enhanced record to the source agency is otherwise authorized and lawful.

(q) A record from a system of records maintained by the ODNI may be disclosed as a routine use to appropriate agencies, entities, and persons when: The security or confidentiality of information in the system of records has or may have been compromised; and the compromise may result in economic or material harm to individuals (e.g., identity theft or fraud), or harm to the security or integrity of the affected information or information technology systems or programs (whether or not belonging to the ODNI) that rely upon the compromised information; and disclosure is necessary to enable ODNI to address the cause(s) of the compromise and to prevent, minimize, or remedy potential harm resulting from the compromise.

(r) A record from a system of records maintained by the ODNI may be disclosed as a routine use to a Federal, state, local, tribal, territorial, foreign, or multinational agency or entity or to any other appropriate entity or individual for any of the following purposes: to provide notification of a serious terrorist threat for the purpose of guarding against or responding to such threat; to assist in coordination of terrorist threat awareness, assessment, analysis, or response; or to assist the recipient in performing authorized responsibilities relating to terrorism or counterterrorism.

(s) A record from a system of records maintained by the ODNI may be disclosed as a routine use for the purpose of conducting or supporting authorized counterintelligence activities as defined by section 401a(3) of the National Security Act of 1947, as amended, to elements of the Intelligence Community, as defined by section 401a(4) of the NationalSecurity Act of 1947, as amended; to the head of any Federal agency or department; to selected counterintelligence officers within the Federal government.

(t) A record from a system of records maintained by the ODNI may be disclosed as a routine use to a Federal, state, local, tribal, territorial, foreign, or multinational government agency or entity, or to other authorized entities or individuals, but only if such disclosure is undertaken in furtherance of responsibilities conferred by, and in a manner consistent with, the National Security Act of 1947, as amended; the Counterintelligence Enhancement Act of 2002, as amended; Executive Order 12333 or any successor order together with its implementing procedures approved by the Attorney General; and other provisions of law, Executive Order or directive relating to national intelligence or otherwise applicable to the ODNI. This routine use is not intended to supplant the other routine uses published by the ODNI.

Dated: March 18, 2008.

Ronald L. Burgess, Jr.,

Lieutenant General, USA, Director of the Intelligence Staff.

[FR Doc. E8–5904 Filed 3–27–08; 11:00 am]

BILLING CODE 3910–A7–P–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–0647; FRL–8546–3]

Approval and Promulgation of State Implementation Plans; State of Utah; Interstate Transport of Pollution and Other Revisions

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 Utah on March 22 and September 17, 2007. The revisions address Interstate Transport Pollution requirements of Section 110(a)(2)(D)(i) of the Clean Air Act and a typographical error in Rule R307–130–4, ''Options.'' The March 22, 2007 submittal adds ''Section XXIII, Interstate Transport'' to the Utah SIP, and Rule R307–110–36 to the Utah Administrative Code (UAC). The new Rule R307–110–36 incorporates by reference the Interstate Transport declaration into the State rules. The September 17, 2007 submittal amends UAC Rule R307–130–4, ''Options,'' by removing from the text the word ''not'' which had been accidentally placed in this rule. This action is being taken under section 110 of the Clean Air Act.

DATES: This rule is effective on May 27, 2008 without further notice, unless EPA receives adverse comment by April 28, 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–2007–0647, 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 Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- *Hand Delivery:* Callie Videtich, Director, Air 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–2007–0647. 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 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 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 *Utah* mean the State of Utah, 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 the addition of ''Section XXIII, Interstate Transport'' to the Utah SIP, and of Rule R307–110–36 (incorporating by reference Section XXIII) to the Utah Administrative Code (UAC). The Interstate Transport SIP and Rule R307–110–36 were adopted by the Utah Air Quality Board (UAQB) on February 7, 2007, and were submitted by the Governor to EPA on March 22, 2007. Section XXIII of the Utah SIP, Interstate Transport, addresses the requirements of the ''good neighbor'' provisions of the CAA Section 110(a)(2)(D)(i). This section 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.

EPA is also approving an amendment removing the word ''not,'' a typographical error, from the provisions of Rule R307–130–4, ''Options.'' The amendment to this rule was adopted by the UAQB on June 21, 2007, effective July 13, 2007, and submitted by the Governor to EPA on September 17, 2007.

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

Section 110(k) of the CAA addresses EPA 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 UAQB held a public hearing on December 21, 2006 for the addition of Section XXIII, Interstate Transport to the Utah SIP, and Rule R307–110–36 to the Utah Administrative Code (UAC). The new Rule R307–110–36 incorporates by reference the Interstate Transport declaration into the State rules. These additions to the State SIP were adopted by the Board on February 7, 2007, and were submitted by the Governor to EPA on March 22, 2007. Rule R307–110–36 became effective February 9, 2007.

The UAQB held a public hearing on April 18, 2007 for a revision to UAC Rule R307–130–4, Options, correcting a typographical error. This revision was adopted by the Board on June 21, 2007, effective July 13, 2007, and submitted by the Governor to EPA on September 17, 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 Utah March 22, 2007 Submittal

EPA has reviewed the State of Utah Interstate Transport SIP submitted on March 22, 2007, and believes that approval is warranted. The ''good neighbor'' provisions of the CAA, Section 110 (a)(2)(D)(i), require that the Utah 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 1997

$PM_{2.5}$ and 8-hour ozone standards. Section XXIII of the SIP, Interstate Transport, submitted by the State of Utah is consistent with the guidance.

To support the first two of the four elements noted above, the State of Utah relies on EPA assessments and modeling analysis results published in **Federal Register** notices as part of the Clean Air Interstate Rule (CAIR) rulemaking process.[1] In addition, EPA has examined factors specific to Utah and to a number of downwind or potentially downwind states that have the potential to be significantly affected by any transport of $PM_{2.5}$ and ozone or ozone precursors from Utah. Utah's neighboring states considered here as downwind or potentially downwind include Colorado, Idaho, Montana, North and South Dakota, and Wyoming.

The Utah Interstate Transport SIP addresses the question of potential $PM_{2.5}$ and ozone transport to other states by quoting from the explanation given by EPA in support of the exclusion of seven western states (including Utah) from the analysis that underlies the CAIR notice of proposed rulemaking:

> In analyzing significant contribution to nonattainment, we determined it was reasonable to exclude the Western U.S., including the States of Washington, Idaho, Oregon, California, Nevada, Utah and Arizona from further analysis due to geography, meteorology, and topography. Based on these factors, we concluded that the $PM_{2.5}$ and 8-hour ozone nonattainment problems are not likely to be affected significantly by pollution transported across these States' boundaries. Therefore, for the purpose of assessing State's contributions to nonattainment in other States, we have only analyzed the nonattainment counties located in the rest of the US.[2]

Next, the Utah Interstate Transport SIP quotes a paragraph from an EPA April 2005 response to public comments to the CAIR notice of proposed rule. EPA's response extrapolates from the results of the modeling analysis conducted for the January 30, 2004 proposed rule to validate the previous decision to exclude Utah and other six western states from the CAIR analysis:

> Regarding modeling of all states, in the $PM_{2.5}$ modeling for the NPRM, we modeled 41 states, and found that the westernmost of these states made very small contributions to nonattainment in any other state. For the revised modeling for the final rule, we reduced the set of states modeled for reasons of efficiency. The results again showed that the westernmost states modeled did not make contributions above the significance threshold, indicating that had other even more western States been modeled they also would not have done so.[3]

These assessments are substantiated by data and consideration of additional factors EPA examined. Findings from the modeling analysis conducted by EPA for the CAIR proposed rule include the maximum annual average $PM_{2.5}$ contribution by 41 states to the downwind counties identified in nonattainment for the base years 2010 and 2015. For the states included in the study, the maximum $PM_{2.5}$ annual average contribution to nonattainment by the westernmost states amounted to: 0.04 $\mu g/m^3$ for Colorado, 0.03 for Montana, 0.08 for Nebraska, 0.12 for North Dakota, 0.04 for South Dakota, and 0.05 for Wyoming (69 FR 4608). These amounts are well below the ''significant contribution'' threshold of 0.20 $\mu g/m^3$ set by EPA.

A review of the attainment/nonattainment areas for the 1997 $PM_{2.5}$ standard in these states and in Utah yields similar conclusions. Utah's closest, potentially downwind, $PM_{2.5}$ nonattainment area is centered in Libby, Lincoln County, Montana, which is about 500 miles north of the northern Utah border. EPA's findings based on a nine-factor analysis of Lincoln County, and reported in the Agency's technical support document for the December 17, 2004 designations, stressed the local origins of $PM_{2.5}$ nonattainment in Libby.[4] These findings, in combination with other factors such as the absence of $PM_{2.5}$ nonattainment areas in Utah, the distance between Utah and Libby, and the absence of $PM_{2.5}$ nonattainment areas along the 500 miles between the Utah northern border and Libby lead to the conclusion that it is unlikely that Utah is making a significant contribution to the $PM_{2.5}$ nonattainment status of Lincoln County or interfering with maintenance of the NAAQS in Montana. Similarly, the absence of $PM_{2.5}$ nonattainment areas in Utah and in the other neighboring downwind states makes it unlikely that Utah interferes with the maintenance of the 1997 $PM_{2.5}$ NAAQS standard in Colorado, Idaho, North Dakota, South Dakota, or Wyoming.

For the 1997 8-hour ozone standard, our review of the attainment/nonattainment status in Utah and its downwind states confirms the EPA positions incorporated by the State of Utah into its Interstate Transport SIP. Utah does not have any ozone nonattainment areas, and the same is true for all of its closest downwind states, except Colorado. On this basis it is plausible to conclude that Utah does not contribute significantly to ozone nonattainment, or interfere with ozone maintenance, in the states of Idaho, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

Several factors need to be considered about potential ozone transport between Utah and the Denver-Fort Collins metropolitan area, in Colorado, which is designated nonattainment for the 1997 8-hour ozone standard. Certain geographical, topographical, and meteorological factors indicate that it is unlikely that Utah contributes significantly to the 8-hour ozone nonattainment of the Denver-Fort Collins metropolitan area. The 400 miles distance between Salt Lake City and Denver, in combination with high natural barriers such as the Wasatch Range in Utah and several ranges of the Rocky Mountains in Colorado, constitute a sizeable physical barrier to potential eastward transport of ozone or ozone precursors from Utah to Colorado. Also, observed days of high ozone levels in the Salt Lake City metropolitan area are usually associated with a 'bowl effect' resulting from an inversion that has a stagnant air pollution mass surrounded by the Oquirrh Mountains to the west, the Great Salt Lake to the north, and the Wasatch Range on the east. In contrast, high ozone levels in the Denver metropolitan area are often associated with light up-slope (easterly) winds occurring at the surface level, that keep ozone and its precursors stagnating against the Front Range on the west side of metropolitan Denver and Fort Collins. In light of these considerations, it is unlikely that Utah makes a significant contribution of ozone and/or ozone precursors to ozone nonattainment in the Denver-Fort Collins metropolitan area.

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

[1] Unless otherwise noted, in this action the expression CAIR rulemaking process or CAIR rule refers to materials (data, analyses, assessments) developed during the rulemaking process that resulted in the May 12, 2005 **Federal Register** notice ''Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to NO_X SIP Call; Final Rule,'' (70 FR 25162).

[2] ''Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule); Proposed Rule,'' January 30, 2004 (69 FR 4566). Alaska and Hawaii complete the list of states not included in EPA's modeling analysis.

[3] ''Corrected Response to Significant Public Comments on the Proposed Clean Air Interstate Rule Received in response to: Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Interstate Air Quality Rule); Proposed Rule (69 FR 4566; January 30, 2004) Supplemental Proposal for the Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Proposal Rule (69 FR 32684; June 10, 2004) Docket Number OAR–2003–0053,'' April 2005.

[4] ''Technical Support for State and Tribal Air Quality Fine Particle ($PM_{2.5}$) Designations,'' December 2004; Chapter 6, pages 347–352.

significant deterioration (PSD) of air quality. The State of Utah's SIP provisions include EPA-approved PSD and Nonattainment New Source Review (NNSR) programs that have been successfully implemented in past years. For $PM_{2.5}$, the State PSD and NNSR programs are being implemented in accordance with EPA's interim guidance calling for the use of PM_{10} as a surrogate for $PM_{2.5}$ in the PSD program. In addition, Utah has committed to transitioning from use of the interim $PM_{2.5}$ guidance to the final $PM_{2.5}$ implementation guidance after this guidance is finalized. EPA published proposed regulations to establish this guidance on September 21, 2007 (72 FR 54112).

The fourth element of the ''good neighbor'' 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 EPA's August 15, 2007 guidance, the Utah Interstate Transport SIP declares that, under the 1980 regulations addressing Reasonably Attributable Visibility Impairment (RAVI), in Utah there are no sources that interfere with implementation of RAVI in other states. The Interstate Transport SIP refers also to the Utah Regional Haze SIP submitted to EPA in 2003 as an indication of the State's commitment to reduce impacts on Class I areas on the Colorado Plateau. Consistent with the EPA guidance cited above, Utah will fully address in the State's regional haze SIP the requirements for SIP measures protecting visibility in downwind states.

Based on EPA's review and analysis of how the State of Utah addresses the four elements identified in the ''good neighbor'' provisions, we are approving the State's Section XXIII of its SIP, Interstate Transport, as meeting the requirements of the CAA Section 110(a)(2)(D)(i). We are also approving the Utah Administrative Code (UAC) Rule R307–110–36 which incorporates Section XXIII of the SIP into the State rules.

V. EPA's Evaluation of the State of Utah September 17, 2007 Submittal

In its September 17, 2007 submittal to EPA, Utah corrected a typographical error in UAC Rule R307–130–4 by eliminating the term ''not'' from its language. This change is approvable as it does not modify, and makes clearer, the meaning of the rule. During the required five year review of State rules, the Utah Division of Air Quality, Department of Environmental Quality, discovered that the term ''not'' was a typographical error. Rule R307–130–4, ''Options,'' under the General Penalty Policy Provisions of the UAC, reads: ''Consideration may be given to suspension of monetary penalties in trade-off for expenditures resulting in additional controls and/or emissions reductions beyond those *not* [italics ours] required to meet existing requirements. Consideration may be given to an increased amount of suspended penalty as deterrent to future violations where appropriate.'' It is clear that Utah intended for the rule to indicate that monetary penalties assessed for violations may be suspended by the State in exchange for a violator's investment in additional pollution control measure and/or emissions reductions ''beyond those required to meet existing requirements,'' thus, the change is appropriate.

VI. Final Action

EPA is approving, through direct final rulemaking, the addition of Section XXIII, Interstate Transport, to the Utah SIP, and of Rule R307–110–36 (which incorporates Section XXIII) to the Utah Administrative Code (UAC), to reflect that the State has adequately addressed the required elements of Section 110(a)(2)(D)(i) of the Clean Air Act. These revisions were adopted on February 7, 2007, and were submitted to EPA on March 22, 2007. Rule R307–110–36 became effective February 9, 2007.

EPA is also approving the removal of the word ''not,'' a typographical error, from the provisions of Rule R307–130–4, ''Options.'' The amended text was adopted by the UAQB on June 21, 2007, effective July 13, 2007, and submitted by the Governor to EPA on September 17, 2007.

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 May 27, 2008 without further notice unless the Agency receives adverse comments by April 28, 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 Review

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 *May 27, 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: March 12, 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 TT—Utah

■ 2. Section 52.2320 is amended by adding paragraph (c)(65) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(65) On March 22, 2007 the Governor of Utah submitted the addition to the Utah Administrative Code (UAC) of Rule R307–110–36. This rule incorporates by reference Section XXIII, Interstate Transport, of the Utah State Implementation Plan (SIP). The Interstate Transport declaration satisfies the requirements of Section 110(a)(2)(D)(i) of the Clean Air Act (CAA). On September 17, 2007, the Governor of Utah also submitted an amendment to the UAC Rule R307–130–4, ''Options,'' that removes from the text a typographical error. It removes the word ''not'' which had been accidentally placed in this rule.

(i) Incorporation by reference.

(A) Addition to the UAC of rule R307–110–36 that incorporates by reference Section XXIII, ''Interstate Transport,'' of the Utah SIP. Rule R307–110–36 was adopted by the UAQB on February 7, 2007, effective February 9, 2007, and it was submitted by the Governor to EPA on March 22, 2007.

(B) Revision to UAC Rule R307–130–4, ''Options.'' This revision removes from the text the word ''not.'' The amended text was adopted by the UAQB on June 21, 2007, effective July 13, 2007, and it was submitted by the Utah Governor to EPA on September 17, 2007.

(ii) Additional material.

(A) Replacement page for UAC Rule R307–110–36 attached to the March 22, 2007 submittal letter by the Utah Governor to EPA. The new page correctly refers to Section XXIII of the Utah SIP instead of the incorrect reference to Section XXII included in the corresponding page submitted with the Administrative Documentation for Rule R307–110–36.

■ 3. Section 52.2354 is added to read as follows:

§ 52.2354 Interstate Transport.

CAA Section 110(a)(2)(D)(i) requirements for the 1997 8-hour ozone and $PM_{2.5}$ standards. Section XXIII, Interstate Transport, of the Utah SIP submitted by the Utah Governor on March 22, 2007, satisfies the requirements of the Clean Air Act Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ NAAQS promulgated by EPA in July 1997. Section XXIII, Interstate Transport, was adopted by the UAQB on February 9, 2007. The March 22, 2007 Governor's letter included as an attachment a set of replacement pages for the Interstate Transport text. The new pages reflect correctly that the Interstate Transport declaration is under Section XXIII of the Utah SIP and not under Section XXII as incorrectly indicated in the pages submitted with the Administrative Documentation for the adoption of this SIP section.

[FR Doc. E8–6275 Filed 3–27–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R04–OAR–2007–0959–200804; FRL–8547–8]

Determination of Nonattainment and Reclassification of the Memphis, TN/Crittenden County, AR 8-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule finalizes EPA's finding of nonattainment and reclassification of the Memphis, Tennessee and Crittenden County, Arkansas 8-hour ozone nonattainment area (Memphis TN–AR Nonattainment Area). EPA finds that the Memphis TN–AR Nonattainment Area has failed to attain the 8-hour ozone national ambient air quality standard (''NAAQS'' or ''standard'') by June 15, 2007, the attainment deadline set forth in the Clean Air Act (CAA) and Code of Federal Regulations (CFR) for marginal nonattainment areas. As a result, on the effective date of this rule, the Memphis TN–AR Nonattainment Area will be reclassified by operation of law as a moderate 8-hour ozone nonattainment area. The moderate area attainment date for the reclassified Memphis TN–AR Nonattainment Area would then be ''as expeditiously as practicable,'' but no later than June 15, 2010. Once reclassified, Tennessee and Arkansas must submit State Implementation Plan (SIP) revisions that meet the 8-hour ozone nonattainment requirements for moderate areas, as required by the CAA. In this action, EPA is establishing the schedule for the States' submittal of the SIP revisions required for the