termination time, the Captain of the Port will cease enforcement of these security zones and will also announce that fact via Broadcast Notice to Mariners.

(c) *Regulations.* In accordance with the general regulations in § 165.33 of this part, no person or vessel may enter or remain in either of these security zones established by this temporary section, unless authorized by the Captain of the Port, or his designated representative. All other general regulations of § 165.33 of this part apply in the security zones established by this temporary section.

Dated: October 31, 2001.

L. L. Hereth,

Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.

[FR Doc. 02–2820 Filed 2–5–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WY–001–0007a, WY–001–0008a, WY–001–0009a; FRL–7130–3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action partially approving and partially disapproving revisions to the State Implementation Plan (SIP) submitted by the designee of the Governor of Wyoming on August 9, 2000; August 7, 2001; and August 13, 2001. These revisions are intended to restructure and modify the State's air quality rules so that they will allow for more organized expansion and revision and are up to date with Federal requirements. The August 9, 2000 revisions include a complete restructuring of the Wyoming Air Quality Standards and Regulations (WAQSR) from a single chapter into thirteen separate chapters. In addition to restructuring the regulations, the State's August 9, 2000 revisions also update the definition in Chapter 3, Section 6 Volatile organic compounds (previously Chapter 1, Section 9) and include revisions to Chapter 6, Section 4 Prevention of significant deterioration (PSD) (previously Chapter 1, Section 24). The August 7, 2001 revisions include the addition of a credible evidence provision and another update to the definition of VOC. The August 13, 2001 revisions include changes to the State's particulate matter regulations. We partially approve these SIP revisions because they are consistent with Federal requirements. We are partially disapproving the provisions of the State's submittal that allow the Administrator of the Wyoming Air Quality Division (WAQD) to approve alternative test methods in place of those required in the SIP, because such provisions are inconsistent with section 110(i) of the Clean Air Act (Act) and the requirement that SIP provisions can only be modified through revisions to the plan that must be approved by EPA. We are taking these actions under section 110 of the Act. We are not acting on Chapter 8, Section 4 Transportation Conformity (part of the August 9, 2000 submittal) or on the $PM_{2.5}$ revisions in Chapter 1 and Chapter 2 of the State's August 13, 2001 submittal.

DATES: This rule is effective on April 8, 2002, without further notice, unless we receive adverse comment by March 8, 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 Air Quality Division, Department of Environmental Quality, 122 West 25th Street, Cheyenne, Wyoming, 82002.

FOR FURTHER INFORMATION CONTACT: Megan Williams, EPA Region VIII, (303) 312–6431.

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

Table of Contents

I. What Is the Purpose of This Document?

In this document we are partially approving and partially disapproving revisions to the SIP submitted by the designee of the Governor of Wyoming on August 9, 2000; August 7, 2001; and August 13, 2001. Specifically, we are approving the following sections of the renumbered WAQSR from the State's submittals into the SIP: Chapter 1 Common Provisions, Sections 2–6, Chapter 2 Ambient Standards, Sections 2, 6, 8 and 10, Chapter 3 General Emission Standards, Sections 5 and 6, Chapter 4 State Performance Standards for Existing Sources, Section 3, Chapter 6 Permitting Requirements, Sections 2 and 4, Chapter 7 Monitoring Regulations, Section 2, Chapter 8 Non-attainment Area Regulations, Sections 2–3, Chapter 9 Visibility Impairment/PM Fine Control, Section 2, Chapter 10 Smoke Management, Sections 2–3, Chapter 12 Emergency Controls, Section 2 and Chapter 13 Mobile Sources, Section 2. We are partially approving and partially disapproving the following sections of the renumbered WAQSR: Chapter 2 Ambient Standards, Sections 3–5; Chapter 3 General Emission Standards, Sections 2–4; and Chapter 4 State Performance Standards for Specific Existing Sources, Section 2. We are not acting on Chapter 8 Non-attainment Area Regulations, Section 4 Transportation Conformity (part of the August 9, 2000 submittal) or on the $PM_{2.5}$ revisions in Chapter 1 and

Chapter 2 of the State's August 13, 2001 submittal.

II. Is the State's Submittal Approvable?

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. The State's August 9, 2000 submission became complete by operation of law on February 9, 2001, in accordance with section 110(k)(1)(B) of the Act. We reviewed the State's August 7, 2001 and August 13, 2001 submissions against our completeness criteria in 40 CFR Part 51, Appendix V. We determined these submissions were complete and notified the State in a letter dated August 24, 2001.

A. The State's August 9, 2000 Revisions

1. Restructuring of WAQSR

The State restructured the entire WAQSR from a single chapter into thirteen separate chapters. This was done, according to the State, to create a more organized set of rules that will be more accessible to the public and the regulated community and will allow for more organized expansion and revision, when necessary.

Several of the sections submitted to us for approval into the SIP continue to provide for the use of an equivalent or alternative test method to be approved by the Administrator of the WAQD. In an August 19, 1998 letter to the WAQD and in our December 21, 2000 partial approval and partial disapproval of earlier revisions to the WAQSR (65 FR 80329), we raised concerns about provisions in the WAQSR where the WAQD has the discretion to approve the use of alternative or equivalent test methods in place of those required in the SIP. Such discretionary authority for the State to change test methods that are included in the SIP, without obtaining prior EPA approval is not consistent with section 110 of the Act. These ''director's discretion'' provisions essentially allow for a variance from SIP requirements, which is not allowed under section 110(i) of the Act and the requirement that SIP provisions may only be modified by SIP revisions approved by EPA. In our August 19, 1998 letter, we identified the sections in the WAQSR that contain these ''director's discretion'' provisions, and informed the State that the provisions needed to be revised to require EPA approval of any alternative or equivalent test methods. In a September 9, 1998 letter responding to our comments, the WAQD committed to address our concerns through revisions to these rules in the future. However, until these provisions are revised, we believe it is necessary to continue to disapprove the various ''director's discretion'' provisions, to ensure that any alternatives to the test methods required in the SIP are approved by EPA. Therefore, we are partially disapproving these provisions in Chapter 2 Ambient Standards, Sections 3–5, Chapter 3 General Emission Standards, Sections 2–4 and Chapter 4 State Performance Standards for Specific Existing Sources, Section 2.

2. Chapter 3, Section 6 (Volatile Organic Compounds)

The State revised Chapter 3, Section 6 (previously Chapter 1, Section 9) of the WAQSR to adopt the July 1, 1998 definition of volatile organic compound (VOC) in 40 CFR 51.100(s). In the State's August 7, 2001 submittal Chapter 3, Section 6 was again revised to adopt the July 1, 1999 definition of VOC in 40 CFR 51.100(s). We are approving this more recent update to the incorporation by reference into the SIP, which will supercede the revisions submitted to us on August 7, 2000.

3. Chapter 6, Section 4 (Prevention of Significant Deterioration (PSD))

The State made two substantive changes to its PSD permitting regulations. The first revision is a modification to the definition of ''Minor source baseline date'' to remove the specific trigger date of January 1, 2001 from the definition. With this revision, the minor source baseline date is triggered only by the date on which a major stationary source or major modification submits a complete permit application as opposed to the date on which a major stationary source or major modification submits a complete permit application *or* January 1, 2001, whichever occurs first. The revised definition is consistent with our definition in 40 CFR 51.166(b)(14)(ii). The minor source baseline date has been triggered for SO_2, PM_{10} and NO_2 in all attainment and unclassifiable areas in the State. Most recently, a permit application from ENCOAL Corporation to construct a Liquids from Coal facility and an associated 240 megawatt coal-fired power plant in the Powder River Basin of Campbell County, Wyoming, was deemed complete on March 6, 1997; this triggered the minor source baseline date for the entire Powder River Basin PM_{10} unclassifiable area. We are approving the State's revision to delete the January 1, 2001 date since the minor source baseline date was already triggered, prior to January 1, 2001, for all attainment and unclassifiable areas in the State.

The second revision establishes a significance level for non-methane hydrocarbons from municipal solid waste landfills. Since the state-adopted significance level of 50 tons per year is the same as the significance level for non-methane hydrocarbons from municipal solid waste landfills in 40 CFR 51.166(b)(23)(i) and 40 CFR 52.21(b)(23)(i), we are approving this revision into the SIP.

B. The State's August 7, 2001 Revisions

1. Chapter 1, Section 6 (Credible Evidence)

The addition of Section 6 Credible Evidence was made in response to a SIP call issued by EPA on October 20, 1999. EPA promulgated Credible Evidence Revisions (see 62 FR 8314) which became effective December 30, 1997 and which changed certain regulations to clarify that EPA can use, and has always been able to use, any credible evidence to prove violations of applicable requirements. In the Credible Evidence Revisions, EPA amended 40 CFR 51.212 to require SIPs to allow for the use of credible evidence for the purposes of submitting compliance certifications and for establishing whether or not a person has violated a standard in a SIP. Wyoming submitted a provision in Chapter 1, Section 6 that meets the requirements of 40 CFR 51.212; we are approving this provision into the SIP.

2. Chapter 3, Section 6 (Volatile Organic Compounds)

Chapter 3, Section 6 was revised to adopt the July 1, 1999 definition of VOC in 40 CFR 51.100(s). We are approving this update to the incorporation by reference into the SIP.

C. The State's August 13, 2001 Revisions

1. Chapter 1, Section 3 (Definitions)

Chapter 1, Common Provisions was revised to add definitions for ''fugitive emissions,'' ''$PM_{2.5}$'' and ''$PM_{2.5}$

emissions''. We are approving the definition of ''fugitive emissions'' into the SIP, but we are not taking action on the other definitions for $PM_{2.5}$. Currently, we are not approving provisions in any SIPs related to the implementation of a $PM_{2.5}$ standard because there is no $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) at this time. On May 18, 1999, the United States Court of Appeals for the D.C. Circuit in *American Trucking Associations, Inc. et al.,* v. *United States Environmental Protection Agency,* 175 F.3d 1027 (D.C. Cir. 1999), vacated the 1997 PM_{10} standard, determined that we were attempting to double-regulate the fine particulate fraction with the promulgation of the 1997 PM_{10} and $PM_{2.5}$ standards, and asked for further information from EPA regarding health effects of $PM_{2.5}$. Although the Court eventually agreed that there was a clear, health-based need for a $PM_{2.5}$ standard, we did not proceed with the $PM_{2.5}$ implementation schedule. Since the Court had determined that EPA would be double-regulating the fine particle fraction of this pollutant if we were to implement the new PM_{10} and $PM_{2.5}$ NAAQS, EPA decided not to proceed with implementation of the 1997 $PM_{2.5}$ NAAQS, but to wait for the outcome of the next required review of the PM standards for any further implementation of a new standard. On review of the Court of Appeals' decision, the U.S. Supreme Court reversed in part, upholding the new and revised NAAQS, but affirmed the lower court decision on the issue of EPA's implementation policy for the revised NAAQS, holding the policy unlawful. See *Whitman* v. *American Trucking Associations, Inc.,* 531 U.S. 457, 121 S.Ct. 903, 149 L.Ed.2d 1 (2001). Accordingly, we are enforcing only the 1987 PM_{10} NAAQS at this time.

In addition to the new definitions, the State made changes to correct ''director's discretion'' provisions in the definitions of ''particulate matter emissions'' and ''PM_{10} emissions.'' In our December 21, 2000 action partially approving and partially disapproving revisions to Wyoming's air pollution regulations (see 65 FR 80330), we partially disapproved this particular section of the State's rules, because it allowed the Wyoming Air Quality Director discretion to approve the use of alternative or equivalent test methods in place of those required in the SIP. The State has eliminated this discretion by revising these definitions to read, ''* * * or an equivalent or alternative method approved by the EPA Administrator.'' This will ensure that any alternatives to the test methods required in the SIP are approved by EPA. We are now fully approving the revisions to Chapter 1, Section 3 of the WAQSR that were partially disapproved in our December 21, 2000 action.

2. Chapter 2, Section 2 (Ambient Standards for Particulate Matter)

Chapter 2, Section 2 was revised to incorporate the 1997 $PM_{2.5}$ NAAQS and to remove the ambient air standard for total suspended particulate (TSP). Since EPA is currently not implementing a $PM_{2.5}$ standard, we are not taking action at this time on the new $PM_{2.5}$ standard adopted by the State. Since EPA repealed the national ambient air quality standard for TSP over ten years ago, we are approving this deletion of the State's ambient air standard for TSP. We raised a concern to the State during the public comment period for these revisions about whether the State plans to relax any permitted emission limits as part of this rule change; relaxations of any limits on particulate matter could potentially impact the PM_{10} National Ambient Air Quality Standards (NAAQS). We also wanted to be sure that this change to delete the TSP ambient air quality standard would not impact the State's particulate matter monitoring network that has been established in the Powder River Basin. The State made clear, in a February 16, 2000 letter from Dan Olson, Administrator, Wyoming Air Quality Division, to Richard Long, Director, EPA Region VIII Air and Radiation Program, that relaxing existing permit emission limits as a result of deleting the TSP standard would be contrary to the State's basic philosophy of minimizing impact to air resources and that the State has no plans to do so. The State further indicated that the TSP monitors in the Powder River Basin that are used to measure compliance with the NAAQS are required to continue operation under existing air quality permits. Any changes in monitoring, which could only occur through a permit modification, would need to consider the effect of the monitor on the comprehensive particulate matter monitoring network in the Powder River Basin, which the State is committed to maintaining. We are relying on these clarifications in approving the deletion of the State's TSP ambient air standard and are archiving the above-referenced letter as Additional Materials in 40 CFR 52.2620(c)(30)(ii).

3. Chapter 3, Section 2 (Emission Standards for Particulate Matter)

Chapter 3, Section 2 was revised to incorporate revised fugitive dust provisions. The revisions to this section are not any less stringent than the existing fugitive dust provisions in the SIP, and therefore are approvable. The proposed agricultural provisions do contain an apparent change in stringency, because the SIP currently states that all agricultural activities must be conducted, ''* * * in such a manner as to prevent dust from becoming airborne''; the revision to that provision states that these operations should ''minimize'' fugitive dust emissions. However, because it is unrealistic to expect that agricultural activities such as tilling will not produce any fugitive dust and because there is no enforceable limit or work practice requirement associated with this SIP provision, the proposed revision to the SIP should not result in an increase in fugitive dust from agricultural activities.

In addition, the State added a provision in Chapter 3, Section 2 to clarify that the particulate matter limitations established through the process weight rate tables (Chapter 3, Section 2 Tables I and II) are based on the maximum design production rate unless otherwise restricted by enforceable limits on potential to emit. This additional language in Chapter 3, Section 2(g)(i) is meant to clarify which limit is intended to apply to permitted sources. Finally, Section 2(e) has been modified to explain that more stringent limits, such as new source performance standards, established elsewhere in the regulations may apply. We are approving all of these revisions to Chapter 3, Section 2 into the SIP.

4. Chapter 6, Section 2 (Permit Requirements for Construction, (Modification, and Operation)

Chapter 6, Section 2 was revised to remove the significance level for TSP. This change was made in conjunction with the removal of the ambient air standard for TSP in Chapter 2, Section 2 (see discussion in part 2, above). Without a referenced ambient air standard, the TSP significance level is not needed. This change is consistent with 40 CFR 51.166, and we are approving the change into the SIP.

III. What Is EPA's Final Action?

In this action, we are granting partial approval and partial disapproval of revisions to the WAQSR submitted as a SIP revision by the designee of the Governor of Wyoming on August 9, 2000; August 7, 2001; and August 13, 2001. The portions of the restructured regulations and revisions that we are approving replace the prior SIP approved regulations. Specifically, we are granting approval of the following

sections of the renumbered WAQSR into the SIP: Chapter 1 Common Provisions, Sections 2–6; Chapter 2 Ambient Standards, Sections 2, 6, 8 and 10; Chapter 3 General Emission Standards, Sections 5 and 6; Chapter 4 State Performance Standards for Existing Sources, Section 3; Chapter 6 Permitting Requirements, Sections 2 and 4; Chapter 7 Monitoring Regulations, Section 2; Chapter 8 Non-attainment Area Regulations, Sections 2 and 3; Chapter 9 Visibility Impairment/PM Fine Control, Section 2; Chapter 10 Smoke Management, Sections 2 and 3; Chapter 12 Emergency Controls, Section 2; and Chapter 13 Mobile Sources, Section 2. We are granting partial approval and partial disapproval of the following sections of the renumbered WAQSR: Chapter 2 Ambient Standards, Sections 3–5; Chapter 3 General Emission Standards, Sections 2–4; and Chapter 4 State Performance Standards for Specific Existing Sources, Section 2. We are not acting on Chapter 8 Non-attainment Area Regulations, Section 4 Transportation Conformity (part of the August 9, 2000 submittal) or on the $PM_{2.5}$ revisions in Chapter 1 and Chapter 2 of the State's August 13, 2001 submittal.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective April 8, 2002, without further notice unless the Agency receives adverse comments by March 8, 2002. 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.

IV. What Are the Administrative Requirements for This Action?

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will 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, because it 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires 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.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. This action does not involve or impose any requirements that affect Indian Tribes. Thus, Executive Order 13175 does not apply to this rule.

E. Executive Order 13211

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

F. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not

have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final partial approval rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

This final partial disapproval rule will not have a significant impact on a substantial number of small entities because this partial disapproval only offsets the State's ability to grant variances from SIP testing requirements. As explained in this notice, the provisions of the SIP revision related to director's discretion do not meet the requirements of the Clean Air Act and EPA cannot approve the State's request to approve these provisions into the SIP. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

The partial approval and partial disapproval will not affect existing state requirements applicable to small entities. Federal disapproval of a state submittal does not affect its state-enforceability.

G. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the partial approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action partially approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

H. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. section 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. section 804(2). This rule will be effective April 8, 2002, unless EPA receives adverse written comments by March 8, 2002.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Petitions for Judicial Review

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 8, 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) of the Clean Air Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 3, 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 ZZ—Wyoming

2. Section 52.2620 is amended by adding paragraph (c)(30) to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(30) On August 9, 2000, August 7, 2001, and August 13, 2001, the designee of the Governor of Wyoming submitted a restructured version of the Wyoming Air Quality Standards and Regulations (WAQSR) along with revisions to Chapter 1, Section 3 Definitions; Chapter 1, Section 6 Credible evidence; Chapter 2, Section 2 Ambient standards for particulate matter; Chapter 3, Section 2 Emission standards for particulate matter; Chapter 3, Section 6 Volatile organic compounds (VOCs); Chapter 6, Section 2 Permit requirements for construction, modification, and operation; and Chapter 6, Section 4 Prevention of significant deterioration (PSD). EPA is replacing in the SIP all of the previously approved Wyoming air quality regulations with those regulations listed in paragraphs (c)(30)(i)(A) through (C) of this section.

(i) Incorporation by reference.

(A) Revisions to the WAQSR submitted on August 9, 2000: Chapter 1, Section 2, Section 3 (excluding the words ''or an equivalent or alternative method approved by the Administrator'' in the definition of ''Particulate matter emissions'' and ''PM_{10} emissions''), Sections 4 and 5; Chapter 2, Section 2, Section 3 (excluding the words ''or by an equivalent method''), Section 4 (excluding the words ''or an equivalent method''), Section 5 (excluding the words ''or by an equivalent method''), Sections 6, 8 and 10; Chapter 3, Section 2 (excluding the words ''specified by the Administrator'' and excluding the sentence ''Provided that the Administrator may require that variations to said methods be included or that entirely different methods be utilized if he determines that such variations or different methods are necessary in order for the test data to reflect the actual emission rate of particulate matter'' in subsection 2(h)(iv)), Section 3, Section 4 (excluding the words ''or an equivalent method'' in subsection (f)), Sections 5 and 6; Chapter 4, Section 2 (excluding the words ''or an equivalent method''), and Section 3; Chapter 6, Sections 2 and 4; Chapter 7, Section 2; Chapter 8, Sections 2 and 3; Chapter 9, Section 2; Chapter 10, Sections 2 and 3; Chapter 12, Section 2; and Chapter 13, Section 2; all effective 10/29/99.

(B) Revisions to the WAQSR submitted on August 7, 2001: Chapter 1, Section 6; and Chapter 3, Section 6; effective December 8, 2000.

(C) Revisions to the WAQSR submitted on August 13, 2001: Chapter 1, Section 3; Chapter 2, Section 2; Chapter 3, Section 2 (excluding the words ''specified by the Administrator'' and excluding the sentence ''Provided that the Administrator may require that variations to said methods be included or that entirely different methods be utilized if he determines that such variations or different methods are necessary in order for the test data to reflect the actual emission rate of particulate matter'' in subsection 2(h)(iv)); and Chapter 6, Section 2; all effective March 30, 2000.

(ii) Additional Material.

(A) February 16, 2000 letter from Dan Olson, Administrator, Wyoming Air Quality Division, to Richard Long, Director, EPA Region VIII Air and Radiation Program, clarifying the State's commitments to maintaining TSP permitting and monitoring requirements that contribute to protection of the PM_{10} NAAQS.

3. Section 52.2622 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 52.2622 Approval status.

* * * * *

(b) Wyoming Air Quality Standards and Regulations Chapter 2, Sections 3–5, Chapter 3, Section 3 and Chapter 4, Section 2, which were submitted by the designee of the Governor on August 9, 2000, as well as Chapter 3, Section 2, which was submitted by the designee of the Governor on August 13, 2001, and which all allow the Administrator of the Wyoming Air Quality Division the discretion to approve the use of alternative or equivalent test methods in place of those required in the SIP, are partially disapproved. Such discretionary authority for the State to change test methods that are included in the SIP, without obtaining prior EPA approval, cannot be approved into the SIP. Pursuant to section 110 of the Clean Air Act, to change a requirement of the SIP, the State must adopt a SIP revision and obtain our approval of the revision.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 55 and 71

[FRL–7138–1]

State and Local Jurisdictions Where a Federal Operating Permits Program Became Effective on December 1, 2001—Connecticut; Maryland

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of States and local jurisdictions subject to 40 CFR parts 55 and 71.

SUMMARY: On July 1, 1996, pursuant to title V of the Clean Air Act (Act) as amended in 1990, EPA published a new regulation at 61 FR 34202 (codified as 40 CFR part 71) setting forth the procedures and terms under which the Administrator will issue operating permits to covered stationary sources of air pollution. This rule, called the ''part 71 rule,'' became effective on July 31, 1996. In general, the primary responsibility for issuing operating permits to sources rests with State, local, and Tribal air agencies. However, EPA will administer a Federal operating permits program in areas that lack an EPA-approved or adequately administered operating permits program and in other limited situations. The Federal operating permits program will serve as a ''safety net'' to ensure that sources of air pollution are meeting their permitting requirements under the Act. Federally issued permits will meet the same title V requirements as do State issued permits. The purpose of this document is to provide the names of those State and local jurisdictions where a Federal operating permits program is effective on December 1, 2001.

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SUPPLEMENTARY INFORMATION:

I. Background, Authority and Purpose

What Is the Intent of ''Title V'' of the Clean Air Act?

Title V of the Act as amended in 1990 (42 U.S.C. 7661 et seq.) directs States to develop, administer, and enforce operating permits programs that comply with the requirements of title V (section 502(d)(l)). Section 502(b) of the Act requires that EPA promulgate regulations setting forth provisions under which States develop operating permits programs and submit them to EPA for approval. Pursuant to this section, EPA promulgated 40 CFR part 70 on July 21, 1992 (57 FR 32250) which specifies the minimum elements of approvable State operating permits programs.

What Is a ''Federal Operating Permits Program''?

Sections 502(d)(3) and 502(i)(4) of the Act require EPA to promulgate a Federal operating permits program when a State does not obtain approval of its program within the timeframe set by title V or when a State fails to adequately administer and enforce its approved program. The part 71 rule published on July 1, 1996 establishes a national template for a Federal operating permits program that EPA will administer and enforce in those situations. Part 71 also establishes the procedures for issuing Federal permits to sources for which States do not have jurisdiction (*e.g.*, Outer Continental Shelf sources outside of State jurisdictions and sources located in Indian Country over which EPA and Indian Tribes have jurisdiction). Finally, part 71 provides for delegation of certain duties that may provide for a smoother program transition when part 70 programs are approved.

This notice makes frequent use of the term ''State.'' This term includes a State or a local air pollution control agency that would be the permitting authority for a part 70 permit program. The term ''permitting authority'' can refer to State, local, or Tribal agencies and may