

Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” The EPA has concluded that this proposed rule will have tribal implications in that it will have substantial direct effects on the Northern Cheyenne Tribe. However, it will neither impose substantial direct compliance costs on tribal governments nor preempt tribal law. The EPA is proposing to approve the TIP at the request of the Tribe. Tribal law will not be preempted as the Tribe has already incorporated the TIP into Tribal law on December 7, 2016. The Tribe has applied for, and fully supports, the proposed approval of the TIP. If it is approved, the TIP will become federally enforceable.

List of Subjects in 40 CFR Part 49

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Indians, Indians—law, Indians—tribal government, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: February 17, 2021.

Debra H. Thomas,

Acting Regional Administrator, Region 8.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2020–0541; FRL–10019–42–Region 8]

Approval and Promulgation of Implementation Plans; Utah; R307–204 Emission Standards: Smoke Management

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision package submitted by the State of Utah on November 5, 2019. The November 5, 2019 revision amends R307–204 to meet the requirements set forth in Utah’s 2019 House Bill (H.B.) 155. This action is being taken under section 110 of the Clean Air Act (CAA).

DATES: Written comments must be received on or before March 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2020–0541, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.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 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 electronically in www.regulations.gov. To reduce the risk of COVID–19 transmission, for this action we do not plan to offer hard copy review of the docket. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT:

Amrita Singh, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, (303) 312–6103, singh.amrita@epa.gov.

SUPPLEMENTARY INFORMATION:

Specifically, EPA is proposing to approve revisions to sections: R307–204–1. Purpose and Goals; R307–204–2. Applicability; R307–204–3. Definitions; R307–204–4. General Requirements; R307–204–5. Burn Schedule; R307–204–6. Small Prescribed Fires (*de minimis*); R307–204–7. Small Prescribed Fires (*de minimis*); R307–204–8. Large Prescribed Fires; R307–

204–9. Large Prescribed Pile Fires; and R307–204–10. Requirements for Wildland Fire Use Events.

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

The EPA’s Interim Air Quality Policy on Wildland and Prescribed Fires¹ was designed to integrate two public policy goals, (1) to allow fire to function as nearly as possible, in its natural role in maintaining healthy wildland ecosystems, and (2) to protect public health and welfare by mitigating the impacts of air pollutant emissions on air quality and visibility. The document expands on the responsibilities of wildland owners/managers and state/tribal air quality managers to coordinate fire activities, minimize air pollutant emissions, manage smoke from prescribed fires as well as wildland fires used for resource benefits, and establish emergency action programs to mitigate the unavoidable impacts on the public.

EPA does not directly regulate the use of fire within a state or in Indian country. The agency’s authority is to enforce the requirements of the CAA, which requires states to attain and maintain the National Ambient Air Quality Standards (NAAQS) adopted to protect public health and welfare. The Air Quality Policy on Wildland and Prescribed Fires recommends that states/tribes implement Smoke Management Plans (SMPs) to mitigate the public health and welfare impacts of fires managed for resource benefits. The SMPs establish a basic framework of procedures and requirements for managing smoke from fires managed for resource benefits and are typically developed by states/tribes with cooperation and participation by wildland owners/managers. The goal of SMPs is to prevent deterioration of air quality and NAAQS violations; to address visibility impacts in mandatory Class 1 Federal areas; and to reduce the nuisance and public safety hazards posed by smoke intrusions into populated areas.

The SMP serves as the operational plan for the state administrative rule, R307–204, by providing the direction and operating procedures for all organizations involved in the use of prescribed fire, wildfire, and wildland fire use. The procedures that land managers are required to follow to mitigate the impact of smoke on public health and visibility in the State is established by the rule, R307–204. The

¹ See EPA’s “Interim Air Quality Policy on Wildland and Prescribed Fires” May 15, 1998.

Utah Enhanced Smoke Management Plan (ESMP)),² (Appendix B of the SMP), provides details on the visibility requirements of the Regional Haze Rule, 40 CFR 51.309(d)(6), and operating procedures to reduce visibility impacts from smoke in Class 1 Federal areas.³ The SMP was approved by the EPA on Nov. 8, 1999,⁴ under the Interim Air Quality Policy on Wildland and Prescribed Fires. The requirements established in the SMP provide the framework for R307–204 Emission Standards: Smoke Management. Previously, EPA approved the September 29, 2011 R307–204 submittal which superseded and replaced the R307–204 portion of the December 12, 2003 submittal and all of the May 8, 2006 submittal.

II. The EPA's Evaluation

Section 110(k) of the CAA addresses the EPA's rulemaking action on SIP submissions by states. The CAA requires states to observe certain procedural requirements in developing SIP revisions for submittal to the EPA. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a state to EPA.

Pursuant to 40 CFR 51.309(d)(6), a state must show that its smoke management program and all federal or private programs for prescribed fire in the state have a mechanism in place for evaluating and addressing the degree of visibility impairment from smoke in their planning and application of burning. A state must also ensure that its prescribed fire smoke management programs have at least the following seven elements: Action to minimize emissions; evaluation of smoke dispersion; alternatives to fire; public

notification; air quality monitoring; surveillance and enforcement; and program evaluation.

On June 5, 2019 the State of Utah's Department of Environmental Quality, Air Quality Board approved proposed amendments to R307–204 to include requirements established by the Utah State Legislature set forth in 2019 H.B. 155.⁵ A public comment period was held from July 1 to July 31, 2019. One non-substantive comment was received, and no public hearing was requested. The main purpose for amending R307–204 was to meet the requirements set forth in 2019 H.B. 155 which states:

“In the rules made by the board the board shall require the land manager to:

- (i) describe the use of state, county, or municipal resource in the large prescribed fire or large prescribed pile fire;
- (ii) provide the division the burn plan for a large prescribed fire or large prescribed pile fire by no later than one week before the day of the burn window; and
- (iii) notify the division of nonfull suppression event once a fire becomes a nonfull suppression event.”

The rule revisions include removing outdated terminology, such as, “wildland fire use,” “plan stage” and language regarding adjusting fire emission factors. Also, in EPA's 1998 “Interim Air Quality Policy on Wildland and Prescribed Fires,” it is stated that federally prescribed fire projects would be considered to conform with the implementation plan if they are managed under a certified basic SMP. Since, Utah's SMP meets that criteria, the State will be removing conformity from R307–204. Finally, Section R307–204–6. Small Prescribed Fires (de minimis), R307–204–7. Small Prescribed Pile Fires (de minimis), Section R307–204–8. Large Prescribed Fires and R302–20–9. Large Prescribed Pile Fires will be combined to reduce redundancies.

III. Proposed Action

EPA is proposing to approve a SIP revision submitted by the State of Utah on November 5, 2019. The revisions meet the requirements set forth in Utah's State Legislature's H.B. 155 and reduce redundancies and outdated portions of the rule, while also streamlining it. EPA is proposing to approve revisions to sections: R307–204–1. Purpose and Goals; R307–204–2. Applicability; R307–204–3. Definitions; R307–204–4. General Requirements; R307–204–5. Burn Schedule; R307–204–6. Small Prescribed Fires (de minimis); R307–204–7. Small

Prescribed Fires (de minimis); R307–204–8. Large Prescribed Fires; R307–204–9. Large Prescribed Pile Fires; and R307–204–10. Requirements for Wildland Fire Use Events. The revision for R307–204 meets the applicable CAA requirements and contains smoke management requirements for land managers within the State of Utah as required by 40 CFR 51.309(d)(6).

IV. Incorporation by Reference

In this document, the EPA, is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Utah rules promulgated in the Division of Administrative Rule (DAR), R307–204–1, R307–204–2, R307–204–3, R307–204–4, R307–204–5, R307–204–6, R307–204–7, R307–204–8, R307–204–9 and R307–204–10, as discussed in section III of the preamble. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, 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 CAA. 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 action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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.*);

² See docket for Utah's Enhanced Smoke Management Plan August 1, 2003.

³ Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acre, and all international parks that were in existence on August 7, 1977. 42 U.S.C. 7472(a). In accordance with section 169A of the CAA, EPA, in consultation with the Department of the Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). The extent of a Mandatory Class I area includes subsequent changes in boundaries, such as park expansions. 42 U.S.C. 7472(a). Although states and tribes may designate as Class I additional areas which they consider having visibility as an important value, the requirements of the visibility program set forth in section 169A of the CAA apply only to “mandatory Class I Federal areas. Each mandatory Class I Federal area is the responsibility of a ‘Federal Land Manager.’”

⁴ See docket for Utah's Smoke Management Plan approved in 1992 and last revised on January 16, 2006.

⁵ See docket for Utah's State Legislature's H.B. 155 from the 2019 General Session.

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: February 11, 2021.

Debra Thomas,

Acting Regional Administrator, EPA Region 8.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2020–0467; FRL–10020–71–Region 5]

Air Plan Approval; Illinois; Public Participation in the Permit Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Illinois State Implementation Plan (SIP) that were submitted on August 27, 2020 by the Illinois Environmental Protection Agency (IEPA). These revisions affect the public notice rule provisions for the New Source Review (NSR) and title V Operating Permit programs (title V) of the Clean Air Act (CAA). The revisions remove the mandatory requirement to provide public notice of draft CAA permits in a newspaper and allow electronic notice (e-notice) as an alternate noticing option. EPA is proposing to approve these revisions pursuant to the CAA and implementing Federal regulations.

DATES: Comments must be received on or before March 29, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2020–0467 at <http://www.regulations.gov>, or via email to damico.genevieve@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, 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. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For 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>.

FOR FURTHER INFORMATION CONTACT:

Daniel Wolski, Physical Scientist, Air Permitting Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–0557, wolski.daniel@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

I. Background

On October 5, 2016, EPA finalized revised public notice rule provisions for the NSR, title V, and Outer Continental Shelf permitting programs of the CAA. See 81 FR 71613 (October 18, 2016). These rule provisions remove the mandatory requirement to provide public notice of a draft air permit through publication in a newspaper and allow for internet e-notice as an option for permitting authorities implementing their own EPA-approved SIP rules and title V rules. Permitting authorities are not required to adopt e-notice. A permitting authority with an EPA-approved permitting program, such as IEPA, may continue to use newspaper notification or supplement e-notice with newspaper notification or additional means of notification. When e-notice is provided, EPA’s rule requires electronic access (e-access) to the draft permit. Generally, state and local agencies are expected to post the draft permits and public notices in a designated location on their agency websites. For the noticing of draft permits issued by permitting authorities with EPA-approved programs, the rule requires the permitting authority to use “a consistent noticing method” for all permit notices under the specific permitting program. Permitting authorities must also provide the public with reasonable access to the other materials that support the permit decision (*e.g.*, the permit application, statement of basis, fact sheet, preliminary determination, final determination and response to comments) as required by existing regulations, however such materials which comprise the permit record may be provided either electronically, at a physical location, or a combination of both.

EPA anticipates that e-notice, which is already being practiced by many