

remain within the regulated area by contacting the Captain of the Port Miami by telephone at 305-535-4472, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(2) The Coast Guard will provide notice of the safety zone by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule will be enforced from 6:30 a.m. until 10 a.m. on October 27, 2013.

Dated: August 9, 2013.

A.J. Gould,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 2013-21624 Filed 9-4-13; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2012-0300; FRL-9900-66-Region8]

Approval and Promulgation of State Implementation Plans; Utah: Prevention of Significant Deterioration; Greenhouse Gas Permitting Authority and Tailoring Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove revisions to the Utah State Implementation Plan (SIP) relating to regulation of Greenhouse Gases (GHGs) under Utah's Prevention of Significant Deterioration (PSD) program and other SIP provisions. These revisions were submitted to EPA on April 14, 2011 by the Governor. The GHG-related SIP revisions are designed to align Utah's regulations with the GHG emission thresholds established in EPA's "PSD and Title V Greenhouse Gas Tailoring Final Rule," which EPA issued by notice dated June 3, 2010. In today's action, EPA is proposing to approve the GHG (as it relates to the PSD program) revisions because the Agency has determined that this SIP revision, which is already adopted by Utah as a final effective rule, is in accordance with the Clean Air Act (CAA or Act) and EPA regulations regarding PSD permitting for GHGs.

DATES: Comments must be received on or before September 26, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2012-0300, by one of the following methods:

- *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Email:* ostendorf.jody@epa.gov.
- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop St., Denver, Colorado 80202-1129.
- *Hand Delivery:* Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop St., Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R08-OAR-2011-0300. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or email. The www.regulations.gov Web site is an anonymous access system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through www.regulations.gov your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or

viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

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 either electronically in www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202-1129. EPA requests that if at all possible, 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: Jody Ostendorf, Air Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop St., Denver, Colorado 80202-1129, (303) 312-7814, ostendorf.jody@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" refer to EPA.

Table of Contents

- I. What action is EPA taking in this proposed rule?
- II. Background for Our Proposed Action
- III. Utah's Actions
- IV. EPA's Analysis of Utah's Proposed SIP Revisions
- V. Proposed Action
- VI. Statutory and Executive Order Reviews

I. What action is EPA taking in this proposed rule?

In a letter dated April 14, 2011, the Governor of Utah submitted a request to EPA to approve revisions to the State's SIP and Title V program to incorporate recent rule amendments adopted by the Utah Air Quality Board on December 1, 2010. These adopted rules became effective in the Utah Administrative Code on January 1, 2011. These amendments establish thresholds for GHG emissions in Utah's PSD and Title V regulations at the same emissions thresholds and in the same time-frames as those specified by EPA in the "PSD

and Title V Greenhouse Gas Tailoring; Final Rule” (75 FR 31514 (June 3, 2010)), hereinafter referred to as the “Tailoring Rule,” ensuring that smaller GHG sources emitting less than these thresholds will not be subject to permitting requirements for GHGs that they emit. The requested amendments to the SIP will clarify the applicable thresholds in the Utah SIP, address the flaw discussed in the “Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans Final Rule,” 75 FR 82536 (December 30, 2010) (the “PSD SIP Narrowing Rule”), and incorporate state rule changes adopted at the state level into the federally-approved SIP.

We are proposing to approve amendments to the following rules: R307–405–3 (Permits: Major Sources in Attainment or Unclassified Areas (PSD), Definitions); and R307–401–9 (Permit: New and Modified Sources, Small Source Exemption). We are not acting on the changes to R307–415–3 (Permits: Operating Permit Requirements, Definitions) and related definitions in R307–405–3 in this notice because approval of Title V program revisions is handled separately and because Title V is not part of the SIP. Additionally, consistent with our June 12, 2013 proposal (78 FR 35181), we are proposing to disapprove the changes to the following: R307–401–7 (Public Notice), which was effective in the Utah Administrative Code on December 1, 2010; and change to R307–401–9(b) and portions of (c) (Small Source Exemption), which were effective in the Utah Administrative Code on January 1, 2011. Finally, consistent with our final action on July 15, 2011 (76 FR 41712), we are proposing to disapprove R307–405–3(2)(a)(i) because it defines “Minor Source Baseline Date” in a manner inconsistent with the federal definition found at 40 CFR 52.21(b)(14).

II. Background for Our Proposed Action

Clean Air Act (CAA) section 110(a)(2)(C) requires states to develop and submit to EPA for approval into the state SIP preconstruction review and permitting programs applicable to certain new and modified stationary sources of air pollutants. There are three separate programs: Prevention of Significant Deterioration (PSD), Nonattainment New Source Review (NNSR), and Minor NSR. The PSD program is established in part C of title I of the CAA and applies in areas that meet the National Ambient Air Quality Standards (NAAQS)—“attainment

areas”—as well as areas where there is insufficient information to determine if the area meets the NAAQS—“unclassifiable areas.” The NNSR program is established in part D of title I of the CAA and applies in areas that are not in attainment of the NAAQS—“nonattainment areas.” The Minor NSR program (1) addresses construction or modification activities that do not emit, or have the potential to emit, beyond certain major source thresholds and thus do not qualify as “major” and (2) applies regardless of the designation of the area in which a source is located. EPA regulations governing the criteria that states must satisfy for EPA approval of the NSR programs as part of the SIP are contained in 40 CFR 51.160—51.166.

PSD is implemented through the SIP system. In December 2010, EPA promulgated several rules to implement the new GHG PSD SIP program. Recognizing that some states had approved SIP PSD programs that did not apply PSD to GHGs, EPA issued a SIP Call and, for some of these states, a Federal Implementation Plan (FIP).¹ Recognizing that other states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tons per year (tpy) of GHG, and that do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule, EPA issued the PSD SIP Narrowing Rule. Under that rule, EPA converted its previous full approval of the affected SIPs to a partial approval and partial disapproval, including Utah’s, to the extent those SIPs covered GHG-emitting sources below the Tailoring Rule thresholds. EPA based its action primarily on the “error correction” provisions of CAA section

110(k)(6). Many of those states have since submitted SIP revisions that have established the Tailoring Rule thresholds, and EPA has approved those SIP revisions and rescinded partial disapprovals.

III. Utah’s Actions

On April 14, 2011, Utah submitted a letter to EPA, in accordance with a request to all states from EPA in the Tailoring Rule, with confirmation that the State of Utah has the authority to regulate GHGs in its PSD program. The letter also confirmed Utah’s intent to amend its air quality rules for the PSD program for GHGs to match the thresholds set in the Tailoring Rule. See the docket for this proposed rulemaking for a copy of Utah’s letter. Utah has a current SIP-approved PSD program, and has most recently been approved by EPA to incorporate the 2002 NSR Reform revisions for PSD into its SIP. See 76 FR 41712 (July 15, 2011). As described in our July 15, 2011 notice of approval (with the exceptions noted in that notice and, as applicable, also explained in this notice), Utah’s PSD program at that date met the general requirements of CAA section 110(a)(2)(C).

In the PSD SIP Narrowing Rule, published on December 30, 2010, EPA withdrew its approval of Utah’s SIP (among other states’ SIPs) to the extent that the SIP applies PSD permitting requirements to GHG emissions from sources emitting at levels below those set in the Tailoring Rule.² As a result, Utah’s current approved SIP provides the state with authority to regulate GHGs, but only at and above the Tailoring Rule thresholds; and requires new and modified sources to receive a federal PSD permit based on GHG emissions only if they emit or have potential to emit at or above the Tailoring Rule thresholds.

The basis for proposing approval of this SIP revision is that limiting PSD applicability to GHG sources with the higher thresholds in the Tailoring Rule is consistent with the SIP provisions that require assurances of adequate resources. This revision addresses the flaw in the Utah SIP that led to the PSD SIP Narrowing Rule. Specifically, CAA section 110(a)(2)(E) includes as a requirement for SIP approval that states provide “necessary assurances that the state . . . will have adequate personnel [and] funding . . . to carry out such [SIP].” In the Tailoring Rule, EPA

¹ Specifically, by action dated December 13, 2010, EPA finalized a “SIP Call” that would require those states with SIPs that have approved PSD programs but do not authorize PSD permitting for GHGs to submit a SIP revision providing such authority. “Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call,” 75 FR 77698 (December 13, 2010). EPA made findings of failure to submit in some states which were unable to submit the required SIP revision by their deadlines, and finalized FIPs for such states. See, e.g., “Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure To Submit State Implementation Plan Revisions Required for Greenhouse Gases,” 75 FR 81874 (December 29, 2010); “Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan,” 75 FR 82246 (December 30, 2010). Because Utah’s SIP already authorizes Utah to regulate GHGs once GHGs became subject to PSD requirements on January 2, 2011, Utah is not subject to the SIP Call or FIP.

² “Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule.” 75 FR 82536 (December 30, 2010).

established higher thresholds for PSD applicability to GHG-emitting sources, in part, because the states generally did not have adequate resources to apply PSD to GHG-emitting sources below the Tailoring Rule thresholds,³ and no state, including Utah, asserted that it did have adequate resources to do so.⁴ In the PSD SIP Narrowing Rule, EPA found that the affected states, including Utah, had a flaw in their SIP at the time they submitted their PSD programs, which was that the applicability of the PSD programs was potentially broader than the resources available to them under their SIP.⁵ Accordingly, for each affected state, including Utah, EPA concluded that EPA's action in approving the SIP was in error, under CAA section 110(k)(6), and EPA rescinded its approval to the extent the PSD program applies to GHG-emitting sources below the Tailoring Rule thresholds.⁶ EPA recommended that states adopt a SIP revision to incorporate the Tailoring Rule thresholds, thereby (i) assuring that under state law, only sources at or above the Tailoring Rule thresholds would be subject to PSD; and (ii) avoiding confusion under the federally approved SIP by clarifying that the SIP applies only to sources at or above the Tailoring Rule thresholds.⁷

Utah's April 14, 2011, SIP submission establishes thresholds for determining which stationary sources and modification projects become subject to permitting requirements for GHG emissions under Utah's PSD program. Specifically, the SIP revision includes changes—which are already effective in Utah's Administrative Code—revising R307-405-3 and R307-415-3 to incorporate changes to Title 40 of the Code of Federal Regulations that address GHG emissions from stationary sources, required by the May 13, 2010 EPA final rule. The amendments to R307-401-9 exclude sources from the requirement to obtain an Approval Order if their GHG emissions are below the thresholds established by EPA.

The changes to Utah's PSD program regulations are substantively the same as the federal provisions amended in EPA's Tailoring Rule.

IV. EPA's Analysis of Utah's Proposed SIP Revisions

Utah has adopted and submitted regulations that are substantively similar to the federal requirements for

the permitting of GHG-emitting sources subject to PSD. We propose to conclude that the revisions are consistent with the requirements of 40 CFR 51.166, in particular requirements set out in EPA's final GHG Tailoring Rule, and that the revisions should be approved into Utah's SIP.

R307-401-9 (Small Source Exemption), was revised to exclude sources from the requirement to obtain an approval order if their GHG emissions are below the thresholds established by EPA, and adopted into the State rules (R307-401-9(5)). Therefore, preconstruction permits for GHGs are only required under the PSD permitting program, thus exempting minor sources from GHG permitting.

R307-405-3 (Definitions), was revised to amend the definition of “subject to regulation” to include “greenhouse gases (GHGs)” as defined in 40 CFR 86.1818–12(a). R307-405-3 was modified to establish thresholds for permitting of GHGs under the PSD program. Definitions for the terms “GHGs”, “emissions increase” and “tpy CO₂ equivalent emissions (CO₂e)”, were added to this rule. Applicability thresholds for several different types of permitting scenarios were also added. Therefore, we are proposing to approve the state's additions to R307-405-3(9) as they are consistent with the federal rule provisions in 40 CFR 51.166(b)(48).

We are proposing to approve R307-405-3(2)(e). This is a new rule that is not currently in the SIP. The rule explains that “certain definitions or portions of definitions that apply to the equipment repair and replacement provisions are not incorporated into the SIP because these provisions were vacated by the D.C. Circuit Court of Appeals”. We are proposing to approve this rule as it is consistent with the federal definitions.

We are also proposing to approve R307-405-3(2)(f). This is a new rule and makes changes to the definition of “Regulated NSR Pollutant” in 40 CFR 52.21(b)(50). We are proposing to approve this rule, as the State's rule is consistent with the federal definition, which is now at 40 CFR 52.21(b)(49) and 40 CFR 51.166(b)(49).

There are six provisions in the R307-405-3 in the State submittal that are identical in rule number and language to the definitions we approved in our July 15, 2011 approval (76 FR 41712) and we are proposing to approve these definitions as resubmitted. These provisions include: R307-405-3(1) (adopting by reference the definitions in 40 CFR 52.21(b) with exceptions as noted in the rules); R307-405-3(2)(c) (definition of “Reviewing Authority”);

R307-405-3(2)(d) (definition of “Administrator”); R307-405-3(4) (definition of “Heat Input”); R307-405-3(7) (definition of “Good Engineering Practice”); R307-405-3(8) (definition of “Dispersion Technique”);

There are two definitions in the State submittal where the definition is the same as in the current SIP, but the current submittal contains a new rule number. We are proposing to approve the following definitions and rule numbers: R307-405-3(2)(a)(ii) (definition of “Minor Source Baseline Date”), which is located in the current SIP at R307-405-3(3)(a)(ii); and R307-405-3(3) (definition of “Air Quality Related Values”), which is located in the current SIP at R307-405-3(2).

We are not acting on rule provisions related to the Title V program. There are two specific definitions we are not acting on: R307-405-3(5) (definition of “Title V Permit”) and R307-405-3(6) (definition of “Title V Operating Permit Program”). The State also submitted R307-415-3 (all the definitions for the Operating Permit Program). We are not acting on these definitions in this notice because approval of the Title V program revisions is handled separately and Title V is not part of the SIP.

Additionally, consistent with our June 12, 2013 proposal (78 FR 35181), we are proposing to disapprove the State's submittal of R307-401-7 (Permit: New and Modified Sources, Public Notice), which was effective in the Utah Administrative Code on December 1, 2010.⁸

Also consistent with our June 2013 proposal we are proposing to partially approve and partially disapprove R307-401-9 (Permit: New and Modified Sources, Small Source Exemption). We are proposing to approve R307-401-9(5), which excludes sources whose GHG emission are below established EPA thresholds for GHG from the requirement to obtain an Approval Order. However, we are proposing to disapprove paragraph (b) and the portions of paragraph (c) that reference paragraph (b). We are proposing to

⁸ As we explained in our June 12, 2013 notice, R307-401-7 revised Utah's public notice procedures to allow for a 10-day public comment period for an approval or disapproval order issued under R307-401-8. The rule allows for the public comment period to be increased to 30 days under certain conditions. We note that the public comment period for an approval or disapproval order currently in Utah's federally approved SIP is 30 days. (See R307-1-3.1.3) Federal regulations for Public Availability of Information found at 40 CFR 51.161(b)(2) require at a minimum a 30-day public comment period for the permitting of a source, including minor source permits. In addition, the 30-day comment period is important to allow adequate opportunity for comment by other affected states, federal agencies, and the public.

³ Tailoring Rule, 75 FR at 31517.

⁴ PSD SIP Narrowing Rule, 75 FR at 82540.

⁵ *Id.* at 82542.

⁶ *Id.* at 82544.

⁷ *Id.* at 82540.

disapprove R307–401–9(b) and the phrase “or (b)” in paragraph (c) because EPA lacks authority in an action on a SIP revision under CAA section 110 to approve provisions addressing hazardous air pollutants. Thus we are proposing to disapprove these specific provisions.

Finally, consistent with our final action on July 15, 2011 (76 FR 41712), we are proposing to disapprove R307–405–3(2)(a)(i) because it defines “Minor Source Baseline Date” in a manner inconsistent with the federal definition found at 40 CFR 52.21(b)(14).⁹

V. Proposed Action

Pursuant to section 110 of the CAA, EPA is proposing to approve Utah’s April 14, 2011 revisions to the Utah SIP, relating to PSD requirements for GHG-emitting sources. Specifically, Utah’s proposed SIP revisions establishes appropriate emission thresholds for determining PSD applicability to new and modified GHG-emitting sources in accordance with EPA’s Tailoring Rule. EPA has made the preliminary determination that these rules that are included in the SIP submittal are approvable because they are in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs.

We are proposing to approve changes to the following rules: R307–401–9(5) (Small Source Exemption), R307–405–3(9) (Definitions), R307–405–3(2)(e) and R307–405–3(2)(f). We are proposing to approve the following definitions and new rule numbers: R307–405–3(2)(a)(ii) (definition of “Minor Source Baseline Date”), which is located in the current

SIP at R307–405–3(3)(a)(ii); and R307–405–3(3) (definition of “Air Quality Related Values”), which is located in the current SIP at R307–405–3(2).

For the reasons stated above, we are proposing to disapprove the State’s submittal of R307–401–7 (New and Modified Sources, Public Notice), R307–401–9(b) and the phrase “or (b)” in paragraph (c) (Small Source Exemption, exemption for certain hazardous air pollutant sources), and R307–405–3(2)(a)(i) (Definition of “Major Source Baseline Date”).

Finally, as stated above, we are not acting on rule provisions related to the Title V program because Title V is not part of the SIP (R307–405–3(5) (definition of “Title V Permit”, R307–405–3(6) (definition of “Title V Operating Permit Program”), R307–415–3 (Operating Permit Requirements, Definitions).

Once EPA finalizes approval of Utah’s changes to its air quality regulations to incorporate appropriate thresholds for GHG permitting applicability into Utah’s SIP, section 52.2323 of 40 CFR part 52, added in EPA’s PSD SIP Narrowing Rule to codify the limitation of its approval of Utah’s PSD SIP to exclude the applicability of PSD to GHG-emitting sources below the Tailoring Rule thresholds, will no longer be necessary. In this action, EPA is also proposing to amend section 52.2323 of 40 CFR part 52 to remove this unnecessary regulatory language.

VI. 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, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves some state law as meeting federal requirements and disapproves other state law because it does not meet federal requirements; this proposed action does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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.);

- 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, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: August 28, 2013.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2013–21611 Filed 9–4–13; 8:45 am]

BILLING CODE 6560–50–P

⁹ As we explained in our 2011 notice, “Utah has adopted a specific definition of “Major Source Baseline Date,” found at R307–405–3(3)(a)(i), in its revised PSD rule. This definition deviates from the definition found in 40 CFR 52.21(b)(14) and the corresponding requirement for state PSD programs at 51.166(b)(14). Utah’s definition specifies that the major source baseline date for particulate matter 10 microns in diameter or less (PM₁₀) is the “date that EPA approves the PM₁₀ maintenance plan that was adopted by the Board on July 6, 2005” for Davis, Salt Lake, Utah, and Weber Counties. The requirement for State programs at 40 CFR 51.166(b)(14) specifies January 6, 1975 as the major source baseline date for particulate matter, and the current EPA-approved SIP for Utah also specifies January 6, 1975 as the major source baseline date for PM₁₀ for the entire State (refer to Utah’s SIP-approved rule R307–101–2 “Definitions”). EPA is not aware of any authority for it to approve into a SIP a different major source baseline date other than January 6, 1975. Further, we note there is no provision in the CAA for using a different date if an area was in a legally designated non-attainment status on January 6, 1975. EPA is taking final action to disapprove Utah’s definition of “Major Source Baseline Date,” and therefore, the current federally-approved definition found in R307–101–2 would continue to apply as a federally enforceable provision in lieu of the State-adopted version.” 76 FR 41716