TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS—Continued

State	Title/subject	Adopted date by State	Approved date by EPA	Federal Register citation	52.1020	
	Reasonably available control technology for facilities that emit volatile organic compounds.	5/10/01	5/20/02	[Insert FR citation from published date].	(c)(51)	VOC RACT determination for for Moosehead Manufacturing's Monson plant.
	* * * * * * *					

[FR Doc. 02–12469 Filed 5–17–02; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 62

[UT–001–0034a, UT–001–0035a; FRL–7201–3]

Clean Air Act Approval and Promulgation of State Implementation Plan; Utah; Revisions to Air Pollution Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving two separate State Implementation Plan (SIP) revisions submitted by the Governor of Utah on June 17, 1998. The submittals repeal Utah's Air Conservation Regulations (UACR) R307–1–4.11 Regulation for the Control of Fluorides From Existing Plants and R307–2–28 Section XX, Committal SIP. In addition, the submittals revise R307–7 Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery. The intended effect of this action is to make federally enforceable those provisions of Utah's June 17, 1998 submittals that EPA is approving and to remove from the SIP those provisions that Utah has repealed. This action is being taken under section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on July 19, 2002 without further notice, unless we receive adverse comment by June 19, 2002. If we receive adverse comments, we will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should mail your written comments to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency, Region VIII, 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 Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202–2466. Copies of the Incorporation by Reference material are available at the Air and Radiation Docket (6102), Environmental Protection Agency, 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: Laurel Dygowski, EPA Region VIII, (303) 312–6144.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''our,'' or ''us'' is used, we mean EPA.

Table of Contents

I. Summary of EPA's Actions

We are approving revisions to the SIP submitted by the Governor of Utah on June 17, 1998. Specifically, we are approving the repeal of UACR R307–1–4.11 Regulation for the Control of Fluorides From Existing Plants. This rule is obsolete and is no longer needed. We are also approving revisions to UACR R307–7 Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery. These revisions represent minor changes and corrections to cross references. In addition, we are taking no action on the submittal repealing R307–2–28 Section XX, Committal SIP since this rule was never approved by the EPA and thus was never part of the SIP.

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

Section 110(k) of the Act addresses our actions on submissions of SIP revisions. The Act also requires States to observe certain procedures in developing SIP revisions. Section 110(a)(2) of the Act requires that each SIP revision be adopted after reasonable notice and public hearing. We have evaluated the State's submission and determined that the necessary procedures were followed. We also must determine whether a submittal is complete and therefore warrants further review and action (see section 110(k)(1) of the Act). Our completeness criteria for SIP submittals can be found in 40 CFR part 51, appendix V. We attempt to determine completeness within 60 days of receiving a submission. However, the law considers a submittal complete if we do not determine completeness within six months after we receive it. These submissions became complete by operation of law on December 17, 1998 in accordance with section 110(k)(1)(B) of the Act.

A. R307–1–4.11 Regulation for the Control of Fluorides From Existing Plants

The Utah Air Quality Board held a public hearing on October 22, 1997, to repeal UACR R307–1–4.11 Regulation for the Control of Fluorides from Existing Plants from the SIP. The removal of UACR R307–1–4.11 became State effective on November 6, 1997 and was submitted by the Governor of Utah to us on June 17, 1998.

B. R307–2–28 Section XX, Committal SIP

The Utah Air Quality Board held a public hearing on October 22, 1997, to repeal UACR R307–2–28 which incorporates by reference Section XX, Committal SIP, from the SIP. The removal of UACR R307–2–28 Section XX from the SIP became State effective on November 6, 1997 and was submitted by the Governor of Utah to us on June 17, 1998.

C. R307–7 Exemption From Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery

The Utah Air Quality Board held a public hearing on September 19, 1996, to amend UACR R307–7 Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery. The revision to UACR R307–7 became State effective on November 15, 1996 and was submitted by the Governor of Utah to us on June 17, 1998.

III. Evaluation of the State's Submittal

A. R307–1–4.11 Regulation for the Control of Fluorides From Existing Plants

UACR R307–1–4.11 is entitled ''Regulation for the Control of Fluorides from Existing Plants.'' This rule was repealed by the State on November 6, 1997. Previously, we had incorporated this provision into the Federally approved SIP. Since fluoride emissions are not generally related to attainment or maintenance of the NAAQS, we are approving the deletion of UACR R307–1–4.11 from the SIP. In addition, UACR R307–1–4.11 only applied to the Chevron Chemical Company Phosphate Fertilizer Plant which was located in Salt Lake County. In a letter dated June 30, 1998, the State indicated that the plant has been dismantled, and the rule is no longer needed. We are approving the repeal of UACR R307–1–4.11 from Utah's SIP.

Additionally, since this rule was approved as meeting the 111(d) requirements for Fluorides from Existing Phosphate Fertilizer Plants, on January 30, 2002 the State submitted a letter indicating there were no phosphate fertilizer plants in Utah. Specifically, the letter indicated that there are no phosphate fertilizer plants in Utah that meet the definition of affected facility under 40 CFR part 60, subpart T, U, V, W or X, Standards of Performance for the Phosphate Fertilizer Industry. Additionally, there are no phosphate fertilizer plants in Utah that meet the definition of affected facility under 40 CFR part 62, subpart T, U, V, W or X, constructed before October 22, 1974, and that have not reconstructed or modified since 1974.[1] We are revising 40 CFR part 62, subpart TT to indicate that Utah has certified that it has no such sources.

B. R307–2–28 Section XX, Committal SIP

UACR R307–2–28 incorporates by reference Section XX, Committal SIP. Section XX committed the State to adopt certain measures to control ozone. This rule was never approved by the EPA based on the results of a lawsuit that disallowed the EPA's right to request committal SIPs. In addition, the committal SIP is now irrelevant since the EPA has approved Utah's Ozone Maintenance Plan. Since this rule was never approved into the SIP, we are taking no action on the June 17, 1998 submittal request to repeal R307–2–28.

C. R307–7 Exemption From Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery

UACR R307–7 is entitled ''Exemption from Notice of Intent Requirements for Used Oil Fuel Burned for Energy Recovery.'' This rule exempts certain sources from the notice of intent requirement (permit application) of R–307–1–3. This rule has been re-numbered to UACR R307–413–7 and re-titled ''Used Oil Burned for Energy Recovery,'' since the SIP revision was submitted. Under Utah Administrative Rulemaking Act, 63–46a–9, the State must review rules every five years. Following a review of this rule, SIP revisions were made to UACR R307–7 which clarify and update the rule. The SIP revision to UACR R307–7 includes the following minor clarifications and corrections:

1. Expands the definition of a boiler in R307–7–1 by including additional language that defines specific types of boilers,

2. Changes the record keeping requirements in R307–7–3 from two years to three years to be consistent with the Solid and Hazardous Waste Rule R315–15–4.7(d),

3. Clarifies the reference in R307–7–2 to R307–1–3,

4. Updates the statutory authorization at the end of the rule to reflect the separation of the Department of Environmental Quality from the Department of Health in 1991.

The revisions to UACR R307–7 are acceptable and we are approving them into the SIP. We caution that if sources are subject to more stringent requirements under the provisions of the Clean Air Act or other environmental statutes, our approval of the SIP revision does not excuse sources from meeting those other, more stringent, requirements. Note that EPA is not approving the renumbering and renaming of the rule at this time.

IV. Final Action

In this action, we are granting approval to repeal UACR R307–1–4.11 from Utah's SIP. We are also approving revisions to UACR R307–7 of Utah's SIP submitted by the Governor of Utah on June 17, 1998. We are taking no action on the request to repeal R307–2–28.

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. The Utah SIP revisions that are the subject of this document do not interfere with the maintenance of the NAAQS or any other applicable requirement of the Act because of the following: (1) Fluoride emissions are not related to attainment of the NAAQS and also there are no fluoride plants in Utah that meet the definition of affected facility under 40 CFR part 60; (2) revisions to R307–7 make the rule more stringent than the current rule and will enhance the State's efforts in implementing the Clean Air Act. Therefore, section 110(l) requirements are satisfied.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revisions if adverse comments are filed. This rule will be effective July 19, 2002 without further notice unless the Agency receives adverse comments by June 19, 2002. If we receive adverse comments, then we will publish a timely withdrawal of the direct final rule, in the **Federal Register**, informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 19, 2002, and no further action will be taken on the proposed rule. Please note that if we

[1] The State letter references part 62. We believe they intended to reference part 60. Part 60 contains the performance standards and part 62 contains the approval status of state plans.

receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. 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 (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 July 19, 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Fluoride, Intergovernmental relations, Phosphate, Reporting and recordkeeping requirements.

Dated: April 15, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region VIII.

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 TT—Utah

2. Section 52.2320 is amended by adding paragraph (c)(47) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(47) The Governor of Utah submitted a request to repeal sections R307–1–4.11 and R307–2–28, and revise R307–7of the Utah Air Conservation Regulations (UACR) on June 17, 1998. R307–1–4.11 is removed from the SIP. No action was taken on the repeal of R307–2–28 because it was never approved into the SIP.

(i) Incorporation by reference.

(A) UACR R307–7 effective November 15, 1996.

Part 62 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671.

Subpart TT—Utah

2. Section 62.11100 is revised to read as follows:

Fluoride Emissions from Existing Phosphate Fertilizer Plants

§ 62.11100 Identification of plan—negative declaration.

The Utah Department of Environmental Quality certified in a letter dated January 30, 2002 that there are no phosphate fertilizer plants in Utah that meet the definition of affected facility under 40 CFR part 60, subpart T, U, V, W or X, Standards of Performance for the Phosphate Fertilizer Industry.

Additionally, there are no phosphate fertilizer plants in Utah that meet the definition of affected facility under 40 CFR part 62, subpart T, U, V, W or X, constructed before October 22, 1974, and that have not reconstructed or modified since 1974.

(Note: the State referenced part 62 in the second sentence. We believe they meant part 60).

[FR Doc. 02–12413 Filed 5–17–02; 8:45 am]

BILLING CODE 6560–50–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

40 CFR Part 1603

Rules Implementing the Government in the Sunshine Act

AGENCY: Chemical Safety and Hazard Investigation Board.

ACTION: Final rule.

SUMMARY: The Chemical Safety and Hazard Investigation Board adopts new regulations establishing the agency's procedures for implementing the Government in the Sunshine Act.

DATES: This rule is effective June 19, 2002.

FOR FURTHER INFORMATION CONTACT: Christopher Kirkpatrick, (202) 261–7600.

SUPPLEMENTARY INFORMATION: The Chemical Safety and Hazard Investigation Board (''CSB'' or ''Board''), as an agency headed by a collegial body composed of five members appointed by the President with the advice and consent of the Senate, is subject to the Government in the Sunshine Act (''Sunshine Act'' or ''Act''), 5 U.S.C. 552b. The Sunshine Act establishes standards for publicizing and permitting access to agency meetings, and for closing meetings to the public under certain conditions. The Act requires agencies to promulgate regulations to implement the statute's requirements.

In the **Federal Register** of April 8, 2002 (67 FR 16670), the CSB published a proposed rule setting forth its regulations for the implementation of the Sunshine Act. The proposed rule provided for a 30-day comment period. No comments were received in response to the proposed rule and invitation for comments. This final rule is unchanged from the proposed rule, except for the correction of a technical error in § 1603.7(h).

This rule implements the requirements of the Sunshine Act. This rule mirrors the Sunshine Act regulations of many other agencies, most specifically, those of the National Transportation Safety Board (49 CFR part 804) and the Defense Nuclear Facilities Safety Board (10 CFR part 1704).

Regulatory Flexibility Act

The Board, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and certifies that it will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48.

List of Subjects in 40 CFR Part 1603

Sunshine Act.

For the reasons set forth in the preamble, the Chemical Safety and Hazard Investigation Board adds a new 40 CFR part 1603 to read as follows:

PART 1603—RULES IMPLEMENTING THE GOVERNMENT IN THE SUNSHINE ACT

Sec.

Authority: 5 U.S.C. 552b; 42 U.S.C. 7412(r)(6)(N).

§ 1603.1 Applicability.

(a) This part implements the provisions of the Government in the Sunshine Act, 5 U.S.C. 552b. These procedures apply to meetings, as defined herein, of the Members of the Chemical Safety and Hazard Investigation Board (''CSB'' or ''Board'').

(b) This part does not affect the procedures by which CSB records are made available to the public, which continue to be governed by part 1601 of this chapter pursuant to the Freedom of Information Act, 5 U.S.C. 552, except that the exemptions set forth in § 1603.7 shall govern in the case of any requests made for the transcripts, recordings, and minutes described in § 1603.11.

§ 1603.2 Policy.

It is the policy of the CSB to provide the public with the fullest practicable information regarding the decisionmaking processes of the Board, while protecting the rights of individuals and the ability of the Board to discharge its statutory functions and responsibilities. The public is invited to attend but not to participate in open meetings. For any open meeting, the Board, by majority vote, may decide to allow for a public comment period immediately following the close of that meeting.

§ 1603.3 Definitions.

As used in this part:

(a) *Days* means calendar days, except where noted otherwise.

(b) *General Counsel* means the Board's principal legal officer, or a CSB attorney serving as Acting General Counsel.

(c) *Meeting* means the deliberations of at least a quorum of Members where such deliberations determine or result in the joint conduct or disposition of official CSB business, and includes conference telephone calls or other exchanges otherwise coming within the definition. A meeting does not include:

(1) Notation voting or similar consideration of business, whether by circulation of material to the Members individually in writing or by a polling of the Members individually by telephone.

(2) Action by at least a quorum of Members to:

(i) Open or to close a meeting or to release or to withhold information pursuant to § 1603.7;

(ii) Set an agenda for a proposed meeting(s);

(iii) Call a meeting on less than seven days' notice as permitted by § 1603.9(b); or

(iv) Change the subject matter or the determination to open or to close a publicly announced meeting under § 1603.10(b).

(3) A session attended by at least a quorum of Members for the purpose of having the Board's staff or expert consultants to the Board brief or otherwise provide information to the Board concerning any matters within