve Utah’s PM2.5 maintenance plan and that may affect the EPA’s ability to approve Utah’s PM2.5 SIP. These revisions addressed R307–403–1 (Purpose and Definitions), R307–403–2 (Applicability), R307–403–11 (Actual Plant-wide Applicability Limits (PALs)), and R307–420 (Ozone Offset Requirements in Davis and Salt Lake Counties). In addition, Utah moved R307–401–19 (Analysis of Alternatives) to R307–403–10 and moved R307–401–20 (Relaxation of Limits) to R307–403–2. On June 2, 2016, the EPA entered into a consent decree with the Center for Biological Diversity, Center for Environmental Health, and Neighbors for Clean Air regarding a failure to act, pursuant to CAA sections 110(k)(2)–(4), on certain complete SIP submissions from states intended to address specific requirements related to the 2006 PM2.5 national ambient air quality standard (NAAQS) for certain nonattainment areas, including the submittal from the Governor of Utah dated August 20, 2013.

The SIP revisions submitted by the Utah Department of Air Quality (UDAQ) on August 20, 2013, establish specific nonattainment new source review (NSNR) permitting requirements. In this revision, the UDAQ has incorporated federal regulatory language—establishing permitting requirements for new and modified major stationary sources in a nonattainment area—from portions of 40 CFR 51.165 and reformatted it into state-specific requirements for sources in Utah under R307–403–1 (Purpose and Definitions) and R307–403–2 (Applicability), including provisions relevant to NSNR programs for PM2.5 nonattainment areas. Additionally, UDAQ incorporated by reference the provisions of 40 CFR 51.165(f)(1)–(f)(14) into 307–403–11 (Actual PALs), and revised R307–420 to state that the definitions and applicability provisions in R307–403–1 apply to this section.

CAA section 110(a)(2)(C) requires each state plan to include “a program to provide for . . . regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that [NAAQS] are achieved, including a permit program as required in parts C and D of this subchapter,” and CAA section 172(c)(5) provides that the plan “shall require permits for the construction and operation of new or modified major stationary sources anywhere in the nonattainment area, in accordance with section [173].” CAA section 173 lays out the requirements for obtaining a permit that must be included in a state’s SIP-approved permit program. CAA section 110(a)(2)(A) requires that SIPs contain enforceable emissions limitations and other control measures. Under section CAA section 110(a)(2), the enforceability requirement in section 110(a)(2)(A) applies to all plans submitted by a state. CAA section 110(i) (with certain limited exceptions) prohibits states from modifying SIP requirements for stationary sources except through the SIP revision process. CAA section 110(a)(2)(D) requires that nonattainment plans, including NSNR programs required by section 172(c)(5),
meet the applicable provisions of section 110(a)(2), including the requirement in section 110(a)(2)(A) for enforceable emission limitations and other control measures. CAA section 110(l) provides that the EPA cannot approve a SIP revision that interferes with any applicable requirement of the Act.

Section 51.165 in title 40 of the CFR (Permit Requirements) sets out the minimum plan requirements states are to meet within each SIP NNSR permitting program. Generally, 40 CFR 51.165 consists of a set of definitions, minimum plan requirements regarding procedures for determining applicability of NNSR and use of offsets, and minimum plan requirements regarding other source obligations, such as recordkeeping.

Specifically, subparagraphs 51.165(a)(1)(i) through (xlii) enumerate a set of definitions which states must either use or replace with definitions that a state demonstrates are more stringent or at least as stringent in all respects. Subparagraph 51.165(a)(2) sets minimum plan requirements for procedures to determine the applicability of the NNSR program to new and modified sources.

Subparagraph 51.165(a)(3), (a)(9) and (a)(11) set minimum plan requirements for the use of offsets by sources subject to NNSR requirements. Subparagraphs (a)(8) and (a)(10) regard precursors, and subparagraphs (a)(6) and (a)(7) regard recordkeeping obligations.

Subparagraph 51.165(a)(4) allows NNSR programs to treat fugitive emissions in certain ways. Subparagraph 51.165(a)(5) regards enforceable procedures for after approval to construct has been granted. Subparagraph 51.165(b) sets minimum plan requirements for new major stationary sources and major modifications in attainment and unclassifiable areas that would cause or contribute to violations of the NAAQS. Finally, subparagraph 51.165(f) sets minimum plan requirements for the use of PALs. Please refer to docket EPA–R08–OAR–2016–0620 to view a crosswalk table which outlines how Utah’s nonattainment permitting rules correlate with the requirements of 40 CFR 51.165.

Clean Air Act section 189(e) requires a state to submit a SIP that state SIPs apply the same control with the requirements of 40 CFR 51.165. nonattainment permitting rules correlate with the requirements of 40 CFR 51.165. implementation provisions specific to particulate matter nonattainment areas in subpart 4. In particular, subpart 4 includes section 189(e) of the CAA, which requires the control of major stationary sources of PM_{2.5} precursors (and hence under the court decision, PM_{2.5} precursors) “except where the Administrator determines that such sources do not contribute significantly to PM_{10} levels which exceed the standard in the area.” Accordingly, NNSR programs that are submitted for PM_{2.5} nonattainment areas must regulate all PM_{2.5} precursors, i.e., sulfur dioxide (SO_{2}), nitrogen oxides (NO_{X}), volatile organic compounds (VOC), and ammonia, unless the Administrator determines that such sources of a particular precursor do not contribute significantly to nonattainment in the nonattainment area. The EPA recently finalized a new provision at 40 CFR 51.165(a)(13) that codifies this requirement, as it applies to PM_{2.5}, in the federal regulations.

As a result of this court decision, Utah needed to submit further revisions to address remaining deficiencies in the nonattainment permitting program in order for the EPA to approve the August 20, 2013, submittal. Included as part of those deficiencies was that Utah has not submitted an analysis demonstrating that sources of ammonia, as a PM_{2.5} precursor, do not contribute significantly to PM_{2.5} levels which exceed the NAAQS in nonattainment areas in the State. On September 30, 2016, Utah submitted to the EPA a commitment letter (see docket EPA–R08–OAR–2016–0620) in which Utah commits to address additional remaining deficiencies in the State’s nonattainment permitting program in R307–403–4 to R307–403–6; and

8. UDAQ will update R307–403–4 to include a new section that imposes requirements that address emission offsets for PM_{2.5} nonattainment areas (as required in 40 CFR 51.165(a)(11)) on NNSR sources in Utah. UDAQ will revise R307–403–3, including R307–403–3(3), to cross reference this new section, as well as the requirements in R307–403–4, R307–403–5, and R307–403–6; and UDAQ commits to work with the Utah Air Quality Board to revise this section to include the requirements of CAA Section 173(c)(1) and 40 CFR 51.165 (specifically 40 CFR 51.165(a)(3)) concerning the requirement that creditable reductions be calculated based on actual emissions for offset purposes.
Under CAA section 110(k)(4), 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. Under a conditional approval, the state must adopt and submit the specific revisions it has committed to within one year of the EPA’s finalization. If the EPA fully approves the submittal of the revisions specified in the commitment letter, the conditional nature of the approval would be removed and the submittal would become fully approved. If the state does not submit these revisions within one year, or if the EPA finds the state’s revisions to be incomplete, or the EPA disapproves the state’s revisions, a conditional approval will convert to a disapproval. If any of these occur and the EPA’s 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(o)(2), and a two-year clock for a federal implementation plan (FIP), see section 110(c)(1)(B).

II. What are the changes that EPA is taking final action to approve?

As proposed in our October 31, 2016 proposed action (81 FR 75361), we are finalizing conditional approval of the following revisions to the UAC: R307–403–1 (Purpose and Definitions); R307–403–2 (Applicability); R307–403–11 (Actual Authorities); and the relocation of R307–401–19 (Analysis of Alternatives), which was originally approved in 79 FR 7072 on February 6, 2014, to R307–403–10 and R307–401–20 (Relaxation of Limits) to R307–403–2, which was originally approved in 79 FR 7072 on February 6, 2014.

In our October 31, 2016 proposed rulemaking (see 81 FR 75361), we proposed to approve R307–420 (Ozone Offset Requirements in Davis and Salt Lake Counties.) In that rulemaking, we stated: “This rule is being revised to include the definitions and applicability provisions of R307–403–1. This rule change will ensure that the definitions and applicability provisions in R307–420 are consistent with related permitting rules in R307–403.” However, we are not taking final action at this time on the revisions to R307–420, as submitted by Utah on August 20, 2013. Merely approving the phrase “Except as provided in R307–420–2, the definitions in R307–403–1 apply to R307–420–2” in R307–403–2–(Definitions), and the phrase “The applicability provisions in R307–403–2–1(a) through (f) and R307–403–2–2 through (7) apply in R307–420” in R307–420–3(3) (Applicability) would not meet the requirements of CAA section 110(a)(2)(A), which requires that SIPs contain enforceable emissions limitations and other control measures. The EPA has determined that it should not take action on these revisions because the rest of R307–420 is not a part of Utah’s federally enforceable SIP, and approving it into the SIP would create confusion for the regulatory authorities, the sources and the public. However, once Utah does submit a fully approvable revision incorporating all of R307–420, the EPA will be able to undertake future rulemaking action on this section at that time.

The EPA has determined that these final revisions, when combined with the changes in Utah’s September 30, 2016 commitment letter, create enforceable obligations for sources and are consistent with the CAA and EPA regulations, including the requirements of CAA section 110(a)(2)(A), 110(a)(2)(C), 110(l), 110(l), 172(c)(5), 172(c)(7), 173. While the August 20, 2013, submittal states that ammonia is not a precursor to PM2.5,1 and UDAQ has not submitted an analysis demonstrating that sources of ammonia, as a PM2.5 precursor, do not contribute significantly to PM2.5 levels that exceed the NAAQS in nonattainment areas in the State, UDAQ committed to submit a SIP revision that either (1) regulates major stationary sources of ammonia pursuant to Utah’s NNSR permitting program, consistent with all applicable federal regulatory requirements, or (2) demonstrates that sources of ammonia, as a PM2.5 precursor, do not contribute significantly to PM2.5 levels that exceed the NAAQS in nonattainment areas in the State, consistent with new provisions at 40 CFR 51.1006(a)(3). Therefore, we are conditionally approving the submittal’s PM2.5 precursor provisions.

Utah also committed to address additional remaining deficiencies in the State’s nonattainment permitting program in R307–403 by December 8, 2017, that were not addressed in the August 20, 2013, submittal, including revisions to R307–403–2, R307–403–3, and R307–403–4. Therefore, the EPA’s final conditional approval of these revisions allows Utah to apply R307–403 as permitting authority in all nonattainment areas for PM2.5, PM10, and SO2 as well as maintenance areas for ozone and CO for new major sources and major modifications.

We provided a detailed explanation of the basis of our proposed conditional approval in our proposed rulemaking (see 81 FR 75361). We invited comment on all aspects of our proposal and provided a 30-day comment period. The comment period ended on November 30, 2016.

III. Response to Comments

Comment: We received one (1) comment from Caitlin Whittaker. The commenter stated the importance of addressing emission offsets in Utah’s SIP, and that it is important for the air quality in Utah.

Response: The EPA agrees with the commenter that emissions offset programs for nonattainment areas are an important component for improving air quality, and we acknowledge the Utah Department of Environmental Quality’s work with the EPA to improve their air quality regulations, particularly with concern to their nonattainment area rules.

IV. What action is EPA taking today?

The EPA is taking final action to conditionally approve Utah’s August 20, 2013, submittal. As discussed in our proposal and this notice, our action is based on an evaluation of Utah’s rules against the requirements of CAA sections 110(a)(2)(C), 110(l), 172(c)(5), 172(c)(7), 173, and regulations at 40 CFR 51.165.

As described in our proposed rulemaking, and in Section II of this notice, the EPA is conditionally approving the revisions of R307–403–1 (Purpose and Definitions), R307–403–2 (Applicability), R307–403–11 (Actual Authorities), and the relocation of R307–401–19 (Analysis of Alternatives) to R307–403–10 and R307–401–20 (Relaxation of Limits) to R307–403–2. We are also determining that if the commitments outlined in Utah’s September 30, 2016 commitment letter (see docket EPA–80–OAR–2016–0220) are met, those revisions combined with the August 20, 2013, submittal would address the deficiencies in Utah’s nonattainment permitting program, as identified by the EPA in our proposed rulemaking for this action.

V. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.3, the EPA is finalizing the incorporation by reference of the UDAQ rules as described in the amendments to 40 CFR part 52 set forth in this
I. Identification of Plan.  

* * *  

(c) * * *

§ 52.2320 Identification of plan.

2 62 FR 27968 (May 22, 1997).
ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action on portions of six submittals from the state of Wyoming that are intended to demonstrate that the State Implementation Plan (SIP) meets certain interstate transport requirements of the Clean Air Act (Act or CAA). These submissions address the 2006 and 2012 fine particulate matter (PM2.5) National Ambient Air Quality Standards (NAAQS), 2008 ozone NAAQS, 2010 lead (Pb) NAAQS, 2010 sulfur dioxide (SO2) NAAQS and 2010 nitrogen dioxide (NO2) NAAQS. The interstate transport requirements under the CAA consist of four elements (or prongs): Significant contribution to nonattainment (prong 1) and interference with maintenance of the NAAQS in other states; and interference with measures required to prevent significant deterioration of air quality (prong 3) or to protect visibility (prong 4). Specifically, the EPA is approving Wyoming’s submissions for interstate transport prongs 1 and 2 for the 2008 Pb and 2010 NO2 NAAQS, and approving prong 1 and disapproving prong 2 for the 2008 ozone NAAQS. The EPA is also approving interstate transport prong 4 for the 2008 Pb and 2010 SO2 NAAQS, and disapproving prong 4 for the 2006 PM2.5, 2008 ozone, 2010 NO2 and 2012 PM2.5 NAAQS.

DATES: This final rule is effective on March 6, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket Identification Number EPA–R08–OAR–2016–0521. All documents in the docket are available on http://www.regulations.gov and in hard copy at Docket Identification Number EPA–R08–OAR–2016–0521. All documents in the docket are available on http://www.regulations.gov and in hard copy at the Air Program, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that you contact the individual listed in the FOR FURTHER INFORMATION CONTACT section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

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

I. Background

On November 18, 2016, the EPA proposed action on six submittals from Wyoming intended to address the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) for the 2008 Pb, 2008 ozone, 2010 NO2, 2010 SO2, and 2006 and 2012 PM2.5 NAAQS. 81 FR 81712. In that action, the EPA proposed to approve CAA section 110(a)(2)(D)(i)(I) prongs 1, 2 and 4 for the 2008 Pb NAAQS, prong 1 for the 2008 ozone NAAQS, prong 1 and 2 for NO2, and prong 4 for the 2010 SO2 NAAQS, and proposed to disapprove prong 4 for the 2006 PM2.5, 2008 ozone, 2010 NO2 and 2012 PM2.5, NAAQS, and prong 2 for the 2008 ozone NAAQS. An explanation of the CAA requirements, a detailed analysis of the State’s submittals, and the EPA’s rationale for all proposed actions were provided in the notice of proposed rulemaking, and will not generally be restated here. The public comment period for this proposed rule ended on December 19, 2016. The EPA received seven comments on the proposal, which will be addressed in the “Response to Comments” section, below. All of the comments relate to the EPA’s proposed action with respect to prongs 1 and 2 of CAA section 110(a)(2)(D)(i)(I) for the 2008 ozone NAAQS. We had proposed to approve the portion of the Wyoming SIP submittal pertaining to the CAA requirement that the State prohibit any emissions activity within the State from emitting air pollutants which will significantly contribute to nonattainment (prong 1) of the 2008 ozone NAAQS in other states and proposed to disapprove the portion of the Wyoming SIP submittal pertaining to the requirement that the state prohibit any emissions activity within the state interfering with maintenance (prong 2) of the 2008 ozone NAAQS in other states. In proposing to take this action, we noted two deficiencies in Wyoming’s submittal: (1) Wyoming limited its...