

Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 13, 1998. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: November 13, 1997.

Harry Seraydarian,
Acting Regional Administrator, Region IX.

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 F—California

2. Section 52.220 is amended by adding paragraph (c)(239)(i)(E) to read as follows:

§ 52.220 Identification of plan.

* * * * *

- (c) * * *
- (239) * * *
- (i) * * *

(E) Bay Area Air Quality Management District.

(1) Rule 9–7 adopted on September 15, 1993, Rule 9–8 adopted on January 20, 1993, Rule 9–9 adopted on

September 21, 1994, and Rule 9–12 adopted on January 19, 1994.

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[FR Doc. 97–32561 Filed 12-12-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MT–001–0002a, MT–001–0003a; FRL–5934–5]

Approval and Promulgation of Air Quality Implementation Plans; Montana; 1990 Base Year Emission Inventories for Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the 1990 base year carbon monoxide (CO) emission inventories for Missoula, Billings, and Great Falls that were submitted by the State to satisfy certain requirements of the Clean Air Act (CAA), as amended in 1990.

DATES: This final rule is effective February 13, 1998 unless adverse or critical comments are received by January 14, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments should be addressed to: Richard R. Long, Director, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 8, Air Program, 999 18th Street, suite 500, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, suite 500, Denver, Colorado 80202–2466, ph. (303) 312–6479.

SUPPLEMENTARY INFORMATION:

I. Background to the Action

As required by the CAA, States have the responsibility to inventory emissions contributing to NAAQS nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment.

Those States containing moderate and serious carbon monoxide nonattainment areas were required under Section 187(a)(1) of the CAA to submit by November 15, 1992, a comprehensive, accurate, and current inventory of actual CO season emissions from all sources for each nonattainment area (see 57 FR 13530, April 16, 1992). This requirement applies to Missoula. "Not Classified" CO nonattainment areas, like Billings and Great Falls, were required to submit their inventories by November 15, 1993 (see 57 FR 13535, April 16, 1992). Stationary point sources, stationary area sources, on-road mobile, and non-road mobile sources of carbon monoxide (CO) were to be included in each inventory. This inventory, for calendar year 1990, was denoted as the base year inventory.

The 1990 base year inventory is the primary inventory from which any periodic and/or modeling inventory is derived. Further information on these inventories and their purpose can be found in the document "Emission Inventory Requirements for Carbon Monoxide State Implementation Plans," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, dated March, 1991.

The 1990 base year inventory was to address actual CO emissions for the area during the peak CO season. The peak CO season should reflect the months when peak CO concentrations occur. For areas where winter is the peak CO season, as is the case for Missoula, Billings, and Great Falls, the 1990 base year inventory was to include the period November 1989 through January 1990.

The air quality planning requirements for base year inventories for CO nonattainment areas are set out in sections 172(c) and 187(a)(1) of Title I of the CAA. EPA issued a General Preamble describing EPA's interpretation as to how EPA intended to review SIP revisions submitted under Title I of the CAA which included requirements for the preparation of the 1990 base year inventory (57 FR 13529, April 16, 1992, and 57 FR 18070, April 28, 1992). Because EPA is describing its interpretations in this action only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of Title I advanced in this action and its supporting rationale. Available EPA guidance documents, for preparing emission inventories, were referenced in the General Preamble (57 FR 13498, April 16, 1992).

II. Analysis of the State's Submittal

Section 110(k) of the Act sets out provisions governing EPA's action on plan submissions of the 1990 base year CO emission inventory based on whether or not the inventory satisfies the requirements of Section 187(a)(1) and Section 172(c) (see 57 FR 13565-13566, April 16, 1992). Based on EPA's review, EPA is approving the Montana CO 1990 base year emission inventories as submitted to EPA on July 18, 1995, (Missoula and Billings) and on April 23, 1997 (Great Falls).

The following describes the review procedures associated with determining the acceptability of a 1990 base year emission inventory and discusses the level of acceptance that can result from the findings of the review process.

A. Procedural Background

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 (including emission inventories) be adopted after going through a reasonable notice and public hearing process prior to being submitted by a State to EPA.¹

The State of Montana held a public hearing for the Missoula and Billings CO inventories on July 10, 1995, before the Montana Department of Environmental Quality (MDEQ). The Governor submitted these two 1990 base year inventories to EPA with a letter dated July 18, 1995. The State held a public hearing for the Great Falls CO inventory on December 9, 1996, before the MDEQ. This inventory was submitted by the Governor with a letter dated April 23, 1997.

B. Review of Montana's 1990 Base Year SIP CO Inventories

EPA's Level I, II, and III review process checklists are used to determine if all components of a CO base year inventory are present and approvable. EPA's detailed Level I and II review procedures can be found in the following document: "Quality Review Guidelines for 1990 Base Year Emission Inventories," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 27, 1992. The Level III final review procedures are specified in a memorandum from J.

¹ See, Memorandum from John Calcagni, Director, Air Quality Management Division, and William G. Laxton, Director, Technical Support Division, to Regional Air Division Directors, Region I-X, "Public Hearing Requirements for 1990 Base-Year Emission Inventories for Ozone and Carbon Monoxide Nonattainment Areas," September 29, 1992.

David Mobley, Chief, Emissions Inventory Branch, to Air Branch Chiefs, Regions I-X, "Final Emission Inventory Level III Acceptance Criteria," October 7, 1992 and revised in a memorandum from John Seitz to the Regional Air Directors, dated June 24, 1993.² EPA's review also evaluates the level of supporting documentation provided by the State and assesses whether the emission calculations were developed, and data quality assured, according to current EPA guidance.

The Level III review process is outlined below and consists of nine requirements that a CO base year inventory must include. For a base year CO emission inventory to be acceptable, it must pass all of the following acceptance criteria:

1. An approved Inventory Preparation Plan (IPP) must be provided and the Quality Assurance (QA) program contained in the IPP must be performed and its implementation documented.

Analysis: Montana's IPP was approved by EPA on October 23, 1991. The IPP's QA program requirements were addressed in section 4.3 and Appendix F of the Missoula inventory, in section 4.3 and Appendix F of the Billings inventory, and in section 4.3 and Appendix H of the Great Falls inventory.

2. Adequate documentation must be provided that enables the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory.

Analysis: This requirement was addressed in sections 4.0 through 4.2.8., 5.0, 6.0, and appendices A through E of the Missoula inventory; sections 4.0 through 4.2.8., 5.0, 6.0, and appendices A through E and G of the Billings inventory; and sections 4.0 through 4.2.8., 5.0, 6.0, and appendices A through G and I of the Great Falls inventory.

3. The point source inventory must be complete.

Analysis: This requirement was addressed in sections 4.1.1., 4.2.7., 5.0, 6.0, and appendices A and B of the Missoula inventory; sections 4.1.1., 4.2.6., 5.0, 6.0, and appendices A and B of the Billings inventory; and sections 4.1.1., 4.2.7., 5.0, 6.0, and appendices A and B of the Great Falls inventory.

4. Point source emissions must be calculated according to current EPA guidance.

Analysis: This requirement was addressed in sections 4.1.1., 4.2.7., 5.0,

² Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, to Regional Air Division Directors, Region I-X, "Emission Inventory Issues," June 24, 1993.

6.0, and appendices A and B of the Missoula inventory; sections 4.1.1., 4.2.6., 5.0, 6.0, and appendices A and B of the Billings inventory; and sections 4.1.1., 4.2.7., 5.0, 6.0, and appendices A and B of the Great Falls inventory.

5. The area source inventory must be complete.

Analysis: This requirement was addressed in sections 4.1.2., 4.2.1., 4.2.2., 4.2.8., 5.0, 6.0, and appendix D of the Missoula inventory; sections 4.1.2., 4.2.1., 4.2.2., 4.2.7., 4.2.8., 5.0, 6.0, and appendix D of the Billings inventory; and sections 4.1.2., 4.2.1., 4.2.2., 4.2.8., 5.0, 6.0 and appendices D, E, and F of the Great Falls inventory.

6. The area source emissions must be prepared or calculated according to current EPA guidance.

Analysis: This requirement was addressed in sections 4.1.2., 4.2.1., 4.2.2., 4.2.8., 5.0, 6.0, and appendix D of the Missoula inventory; sections 4.1.2., 4.2.1., 4.2.2., 4.2.7., 4.2.8., 5.0, 6.0, and appendix D of the Billings inventory; and sections 4.1.2., 4.2.1., 4.2.2., 4.2.8., 5.0, 6.0 and appendices D, E, and F of the Great Falls inventory.

7. The method (e.g., HPMS or a network transportation planning model) used to develop VMT estimates must follow EPA guidance, as detailed in the document, "Procedures for Emission Inventory Preparation, Volume IV: Mobile Sources", U.S. Environmental Protection Agency, Office of Mobile Sources and Office of Air Quality Planning and Standards, Ann Arbor, Michigan, and Research Triangle Park, North Carolina, December 1992. The VMT development methods must be adequately described and documented in the inventory report.

Analysis: This requirement was addressed in sections 4.2.5., 5.0, 6.0, and Appendix C in each of the three inventories.

8. The MOBILE model must be correctly used to produce emission factors for each of the vehicle classes.

Analysis: This requirement was addressed in sections 4.2.5., 5.0, 6.0, and Appendix C in each of the three inventories.

9. Non-road mobile emissions estimates must be prepared according to current EPA guidance for all of the source categories.

Analysis: This requirement was addressed in sections 4.2.3., 4.2.4., 4.2.6., 5.0, and 6.0 of the Missoula inventory; sections 4.2.3., 4.2.4., 4.2.8., 5.0, 6.0, and Appendix G of the Billings inventory; and sections 4.2.3., 4.2.4., 4.2.6., 5.0, 6.0, and Appendix I of the Great Falls inventory.

The 1990 base year CO emissions from point sources, area sources, on-

road mobile sources, and non-road mobile sources for Missoula, Billings, and Great Falls are summarized in the following table:

CARBON MONOXIDE SEASONAL EMISSIONS IN TONS PER DAY

Non-attainment area	Point source emissions	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Total emissions
Missoula	12.84	32.98	70.44	0.78	117.04
Billings	2.41	13.74	57.46	1.42	75.03
Great Falls	0.19	7.95	46.34	5.63	60.11

III. Final Action

EPA is approving the carbon monoxide 1990 base year emission inventories for Missoula, Billings, and Great Falls.

All supporting calculations and documentation for these three 1990 carbon monoxide base year inventories are contained in the State's Technical Support Document (TSD).

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this issue of the **Federal Register**, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective February 13, 1998 unless, by January 14, 1998, adverse or critical comments are received.

If EPA receives adverse or critical comments, this action will be withdrawn before the effective date by the publication of a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no adverse or critical comments are received, the public is advised that this action will be effective February 13, 1998.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to any State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under Section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds.

Union Electric Co. v. U.S. EPA, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

significantly or uniquely impacted by the rule.

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

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 13, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2) of the CAA).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: October 3, 1997.

William P. Yellowtail,
Regional Administrator, Region VIII.

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 BB—Montana

2. Section 52.1391 is added to read as follows:

§ 52.1391 Emission inventories.

The Governor of the State of Montana submitted the 1990 carbon monoxide base year emission inventories for Missoula and Billings on July 18, 1995, as a revision to the State Implementation Plan (SIP). The Governor submitted the 1990 carbon monoxide base year emission inventory for Great Falls on April 23, 1997, as a revision to the SIP. The inventories address emissions from point, area, on-road mobile, and non-road sources. These 1990 base year carbon monoxide inventories satisfy the nonattainment area requirements of the Clean Air Act of section 187(a)(1) for Missoula and section 172(c)(3) for Billings and Great Falls.

[FR Doc. 97-32644 Filed 12-12-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[ND-001-0003a; FRL-5933-8]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; North Dakota; Control of Landfill Gas Emissions From Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the North Dakota plan for implementing the Municipal Solid Waste (MSW) Landfill Emission Guidelines at 40 CFR part 60, subpart Cc, which was required pursuant to section 111(d) of the Clean Air Act (Act). The State's plan was submitted to EPA on September 11, 1997 in accordance with the requirements for adoption and submittal of State plans for designated facilities in 40 CFR part 60, subpart B. It establishes performance standards for existing MSW landfills and provides for the

implementation and enforcement of those standards. EPA finds that North Dakota's plan for existing MSW landfills adequately addresses all of the Federal requirements applicable to such plans.

DATES: This action is effective on February 13, 1998 unless adverse or critical comments are received in writing by January 14, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Vicki Stamper, 8P2-A, at the EPA Region VIII Office listed. Copies of the documents relative to this action are available for inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2466; and the North Dakota Department of Health, Division of Environmental Engineering, 1200 Missouri Avenue, room 304, Box 5520, Bismarck, North Dakota 58506-5520.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, EPA Region VIII, (303) 312-6445.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 111(d) of the Act, EPA has established procedures whereby States submit plans to control certain existing sources of "designated pollutants." Designated pollutants are defined as pollutants for which a standard of performance for new sources applies under section 111, but which are not "criteria pollutants" (i.e., pollutants for which National Ambient Air Quality Standards (NAAQS) are set pursuant to sections 108 and 109 of the Act) or hazardous air pollutants (HAPs) regulated under section 112 of the Act. As required by section 111(d) of the Act, EPA established a process at 40 CFR part 60, subpart B, similar to the process required by section 110 of the Act (regarding State Implementation Plan (SIP) approval) which States must follow in adopting and submitting a section 111(d) plan. Whenever EPA promulgates a new source performance standard (NSPS) that controls a designated pollutant, EPA establishes emissions guidelines in accordance with 40 CFR 60.22 which contain information pertinent to the control of the designated pollutant from that NSPS source category (i.e., the "designated facility" as defined at 40 CFR 60.21(b)). Thus, a State's section 111(d) plan for a designated facility must comply with the emission guideline for that source

category as well as 40 CFR part 60, subpart B.

On March 12, 1996, EPA published Emission Guidelines for existing MSW landfills (EG) at 40 CFR part 60, subpart Cc (40 CFR 60.30c through 60.36c) and NSPS for new MSW Landfills at 40 CFR part 60, subpart WWW (40 CFR 60.750 through 60.759). (See 61 FR 9905-9929.) The pollutant regulated by the NSPS and EG is MSW landfill emissions, which contain a mixture of volatile organic compounds (VOCs), other organic compounds, methane, and HAPs. VOC emissions can contribute to ozone formation which can result in adverse effects to human health and vegetation. The health effects of HAPs include cancer, respiratory irritation, and damage to the nervous system. Methane emissions contribute to global climate change and can result in fires or explosions when they accumulate in structures on or off the landfill site. To determine whether control is required, nonmethane organic compounds (NMOCs) are measured as a surrogate for MSW landfill emissions. Thus, NMOC is considered the designated pollutant. The designated facility which is subject to the EG is each existing MSW landfill (as defined in 40 CFR 60.31c) for which construction, reconstruction or modification was commenced before May 30, 1991.

Pursuant to 40 CFR 60.23(a), States were required to submit a plan for the control of the designated pollutant to which the EG applies within nine months after publication of the EG, or by December 12, 1996. If there were no designated facilities in the State, then the State was required to submit a negative declaration by December 12, 1996.

On September 11, 1997, the State of North Dakota submitted its "Section 111(d) Plan for MSW Landfills" for implementing EPA's MSW landfill EG. The following provides a brief discussion of the requirements for an approvable State plan for existing MSW landfills and EPA's review of North Dakota's submittal in regard to those requirements. More detailed information on the requirements for an approvable plan and North Dakota's submittal can be found in the Technical Support Document (TSD) accompanying this notice, which is available upon request.

II. Review of North Dakota's MSW Landfill Plan

EPA has reviewed North Dakota's section 111(d) plan for existing MSW landfills against the requirements of 40 CFR part 60, subpart B and subpart Cc, as follows: