■ 2. Add temporary 165.T–0309 to read as follows:

§ 165.T–0309 Trent River, New Bern, North Carolina.

(a) *Safety Zone.* The safety zone includes all waters within a 150 feet radius of position 35° 06′ 03″ North 077° 03′ 24″ West, approximately one hundred yards east of the Trent River Railroad Bridge, New Bern, North Carolina. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the ''Hatteras Boat Parade'' under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector North Carolina.

(c) *Safety Zone.* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the safety zone.

(2) The Operator of any vessel in the safety zone must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) Comply with the instructions of the Official Patrol.

(iii) If authorized to proceed, proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the event site.

(d) *Enforcement period.* This section will be enforced from 7:30 p.m. to 9 p.m. on May 30, 2008.

Dated: April 21, 2008.

June E. Ryan,

Captain, U.S. Coast Guard, Commander, Sector North Carolina.

[FR Doc. E8–10272 Filed 5–7–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG 2008–0275]

Safety Zone; Fourth of July Fireworks, City of Monterey, Monterey, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Fourth of July Fireworks Display safety zone for the city of Monterey from 8 a.m. to 9:45 p.m. on July 4, 2008. This action is necessary to control vessel traffic and to ensure the safety of event participants and spectators. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone, unless authorized by the Patrol Commander (PATCOM).

DATES: The regulations in 33 CFR 165.1191 will be enforced from 8 a.m. to 9:45 p.m. on July 4, 2008.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Sheral Richardson, Waterways Management Branch, U.S. Coast Guard Sector San Francisco, at (415) 399–7436.

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual Fourth of July Fireworks Display for the city of Monterey in 33 CFR 165.1191 on July 4, 2008, from 8 a.m. to 9:45 p.m.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM. Additionally, each person who receives notice of a lawful order or direction issued by an official patrol vessel shall obey the order of direction. The PATCOM is empowered to forbid and control the regulated area. The PATCOM shall be designated by the Commander, Coast Guard Sector San Francisco. The PATCOM may, upon request, allow the transit of commercial vessels through regulated areas when it is safe to do so.

This notice is issued under authority of 33 CFR 165.1191 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with extensive advance notification of this enforcement period via the Local Notice to Mariners. If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: April 15, 2008.

D.J. Swatland,

Captain, U.S. Coast Guard, Acting Captain of the Port, Sector San Francisco.

[FR Doc. E8–10276 Filed 5–7–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2007–0648; FRL–8563–6]

Approval and Promulgation of State Implementation Plans; States of South Dakota and Wyoming; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct Final Rule.

SUMMARY: EPA is taking direct final action to approve State Implementation Plans (SIPs) submitted by the States of South Dakota and Wyoming that address interstate transport with respect to the 1997 8-hour ozone and fine particulate matter ($PM_{2.5}$) National Ambient Air Quality Standards. EPA has determined that the Interstate Transport declarations submitted by South Dakota on May 15, 2007, and by Wyoming on May 3, 2007, satisfy the requirements of the Clean Air Act section 110(a)(2)(D)(i) provisions, also known as the ''good neighbor'' provisions, that a state SIP contain adequate provisions prohibiting air pollutant emissions from sources or activities in the state from adversely affecting another state. This action is being taken under section 110 of the Clean Air Act.

DATES: This rule is effective on July 7, 2008 without further notice, unless EPA receives adverse comment by June 9, 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–2007–0648, by one of the following methods:

• *http://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–2007–0648. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://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 *http://www.regulations.gov* or e-mail. The *http://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 *http://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 *http://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 *http://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 *South Dakota* and *Wyoming* mean respectively the State of South Dakota and the State of Wyoming.

Table of Contents

I. General Information

What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit CBI to EPA through *http://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 ''Interstate Transport Report'' adopted into the State of South Dakota SIP on April 19, 2007 and submitted to EPA on May 15, 2007. EPA is also approving the ''Interstate Transport'' declaration adopted into the State of Wyoming SIP on April 19, 2007 and submitted to EPA on May 3, 2007. The South Dakota ''Interstate Transport Report'' and the Wyoming ''Interstate Transport'' declaration address the requirements of section 110(a)(2)(D)(i) of the Clean Air Act (CAA). The provisions in this section of the CAA, also referred to as the ''good neighbor'' provisions, require 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 South Dakota Department of Environmental and Natural Resources (DENR) held a public hearing for the addition of the Interstate Transport Report to the South Dakota SIP on April 19, 2007, adopted the Report on this same date, and submitted it to EPA on May 15, 2007.

The Wyoming Department of Environmental Quality (DEQ) held a public hearing for the addition of the Interstate Transport declaration on December 11, 2006, adopted the declaration into the State SIP on April 15, 2007, and submitted it to EPA on May 3, 2007.

We have evaluated the submittals of these SIP revisions by the South Dakota DENR and the Wyoming DEQ and have determined that the States 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 South Dakota May 15, 2007 Submittal

EPA has reviewed the South Dakota Interstate Transport Report submitted on May 15, 2007 and believes that approval is warranted. The provisions of the CAA section 110(a)(2)(D)(i) require that the South Dakota 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 Report submitted by the State of South Dakota is consistent with the guidance.

To support the first two of the four elements noted above, the State of South Dakota 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;[1] and, (b) considerations of geographical and meteorological factors affecting the likelihood of pollution transport from the State to the closest 8-hour ozone and $PM_{2.5}$ 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 the 1997 8-hour ozone standard, the South Dakota Interstate Transport Report identifies the Denver Metropolitan Area in Colorado, and the Illinois and Wisconsin counties along the western shore of Lake Michigan as the closest nonattainment areas. The northernmost edge of the Denver Metropolitan Area is about 170 miles from the southwest corner of South Dakota, and nearly in opposite direction to the prevailing winds. These considerations, in combination with other factors such as the absence of nonattainment areas in South Dakota, and along the 170 miles between South Dakota's southwestern corner and the Denver Metropolitan Area, lead to the conclusion that it is highly unlikely that South Dakota makes a significant contribution to the 8-hour ozone nonattainment in this Colorado area. The rim of Illinois/Wisconsin counties along the western shore of Lake Michigan is more than 400 miles from the South Dakota eastern border. Again, distance, in combination with factors such as the absence of nonattainment areas in the intervening downwind states of Minnesota and Iowa make it highly unlikely that South Dakota contributes significantly to ozone nonattainment in the Illinois and Wisconsin counties along the western shore of Lake Michigan.

A similar conclusion is suggested by our examination of AQS monitoring data on 8-hour ozone exceedance days registered during the 2004–2006 years at monitoring stations in South Dakota and in neighboring downwind or potentially downwind states. During these years the ozone monitors did not register any exceedance days in South Dakota, Nebraska and Iowa. In the same time span the monitors in Minnesota, another of the closest downwind states, measured 8-hours ozone exceedances on less than 0.5 percent of the days. Minnesota monitors registered three exceedance days on June 2, July 12 and 22, 2005. The absence of 8-hour ozone exceedance days in South Dakota and most of its adjacent states, combined with the rare occurrence of exceedance days in Minnesota is consistent with conclusions drawn from other data and analysis, presented in the preceding paragraphs: any ozone or ozone precursor transport from South Dakota to downwind states is not high enough to significantly contribute to nonattainment, or interfere with maintenance of the NAAQS, in neighboring downwind states.

The section of the South Dakota Interstate Transport Report addressing the absence of significant ozone transport from South Dakota to downwind states includes a paragraph quoted from the EPA web page ''States Not Covered by CAIR'' [2] that has since been replaced. While the text quoted in the South Dakota Interstate Transport SIP reflects accurately the EPA web page text at the time South Dakota adopted the Report into the State SIP and submitted it to EPA, EPA subsequently revised its website. Specifically, in September 2007, EPA removed the sentence ''Several states are not included in the CAIR region because they do not contribute to down wind nonattainment.'' EPA's revised website prefaces the same list of 22 non-CAIR States (which includes South Dakota) with the statement that these states are not covered by CAIR, without discussing the basis for this conclusion.[3]

EPA's replacement of the text originally published on its ''Non-CAIR States'' web page does not affect our evaluation of the State of South Dakota's position that the State is unlikely to contribute significantly to ozone nonattainment in down wind states, as demonstrated by the data and analysis examined in the preceding paragraphs. In light of EPA's website revisions, EPA recommends that in a future rulemaking the State of South Dakota remove from

[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] See ''South Dakota Implementation Plan, Interstate Transport Report,'' January 5, 2007, page 2.

[3] Reproductions of the two web pages discussed in this paragraph may be found in EPA's April 8, 2008, ''Guidance and Supporting Documentation'' memo included in the docket for this action. As of 1/24/08 the EPA Web page for Non-CAIR States, updated in September 2007, may be found at *http://www.epa.gov/CAIR/not-covered.html.*

its Interstate Transport Report the EPA paragraph incorrectly reflecting the Agency's position on the Non-CAIR states' contribution to down wind nonattainment.

For the 1997 $PM_{2.5}$ standard, South Dakota identifies Libby, in Lincoln County, Montana, and Chicago, Illinois, as the nonattainment areas closest to the State. Libby is about 570 miles northwest from South Dakota, in a direction opposite to that of the prevailing winds. In addition, 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 considerations in combination with other factors such as the absence of $PM_{2.5}$ nonattainment areas in South Dakota, and the absence of $PM_{2.5}$ nonattainment areas along the 570 miles between the State's northwest corner and Libby lead to the conclusion that it is unlikely that South Dakota is making a significant contribution to the $PM_{2.5}$ nonattainment status of Lincoln County or interfering with maintenance of the NAAQS in Montana.

The Cook County nonattainment area, in which Chicago is located, is about 450 miles from the southeastern corner of South Dakota. Given the distance, the absence of $PM_{2.5}$ nonattainment areas in South Dakota, and between South Dakota and Cook County, it is unlikely that the State of South Dakota is making a significant contribution to the nonattainment of the 1997 $PM_{2.5}$ standard in 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 South Dakota to downwind counties identified as being in nonattainment for the base years 2010 and 2015 is to Cook County, and is estimated to be 0.04 $\mu g/m^3$ (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. AQS monitoring data we reviewed are consistent with these results. During the years 2004–2006, monitors in the State of South Dakota and its adjacent downwind or potentially downwind states, except for Minnesota, showed no $PM_{2.5}$ exceedance days. During these years the Minnesota monitors registered exceedances only on one out of 1,096 days.[5]

In conclusion, the data and analysis reviewed above indicate that the Interstate Transport Report adopted by South Dakota into the State SIP satisfactorily addresses the first two elements of the CAA section 110(a)(2)(D)(i) for the 1997 $PM_{2.5}$ 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. Consistently with EPA guidance issued August 11, 2006, the State of South Dakota explains that the State's SIP provisions include EPA-approved PSD and Nonattainment New Source Review (NNSR) programs that satisfy the section 110(a)(2)(D)(i) requirements. The State PSD program has been implemented for many years and NNSR implementation has not been needed since there are no $PM_{2.5}$ or 8-hour ozone nonattainment areas in South Dakota.

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 South Dakota Interstate Transport Report declares that there are no State sources of emissions interfering with the implementation of the 1980 regulations that required the states to address Reasonably Attributable Visibility Impairment (RAVI) SIPs in other states. Regarding visibility impairment caused by regional haze, the South Dakota Interstate Transport Report concurs with EPA that it is currently premature to determine whether or not SIPs for 8-hour ozone or $PM_{2.5}$ contain adequate provisions to prohibit emissions that interfere with measures in other states' SIPs designed to address regional haze. This requirement will be addressed in the South Dakota regional haze SIP. Therefore, South Dakota addresses 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.

V. EPA's Evaluation of the State of Wyoming May 3, 2007 Submittal

EPA has reviewed the Wyoming Interstate Transport SIP submitted on May 3, 2007 and believes that approval is warranted. The provisions of the CAA section 110(a)(2)(D)(i) require that the Wyoming 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 the 8-hour ozone standards. The Interstate Transport SIP submitted by the State of Wyoming is consistent with the guidance.

To support the first two of the four elements noted above, the State of Wyoming relies on a combination of: (a) EPA positions and modeling analysis results published in **Federal Register** notices as part of the CAIR rulemaking process; and (b) considerations of geographical, meteorological and topographical factors affecting the likelihood of significant pollution transport from the State to the closest $PM_{2.5}$ and 8-hour ozone nonattainment areas in other states. In addition, we examine factors specific to Wyoming, and to a number of downwind or potentially downwind states that might be significantly affected by any transport of $PM_{2.5}$, and of ozone and/or ozone precursors from Wyoming.

For the 8-hour ozone standard, the Denver metropolitan area in Colorado, and the Las Vegas-Clark County area in Nevada are the closest nonattainment areas. The Las Vegas-Clark County area is more than 400 miles from the southwest corner of Wyoming and in a direction opposite to that of the prevailing winds. Given this distance and the absence of 8-hour ozone nonattainment areas between Wyoming and Clark County, it is unlikely that Wyoming is making a significant contribution to the ozone nonattainment in Clark County.

Even though the northernmost edge of the Denver metropolitan area is only 30 miles south of the Wyoming border, it is highly unlikely that Wyoming contributes significantly to this area's non-attainment for the 1997 8-hour ozone standard. The State of Wyoming does not have any ozone nonattainment areas, and the AQS database indicates that during the 2004–2006 years Wyoming monitors registered four

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

[5] Adjacent downwind/potentially downwind states showing no $PM_{2.5}$ exceedance days include Nebraska, North Dakota and Iowa. Minnesota monitors showed one exceedance day in three years, on January 31, 2005.

exceedance days for the 8-hour ozone standard, all occurring in the wintertime.[6] Given that ozone levels generally reach peak values during the warm months of the year, which is also the case of the Denver metropolitan area, one may readily conclude that the monitoring data noted above excludes the likelihood of a significant contribution from the State of Wyoming to the 8-hour ozone nonattainment of the Denver metropolitan area.

A significant transport of ozone and/or its precursors from Wyoming to other close downwind or potentially downwind states such as Montana, Nebraska, North Dakota and South Dakota is also unlikely. As is the case with Wyoming, none of these states have any ozone nonattainment areas, and the four ozone exceedance days registered in Wyoming during the winter of 2005 and 2006 had no significant impact on these states. During the 2004–2006 years considered here, the monitoring stations in Montana, Nebraska, North Dakota and South Dakota showed no exceedance days for the 1997 8-hour ozone standard.

The section of the Wyoming Interstate Transport SIP addressing the absence of significant ozone transport from Wyoming to downwind states includes a paragraph quoted from the EPA Web page ''States Not Covered by CAIR'' [7] that has since been replaced. While the text quoted in the Wyoming Interstate Transport SIP reflects accurately the EPA Web page text at the time Wyoming adopted the Interstate Transport declaration into the State SIP and submitted it to EPA, EPA subsequently revised its Web site. Specifically, in September 2007, EPA removed the sentence ''Several states are not included in the CAIR region because they do not contribute to downwind nonattainment.'' EPA's revised Web site prefaces the same list of 22 non-CAIR States (which includes Wyoming) with the statement that these states are not covered by CAIR, without discussing the basis for this conclusion.[8]

EPA's replacement of the text originally published on its ''Non-CAIR States'' Web page does not affect our evaluation of the State of Wyoming's position that the State is unlikely to contribute significantly to ozone nonattainment in downwind states, as demonstrated by the data and analysis examined in the preceding paragraphs. In light of EPA's Web site revisions, EPA recommends that in a future rulemaking the State of Wyoming remove from its Interstate Transport SIP the EPA paragraph incorrectly reflecting the Agency's position on the Non-CAIR states' contribution to downwind nonattainment.

The Wyoming Interstate Transport SIP addresses the question of potential $PM_{2.5}$ transport to other states by quoting from the explanation given by EPA in support of the exclusion of four western states (including Wyoming) from the analysis that underlies the CAIR final rule notice:

> 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. [9]

These assessments are substantiated by data and consideration of additional factors we examine next. 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. Among 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 $\mu g/m^3$ for Montana, 0.08 $\mu g/m^3$ for Nebraska, 0.12 $\mu g/m^3$ for North Dakota, 0.04 $\mu g/m^3$ for South Dakota, and 0.05 $\mu g/m^3$ 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 $PM_{2.5}$ attainment/nonattainment areas and AQS monitoring data in Wyoming and its downwind, or potentially downwind, states yields similar conclusions. Wyoming's closest $PM_{2.5}$ nonattainment area is centered in Libby, Lincoln County, Montana, which is about 330 miles north of the Wyoming northwest corner. EPA's findings based on a nine-factor analysis of Lincoln County (reported in the Agency's technical support document for the December 17, 2004 nonattainment designations) stress the local origins of $PM_{2.5}$ nonattainment in Libby.[10] These findings, in combination with other factors such as distance, the absence of $PM_{2.5}$ nonattainment areas in Wyoming, and the absence of $PM_{2.5}$ nonattainment areas along the 330 miles between the Wyoming northwest corner area and Libby, are strong indications that it is unlikely that Wyoming is making a significant contribution to the $PM_{2.5}$ nonattainment status of Lincoln County. AQS monitoring data for the period 2004–2006 shows that there were no $PM_{2.5}$ exceedance days in Wyoming, Colorado, North Dakota, South Dakota and Nebraska. Montana monitors registered five exceedance days, equivalent to less than 0.5 percent, distributed among four different counties.

The data and analyses considered in the preceding paragraphs indicate that the Interstate Transport declaration adopted by Wyoming into the State SIP satisfactorily addresses the first two elements of the CAA section 110(a)(2)(D)(i) requirements for the 1997 $PM_{2.5}$ 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. Consistent with EPA guidance issued August 11, 2006, the State of Wyoming explains that the State's SIP provisions include an EPA-approved PSD program, implemented for many years, that satisfies the section 110(a)(2)(D)(i) requirements. In the absence of any $PM_{2.5}$ or 8-hour ozone nonattainment areas, Wyoming does not have an NNSR program but indicates that the State will update its NSR program to include one if the need should arise.

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

[6] The exceedance days were registered at two monitors within Sublette County—the site of the Jonah gas field development. The exceedance values were measured on February 3, 20, and 26, 2005, and February 27, 2006.

[7] See ''Wyoming State Implementation Plan, Interstate Transport,'' December 11, 2006, page 2.

[8] Reproductions of the two Web pages discussed in this paragraph may be found in EPA's ''Guidance, Supporting Materials, and Additional Materials'' in this docket. As of 1/24/08 the EPA Web page for Non-CAIR States, updated on September 20, 2007, may be found at *http://www.epa.gov/CAIR/not-covered.html*.

[9] ''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.

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

August 15, 2006 EPA guidance, the Wyoming Interstate Transport SIP declares that there are no State sources of emissions interfering with the implementation of the 1980 regulations that required the states to address Reasonably Attributable Visibility Impairment (RAVI) SIPs in other states. Regarding visibility impairment caused by regional haze, the Wyoming Interstate Transport SIP concurs with EPA that it is currently premature to determine whether or not SIPs for 8-hour ozone or $PM_{2.5}$ contain adequate provisions to prohibit emissions that interfere with measures in other states' SIPs designed to address regional haze. This requirement will be addressed in the Wyoming regional haze SIP. Thus, Wyoming addresses 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 the Interstate Transport Report submitted by the State of South Dakota on May 15, 2007, and is adding section X to 40 CFR 52.1270(e) to reflect that the State has adequately addressed the required elements of section 110(a)(2)(D)(i) of the Clean Air Act.

EPA is approving the Interstate Transport SIP submitted by the State of Wyoming on May 3, 2007 and is adding section XVIII to 40 CFR 52.2620(e) to reflect that the State has adequately addressed the required elements of section 110(a)(2)(D)(i) of the Clean Air Act.

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 July 7, 2008 without further notice unless the Agency receives adverse comments by June 9, 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 the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 7, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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: April 23, 2008.

Robert E. Roberts,

Regional Administrator, Region 8.

■ 40 CFR part 52 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 QQ—South Dakota

■ 2. In § 52.2170, the table in paragraph (e) is amended by adding entry ''X'' in numerical order to read as follows:

§ 52.2170 Identification of plan.

* * * * *

(e) *EPA-approved nonregulatory provisions.*

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/ Adopted date	EPA approval date and citation	Explanations
* *	*	* * *	*	*
X. Interstate Transport. South Dakota Interstate Transport Report satisfying the requirement of Section 110(a)(2)(D)(i) of the CAA for the 1997 8-hour ozone and $PM_{2.5}$ standards.	Statewide	Submitted: 5/15/07 .... Adopted: 4/19/07	5/08/08 [insert FR page number where document begins].	

Subpart ZZ—Wyoming

■ 3. In § 52.2620, the table in paragraph (e) is amended by adding entry ''XVIII'' in numerical order to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(e) EPA-approved nonregulatory provisions.

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/ Adopted date	EPA approval date and citation	Explanations
* *	*	* * *	*	*
XVIII. Interstate Transport. Wyoming Interstate Transport SIP satisfying the requirement of Section 110(a)(2)(D)(i) of the CAA for the 1997 8-hour ozone and $PM_{2.5}$ standards.	Statewide	Submitted: 5/3/07 ..... Adopted: 4/15/07	5/08/08 [insert FR page number where document begins].	

[FR Doc. E8–10103 Filed 5–7–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–8564–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Deletion for the Tabernacle Drum Dump Superfund Site from the National Priorities List.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region 2 Office announces the deletion of the Tabernacle Drum Dump Superfund Site from the National Priorities List (NPL). The Tabernacle Drum Dump Site is located in Tabernacle Township, Burlington County, New Jersey. The NPL constitutes Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of New Jersey, through the Department of Environmental Protection (NJDEP) have determined that all appropriate response actions have been implemented and no further response actions are required. In addition, EPA and the NJDEP have determined that the remedial action taken at the Tabernacle Drum Dump Site is protective of public health, welfare, and the environment.

DATES: *Effective Date:* May 8, 2008.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–HQ–SFUND–2005–0011. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the site information repositories. Locations, contacts, phone numbers and viewing hours are: EPA's Region 2 Superfund Records Center, 290 Broadway, Room 1828, New York, New York 10007–1866, (212) 637–4308. Hours: 9 a.m. to 5 p.m. Monday through Friday, excluding holidays, by appointment only.

Information on the Site is also available for viewing at the Site's information repository located at: Tabernacle Municipal Building, 163 Carranza Road, Tabernacle, New Jersey 08088.

FOR FURTHER INFORMATION CONTACT: Douglas Tomchuk, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 19th Floor, New York, New York 10007–1866, (212) 637–3956.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is the Tabernacle Drum Dump Superfund Site, located in Tabernacle Township, Burlington County, New Jersey.

A Notice of Intent to Delete for the Tabernacle Drum Dump Superfund Site was published in the **Federal Register** on September 24, 2007. The closing date for comments on the Notice of Intent to Delete was October 24, 2007. Two letters were received by EPA on the proposed deletion during the public comment period. One of the letters simply asked for clarification of the ability to continue site restoration after the deletion. The second letter provided support for the deletion of the Tabernacle Drum Dump Site. EPA responded to the letters in January 2008. A responsiveness summary was prepared and placed in both the docket, EPA–HQ–SFUND–2005–0011, on *http://www.regulations.gov*, and in the local repositories listed above.

EPA's decision to propose the site for deletion was based on the successful implementation of the remedy, which