based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 917

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 17, 2002.

Michael K. Robinson,

Acting Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR 917 is amended as set forth below:

PART 917—KENTUCKY

1. The authority citation for part 917 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 917.12 is amended by adding the following paragraph:

§ 917.12 State regulatory program and proposed program amendment provisions not approved.

* * * * *

(c) The amendment submitted by letter dated April 12, 2002, proposing a new section of the Kentucky Revised Statutes at Chapter 350 and referenced as Kentucky House Bill 405, is hereby not approved, effective November 20, 2002.

[FR Doc. 02–29305 Filed 11–19–02; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIP NO. MT–001–0043, FRL–7397–4]

Approval and Promulgation of Air Quality Implementation Plans for the State of Montana; Revisions to the Administrative Rules of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Governor of Montana on April 30, 2001. The April 30, 2001 submittal revises the State's Administrative Rules of Montana (ARM) by adding a Credible Evidence Rule. The intended effect of this action is to make the Credible Evidence Rule Federally enforceable. Finally, the Governor's April 30, 2001 submittal contains other SIP revisions which have been addressed separately. This action is being taken under section 110 of the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective December 20, 2002.

ADDRESSES: 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 8, 999 18th Street, Suite 300, Denver, Colorado 80202 and copies of the Incorporation by Reference material at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski , EPA, Region 8, (303) 312–6144.

SUPPLEMENTARY INFORMATION: On August 19, 2002 (67 FR 53765), EPA published a notice of proposed rulemaking (NPR) for the State of Montana. The NPR proposed approval of a State Implementation Plan (SIP) revision submitted by the Governor of Montana on April 30, 2001. The April 30, 2001 submittal revises the State's Administrative Rules of Montana (ARM) by adding a Credible Evidence Rule (ARM 17.8.132). The intended effect of this action is to make the Credible Evidence Rule Federally enforceable.

I. Final Action

Since we received no comment on the August 19, 2002 notice of proposed rulemaking, EPA is approving a State Implementation Plan (SIP) revision submitted by the Governor of Montana on April 30, 2001. The April 30, 2001 submittal revises the State's Administrative Rules of Montana (ARM) by adding a Credible Evidence Rule (ARM 17.8.132).

II. Administrative Requirements

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 January 21, 2003. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: October 10, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

40 CFR 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 BB—Montana

2. Section 52.1370 is amended by adding paragraph (c)(58) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(58) On April 30, 2001, the Governor of Montana submitted a request to add a credible evidence rule to the Administrative Rules of Montana (ARM). ARM 17.8.132—''Credible Evidence'' has been approved into the SIP.

(i) Incorporation by reference.

(A) ARM 17.8.132 effective December 8, 2000.

[FR Doc. 02–29335 Filed 11–19–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN145–1a; FRL–7398–5]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to particulate matter (PM) emissions regulations for Union Tank Car's railcar manufacturing facility located in Lake County, Indiana. The Indiana Department of Environmental Management (IDEM) submitted the revised regulations to EPA on April 30, 2002 and September 6, 2002 as an amendment to Indiana's State Implementation Plan (SIP). The revisions consist of relaxing the PM limits for one emissions unit; however, actual emissions will not increase, and the PM National Ambient Air Quality Standards (NAAQS) should be protected. EPA is approving revisions for Union Tank Car because complying with the current limits is infeasible, and because the revisions should not harm air quality.

DATES: This rule is effective on January 21, 2003, unless the EPA receives relevant adverse written comments by December 20, 2002. If EPA receives adverse comment, we will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should mail written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of Indiana's submittal at: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886–6524, E-Mail: *rau.matthew@epa.gov.*

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

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I. What Is the EPA Approving?

The EPA is approving revisions to the particulate matter emissions regulations for Union Tank Car, which operates a railcar manufacturing facility in Lake County, Indiana. IDEM submitted the revisions to EPA on April 30, 2002 and September 6, 2002 as an amendment to Indiana's SIP at 326 IAC 6–1–10.1.

II. What Are the Changes From the Current Rule?

IDEM changed the emission limits for particulate matter less than 10 μm in diameter (PM–10) at the grit blasting unit from 0.002 pounds per ton (lbs/ton) to 0.01 grains per dry standard cubic foot (gr/dscf), and from 0.020 to 9.9 pounds per hour (lb/hr). IDEM changed the units from pounds per ton to grains per dry standard cubic foot because grains per dry standard cubic foot can be measured directly. The new limit of 9.9 lb/hr results from the unit emitting 0.01 gr/dscf when operated at 117,000 actual cubic feet per minute (acf/min). IDEM revised emission limits because the previous limits were far more stringent than the limits for similar sources; and were not feasible.

III. What Is the EPA's Analysis of the Supporting Materials?

Indiana submitted a letter to EPA on May 6, 2002, in which it stated that meeting the current PM–10 limits is infeasible for the Union Tank Car grit blaster or any other similar sources. In that letter, Indiana noted that the present limit of 0.020 lb/hr is equivalent to 0.00039 gr/acf. Indiana stated that the Union Tank Car limits are 100 times more stringent than those that apply to similar Lake County, Indiana sources. The letter also indicated that the actual PM–10 emissions from Union Tank Car will not increase as a result of this regulatory change.

IV. What Are the Environmental Effects of These Actions?

Particulate matter interferes with lung function when inhaled. Exposure to PM can cause heart and lung disease. PM also aggravates asthma. Airborne particulate is the main source of haze that causes a reduction in visibility. It also is deposited on the ground and in the water. This harms the environment by changing the nutrient and chemical balance.

Although Union Tank Car's allowable PM–10 emission limits are being relaxed, its actual emissions will not increase. Indiana included the company's actual emissions in the Lake County PM–10 modeling analysis, which EPA approved on June 15, 1995 (60 FR 31412). In the Lake County modeling analysis, Indiana showed that the PM–10 NAAQS will be protected with Union Tank Car's current emission levels. Therefore, this SIP revision should not harm air quality.

V. What Rulemaking Actions Are the EPA taking?

The EPA is approving, through direct final rulemaking, revisions to the particulate matter emissions regulations for Union Tank Car in Lake County, Indiana. The new PM–10 emission limits for the grit blasting are 0.01 gr/dscf and 9.9 lb/hr.

We are publishing this action without a prior proposal because we view these as noncontroversial revisions and anticipate no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are 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 on January 21, 2003 without further notice unless we receive relevant adverse written comment by December 20, 2002.