activities that are not related to the International Space Station (ISS) but involve a launch. It is intended that the cross-waiver of liability be broadly construed to achieve this objective.

(b) For purposes of this section:

(1) The term ''Party'' means a party to a NASA agreement for science or space exploration activities unrelated to the ISS that involve a launch.

(2) (i) The term ''related entity'' means:

(A) A contractor or subcontractor of a Party at any tier;

(B) A user or customer of a Party at any tier; or

(C) A contractor or subcontractor of a user or customer of a Party at any tier.

(ii) The terms ''contractor'' and ''subcontractor'' include suppliers of any kind.

(iii) The term ''related entity'' may also apply to a State or an agency or institution of a State, having the same relationship to a Party as described in paragraphs (b)(2)(i)(A) through (b)(2)(i)(C) of this section, or otherwise engaged in the implementation of Protected Space Operations as defined in paragraph (b)(6) of this section.

(3) The term ''damage'' means:

(i) Bodily injury to, or other impairment of health of, or death of, any person;

(ii) Damage to, loss of, or loss of use of any property;

(iii) Loss of revenue or profits; or

(iv) Other direct, indirect, or consequential damage.

(4) The term ''launch vehicle'' means an object, or any part thereof, intended for launch, launched from Earth, or returning to Earth which carries payloads or persons, or both.

(5) The term ''payload'' means all property to be flown or used on or in a launch vehicle.

(6) The term ''Protected Space Operations'' means all launch or transfer vehicle activities and payload activities on Earth, in outer space, or in transit between Earth and outer space in implementation of an agreement for launch services. Protected Space Operations begins at the signature of the agreement and ends when all activities done in implementation of the agreement are completed. It includes, but is not limited to:

(i) Research, design, development, test, manufacture, assembly, integration, operation, or use of launch or transfer vehicles, payloads, or instruments, as well as related support equipment and facilities and services; and

(ii) All activities related to ground support, test, training, simulation, or guidance and control equipment and related facilities or services. The term ''Protected Space Operations'' excludes activities on Earth that are conducted on return from space to develop further a payload's product or process for use other than for the activities within the scope of an agreement for launch services.

(7) The term ''transfer vehicle'' means any vehicle that operates in space and transfers payloads or persons or both between two different space objects, between two different locations on the same space object, or between a space object and the surface of a celestial body. A transfer vehicle also includes a vehicle that departs from and returns to the same location on a space object.

(c)(1) Cross-waiver of liability: Each Party agrees to a cross-waiver of liability pursuant to which each Party waives all claims against any of the entities or persons listed in paragraphs (c)(1)(i) through (c)(1)(iv) of this section based on damage arising out of Protected Space Operations. This cross-waiver shall apply only if the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations. The cross-waiver shall apply to any claims for damage, whatever the legal basis for such claims, against:

(i) Another Party;

(ii) A party to another NASA agreement that includes flight on the same launch vehicle;

(iii) A related entity of any entity identified in paragraphs (c)(1)(i) or (c)(1)(ii) of this section; or

(iv) The employees of any of the entities identified in paragraphs (c)(1)(i) through (c)(1)(iii) of this section.

(2) In addition, each Party shall extend the cross-waiver of liability, as set forth in paragraph (c)(1) of this section, to its own related entities by requiring them, by contract or otherwise, to:

(i) Waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section; and

(ii) Require that their related entities waive all claims against the entities or persons identified in paragraphs (c)(1)(i) through (c)(1)(iv) of this section.

(3) For avoidance of doubt, this cross-waiver of liability includes a cross-waiver of claims arising from the Convention on International Liability for Damage Caused by Space Objects, which entered into force on September 1, 1972, where the person, entity, or property causing the damage is involved in Protected Space Operations and the person, entity, or property damaged is damaged by virtue of its involvement in Protected Space Operations.

(4) Notwithstanding the other provisions of this section, this cross-waiver of liability shall not be applicable to:

(i) Claims between a Party and its own related entity or between its own related entities;

(ii) Claims made by a natural person, his/her estate, survivors, or subrogees (except when a subrogee is a Party to the agreement or is otherwise bound by the terms of this cross-waiver) for bodily injury to, or other impairment of health of, or death of, such person;

(iii) Claims for damage caused by willful misconduct;

(iv) Intellectual property claims;

(v) Claims for damages resulting from a failure of a Party to extend the cross-waiver of liability to its related entities, pursuant to paragraph (c)(2) of this section; or

(vi) Claims by a Party arising out of or relating to another Party's failure to perform its obligations under the agreement.

(5) Nothing in this section shall be construed to create the basis for a claim or suit where none would otherwise exist.

(6) This cross-waiver shall not be applicable when 49 U.S.C. Subtitle IX, Chapter 701 is applicable.

Michael D. Griffin,

Administrator.

[FR Doc. E8–2868 Filed 2–25–08; 8:45 am]

BILLING CODE 7510–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–0646; FRL–8527–1]

Approval and Promulgation of State Implementation Plans; Montana; Revisions to Administrative Rules of Montana, and Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of Montana on June 28, 2000 and April 16, 2007. The revisions update Administrative Rules of Montana (ARM) provisions for Particulate Matter, and address Interstate Transport Pollution requirements of Section 110(a)(2)(D)(i) of the Clean Air Act. On June 28, 2000, the Governor of Montana submitted

revisions to ARM rules 17.8.101–Definitions; 17.8.308–Particulate Matter, Airborne; and 17.8.320–Wood Waste Burners. In the April 16, 2007 submission, the Governor of Montana requested EPA's review and approval of the ''Interstate Transport Rule Declaration'' adopted into the State SIP on February 12, 2007. The June 28, 2000 submittal included also a declaration certifying the adequacy of the State SIP in regard to the infrastructure-related $PM_{2.5}$ elements of Section 110. EPA is not taking action on this declaration since the State rescinded the request for approval with the April 16, 2007 submittal. This action is being taken under section 110 of the Clean Air Act.

DATES: This rule is effective on April 28, 2008 without further notice, unless EPA receives adverse comment by March 27, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2007–0646, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *E-mail: videtich.callie@epa.gov* and *mastrangelo.domenico@epa.gov*.
- *Fax:* (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).
- *Mail:* Callie Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Callie Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 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–2007–0646. 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 e-mail. 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 e-mail comment directly to EPA, without going through *www.regulations.gov* your e-mail 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 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 and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop, 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 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Domenico Mastrangelo, Air and Radiation Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P–AR, 1595 Wynkoop, Denver, Colorado 80202–1129, (303) 312–6436, *mastrangelo.domenico@epa.gov*.

SUPPLEMENTARY INFORMATION:

Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA*, *we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Montana* mean the State of Montana, unless the context indicates otherwise.

Table of Contents

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

f. Provide specific examples to illustrate your concerns, and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified.

II. What is the purpose of this action?

EPA is approving revisions to the Administrative Rules of Montana (ARM) submitted by the State of Montana on June 28, 2000, and the addition to Montana's SIP of the ''Interstate Transport Rule Declaration'' submitted on April 16, 2007. The June 28, 2000 submission, adopted on March 17, 2000 and effective on March 31, 2000, included the addition of definitions of PM and $PM_{2.5}$, in ARM 17.8.101(31) and (32) respectively, as well as related changes to ARM 17.8.308(4), Particulate Matter, Airborne, and 17.8.320(6), Wood Waste Burners. The adoption of a definition for PM accounts for the fact that there is more than one size of particulate matter being regulated, and the addition of the $PM_{2.5}$ definition allows the incorporation of the EPA measurement reference method for $PM_{2.5}$. ARM 17.8.308(4) and 17.8.320(6) are amended by substituting the term ''PM'' for the term ''PM_{10}'' in all applicable rules to specify control requirements and emission limits for new sources and certain wood-waste burners located in particulate matter nonattainment areas. Editorial amendments to ARM 17.8.308(4) make the rule more concise and the term used for particulate matter consistent with the language in other rules.

EPA is also approving the ''Interstate Transport Rule Declaration'' adopted into the State of Montana SIP on February 12, 2007, effective on the same date, and submitted to EPA on April 16, 2007. The Interstate Transport Rule Declaration addresses the requirements of Section 110(a)(2)(D)(i) of the Clean Air Act (CAA). Section 110(a)(2)(D)(i) of the CAA requires that each state's SIP include adequate provisions prohibiting emissions that adversely affect another state's air quality through interstate transport of air pollutants.

III. What is the State process to submit these materials to EPA?

Section 110(k) of the CAA addresses EPA's actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to 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.

The Montana Board of Environmental Review (BER) held a public hearing for the addition of definitions for PM and $PM_{2.5}$, in ARM 17.8.101(31) and (32) respectively, as well as changes to ARM 17.8.308(4) and 17.8.320(6) on January 25, 2000. The definitions and other rule changes were adopted by the Board on March 17, 2000 and became effective on March 31, 2000. The Governor submitted these SIP revisions to EPA on June 28, 2000.

The Montana Board of Environmental Review (BER) held a public hearing for the addition of the Interstate Transport Rule Declaration to Montana's SIP on February 12, 2007. The Declaration was adopted by BER and became State effective also on February 12, 2007. The Governor submitted these SIP revisions to EPA on April 16, 2007.

We have evaluated the Governor's submittals of these SIP revisions and have determined that the State met the requirements for reasonable notice and public hearing under Section 110(a)(2) of the CAA.

IV. EPA's Evaluation of the State of Montana June 28, 2000 Submittal

1. Changes to the Definition of Particulate Matter

Montana is adding new definitions of PM and $PM_{2.5}$. These changes in definition are approvable and will make particulate matter references more clearly understood by the public. Specifically, the definition under ARM 17.8.101(31) will clarify that all applicable definitions of particulate matter are specified by aerodynamic size class. Furthermore, the definition under ARM 17.8.101(32) specifies that $PM_{2.5}$ is particulate matter with a diameter of less than or equal to a nominal 2.5 micrometers as measured by a reference method based on 40 CFR part 50, Appendix L, and designated in accordance with 40 CFR part 53, or by an equivalent method designated in accordance with 40 CFR part 53.

The revisions to ARM 17.8.308(4) and ARM 17.8.320(6) replace the term PM_{10} with PM to maintain consistency with the previous change in definition and include editorial changes that make the language clearer.

2. Certification of the Adequacy of the Section 110 Elements for Implementation of the PM Program

EPA is not taking any action with respect to the declaration made by the State of Montana with respect to Section 110(a)(2)(D)(i) on the adequacy of the infrastructure-related elements required to implement the particulate matter program. The State rescinded this portion of the June 28, 2000 submittal in its April 16, 2007 submittal.

V. EPA's Evaluation of the State of Montana April 16, 2007 Submittal

EPA has reviewed the State's Interstate Transport Rule Declaration submitted on April 16, 2007 and believes that approval is warranted. The provisions of the CAA Section 110(a)(2)(D)(i) require that the Montana SIP contain adequate provisions prohibiting air pollutant emissions from sources or activities in the state from adversely affecting another state. A state SIP must include provisions that prohibit sources from emitting pollutants in amounts which will: (1) Contribute significantly to nonattainment of the NAAQS in another state; (2) interfere with maintenance of the NAAQS by another state; (3) interfere with another state's measures to prevent significant deterioration of its air quality; and (4) interfere with the efforts of another state to protect visibility. EPA issued guidance on August 15, 2006 relating to SIP submissions that meet the requirements of Section 110(a)(2)(D)(i) for the $PM_{2.5}$ and the 8-hour ozone standards. The Interstate Transport Rule Declaration submitted by the State of Montana is consistent with the guidance.

To support the first two of the four elements noted above, the State of Montana relies on a combination of: (a) EPA positions and modeling analysis results published in **Federal Register** notices as part of the Clean Air Interstate Rule (CAIR) rulemaking process; and, (b) considerations of geographical, meteorological and topographical factors affecting the likelihood of pollution transport from the State to the closest $PM_{2.5}$ and 8-hour ozone nonattainment areas in other states.

In addition, EPA includes data and analysis based on materials published in EPA's CAIR rulemaking notices and on monitoring data gathered by the states and reported to EPA in the Air Quality System (AQS) database.

For $PM_{2.5}$ Montana identifies Merced, California, and Chicago, Illinois, as the nonattainment areas closest to the State urban centers. Merced is more than 700 miles from Missoula and in a direction opposite to that of the prevailing winds. The Cook County nonattainment area, in which Chicago is located, is more than 1,000 miles from Billings, the closest Montana city. Given this distance and the absence of $PM_{2.5}$ nonattainment areas between Billings and Chicago, it is

unlikely that Montana is making a significant contribution to the $PM_{2.5}$ nonattainment status of Cook County. This assessment is consistent with results of the modeling analysis EPA conducted and reported in the rulemaking **Federal Register** notices for the determination of the CAIR states (69 FR 4566 and 70 FR 25162). According to the CAIR Proposed Rule of January 30, 2004, the maximum $PM_{2.5}$ contribution by Montana to downwind counties identified as being in nonattainment for the base years 2010 and 2015 is to Cook County, and is estimated to be 0.03 $\mu g/m^3$ (Table V–5, 69 FR 4608). This amount is well below the ''significant contribution'' threshold of 0.20 $\mu g/m^3$ set by EPA.

An examination of AQS monitoring data suggests that Montana's $PM_{2.5}$ contribution is well below the ''significant contribution'' threshold. During the years 2004–2006 monitors in the State of Montana showed $PM_{2.5}$ exceedance days on five days: January 19, July 9 and 15, 2005, and August 30 and September 5, 2006. There were no concurrent or delayed measurable effects registered at monitors in the closest downwind, or potentially downwind, states of North Dakota, South Dakota and Wyoming. In fact, during the entire time span considered here, the $PM_{2.5}$ monitors in these three states did not register any exceedance days.

For the 8-hour ozone standard, Montana's Interstate Transport Rule Declaration identifies the Denver Metropolitan Area in Colorado, and the Chico area in California, as the closest nonattainment areas. Fort Collins, the city at the northernmost edge of the Denver Metropolitan Area is more than 400 miles from Billings, and Chico is more than 600 miles from Missoula. Again, distance, in combination with the meteorological and topographic factors of the areas involved, indicate as highly unlikely a significant Montana contribution to the 8-hour ozone nonattainment in the Chico and Denver/Fort Collins areas.

We have also examined the AQS data on 8-hour ozone exceedance days registered during the 2004–2006 years at the monitoring sites in Montana and in neighboring downwind states or potentially downwind states. During these years the ozone monitors did not register any exceedance days in Montana or in the closest downwind states of North Dakota and South Dakota. In the same time span the Wyoming monitors measured 8-hours ozone exceedances on less than 0.5 percent of the days. Wyoming monitors registered three exceedance days on February 3, 20 and 26, 2005. The absence of 8-hour ozone exceedance days in Montana and its closest downwind states of North Dakota and South Dakota, combined with the rare occurrence of exceedance days in Wyoming, is consistent with conclusions drawn from other data and analysis, presented in the preceding paragraphs: Any ozone or ozone precursor transport from Montana to downwind states is not high enough to significantly contribute to nonattainment of the NAAQS or interfere with maintenance of the NAAQS in neighboring downwind states.

The data and analysis examined above indicates that the Interstate Transport Rule Declaration adopted by Montana in the State SIP satisfactorily addresses the first two elements of the CAA Section 110(a)(2)(D)(i) for the $PM_{2.5}$ and 8-hour ozone standards.

The third element of the Section 110(a)(2)(D)(i) provisions requires states to prohibit emissions that interfere with any other state's measures to prevent significant deterioration (PSD) of air quality. The State of Montana explains that the State's SIP provisions include EPA-approved PSD and Nonattainment New Source Review (NNSR) programs with pre-construction and permitting requirements for new major sources and major modifications to existing sources that satisfy the Section 110(a)(2)(D)(i) requirements. The State also expresses its commitment to continue implementing its PSD and NNSR provisions.

The fourth element of the Section 110(a)(2)(D)(i) provisions concerns the requirement that a state SIP prohibit sources from emitting pollutants that interfere with the efforts of another state to protect visibility. Consistent with the August 15, 2006 EPA guidance, the Montana Interstate Transport Rule Declaration indicates that at this time the State is unable to verify whether there is interference with measures in another state's SIP designed to ''protect visibility'' for the 8-hour ozone and $PM_{2.5}$. This fourth element will be addressed in the regional haze implementation plan. Therefore, emitting pollutants will be addressed in Montana for the third and fourth elements of the Section 110(a)(2)(D)(i) provisions in a way that is consistent with the EPA guidance noted above.

VI. Final Action

EPA is approving, through direct final rulemaking, the additions to the Administrative Rules of Montana (ARM) of the definition of PM and $PM_{2.5}$, ARM 17.8.101(31) and ARM 17.8.101(32), as well as the modifications to ARM 17.8.308(4) and ARM17.8.320(6). These changes were adopted on March 17, 2000, became effective on March 31, 2000 and were submitted to EPA on June 28, 2000.

EPA is also approving the Interstate Transport Declaration Rule submitted by Montana on April 16, 2007 and is revising 40 CFR 52.1370 to reflect that the State has adequately addressed the required elements of Section 110(a)(2)(D)(i) of the Clean Air Act.

Section 110(l) of the CAA 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 a NAAQS or any other applicable requirement of the CAA. The new definitions of particulate matter and other state regulations will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This rule will be effective April 28, 2008 without further notice unless the Agency receives adverse comments by March 27, 2008. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VII. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by

state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *April 28, 2008.* Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile Organic Compounds.

Dated: January 29, 2008.

Carol Rushin,

Acting Regional Administrator, Region 8.

■ 40 CFR part 52 is amended to read 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 BB—Montana

■ 2. Section 52.1370 is amended by adding paragraph (c)(65) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(65) On June 28, 2000, the Governor of Montana submitted to EPA revisions to the Montana State Implementation Plan. The revisions add definitions for PM and $PM_{2.5,}$ ARM 17.8.101(31) and (32) respectively, and revise ARM 17.8.308(4) and ARM 17.8.320(6) through editorial amendments making the rule more concise and consistent with the language in all applicable rules.

(i) *Incorporation by reference.* Administrative Rules of Montana (ARM) sections: ARM 17.8.101(31) and (32); 17.8.308(4) introductory text, and 17.8.308(4)(b) and (c); and 17.8.320(6). March 31, 2000 is the effective date of these revised rules effective March 31, 2000.

(ii) Additional Material. April 16, 2007 letter by the Governor of Montana rescinding its statement of certification regarding the 1997 NAAQS as submitted in June 28, 2000.

■ 3. Section 52.1393 is added to read as follows:

§ 52.1393 Interstate Transport Declaration for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS.

The State of Montana added the Interstate Transport Rule Declaration to the State SIP, State of Montana Air Quality Control Implementation Plan, Volume I, Chapter 9, to satisfy the requirements of Clean Air Act Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ NAAQS promulgated in July 1997. The Montana Interstate Transport Rule Declaration, adopted and effective on the same date of February 12, 2007, was submitted to EPA on April 16, 2007. The April 16, 2007 Governor's letter included as an attachment a set of dated replacement pages for the Montana Interstate Transport Rule Declaration. The new set of pages were sent as replacement for the set of undated pages submitted earlier with the February 12, 2007 Record of Adoption package. In a May 10, 2007 e-mail to Domenico Mastrangelo, EPA, Debra Wolfe, of the Montana Department of Environmental Quality, confirmed February 12, 2007 as the adoption/effective date for the Montana Interstate Transport Rule Declaration.

[FR Doc. E8–3338 Filed 2–25–08; 8:45 am]

BILLING CODE 6560–50–P