

**List of Subjects in 40 CFR Part 52**

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

Dated: November 9, 1999.

**Jack W. McGraw,**

*Acting Regional Administrator, Region VIII.*

40 CFR part 52, subpart TT of chapter I, title 40 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 TT—Utah**

2. Section 52.2320 is amended by adding paragraph (c)(43) to read as follows:

**§ 52.2320 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(43) On February 1, 1995 the Governor of Utah submitted revisions to the Utah SIP to revise the provisions for road salting and sanding in Section 9, part A of the SIP and in UACR R307-1-3, updating the incorporation by reference in R307-2-1, deleting obsolete measures for nonferrous smelters in R307-1-3, and making nonsubstantive changes to UACR R307-1-1 and R307-1-3.

(i) Incorporation by reference.

(A) UACR R307-1-3, a portion of "Control of Installations," revisions to road salting and sanding requirements and deletion of non ferrous smelter orders, as adopted by Utah Air Quality Board on November 5, 1993, effective on January 3, 1994.

(B) UACR R307-2-1, "Incorporation by Reference," revised date for incorporation by reference of the State Implementation Plan, as adopted by Utah Air Quality Board on January 31, 1994.

(C) UACR R307-1-1, "Foreword and Definitions," nonsubstantive change made to definition of "PM<sub>10</sub> precursor," effective on June 1, 1994.

(D) UACR R307-1-3, "Control of Installations," nonsubstantive changes to road salting and sanding, effective on June 1, 1994.

(ii) Additional Material.

(A) February 22, 1999 letter from Ursula Trueman, Director, Utah Division of Air Quality, to Richard Long, Director, EPA Region VIII Air and Radiation Program, transmitting nonsubstantive change correction to R307-2-1, "Incorporation by

Reference," that was left out of the February 1, 1995 SIP submittal.

(B) March 16, 1999 letter from Larry Svoboda, Unit Leader, EPA Region VIII Air and Radiation Program, to Ursula Trueman, Director, Utah Division of Air Quality, explaining EPA's interpretation of nonsubstantive revision to definition of "PM<sub>10</sub> precursor."

(C) April 28, 1999 letter from Richard Sprott, Planning Branch Manager, Utah Division of Air Quality, to Larry Svoboda, Unit Leader, EPA Region VIII Air and Radiation Program, providing explanation for and background to the "PM<sub>10</sub> precursor" definition.

(D) August 26, 1999 fax from Jan Miller, Utah Division of Air Quality, to Cindy Rosenberg, EPA Region VIII Air and Radiation Program, transmitting documentation for effective date of the "PM<sub>10</sub> precursor" definition.

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

**[SIP NOS. MT-001-0012a; MT-001-0013a; MT-001-0014a; MT-001-0015a; FRL-6482-76]**

**Approval and Promulgation of Air Quality Implementation Plans; Montana; Emergency Episode Plan, Columbia Falls, Butte and Missoula Particulate Matter State Implementation Plans, Missoula Carbon Monoxide State Implementation Plan**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of Montana. The revisions update the State of Montana's Emergency Episode Plan; Columbia Falls, Butte and Missoula's Particulate Matter (particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10)) Plans; and the Missoula carbon monoxide (CO) Plan. The intended effect of this action is to make the federally approved SIP consistent with the State adopted SIP with respect to the Emergency Episode Plan, Columbia Falls, Butte and Missoula's PM-10 SIPs and Missoula's CO SIP. EPA is taking this action under sections 110 and 179 of the Clean Air Act (Act). EPA is also updating out-of-date sections in 40 CFR part 52, subpart BB—Montana.

**DATES:** This rule is effective on February 4, 2000 without further notice, unless EPA receives adverse comment by January 5, 2000. 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:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.  
**FOR FURTHER INFORMATION CONTACT:** Laurie Ostrand, EPA, Region VIII, (303) 312-6437.

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever "we," "us," or "our" are used we mean EPA. On July 8, 1997, the Governor of Montana submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of minor modifications to the Butte, Columbia Falls and Missoula PM-10 control plans, the Missoula CO control plan, and an update to the Montana Emergency Episode Plan.

**I. Summary of SIP Revision****A. Columbia Falls PM-10 Control Plan**

The July 8, 1997 SIP submittal revised the State's SIP narrative page numbering for the Columbia Falls PM-10 control plan and Table 15.11.14A, Columbia Falls 24-hour Demonstration of Compliance Implementation of Contingency Measure, and Table 15.11.15B, Columbia Falls 24-hour Demonstration of Compliance. The Tables are contained in the SIP narrative.

The revisions to the above tables make minor modifications to the attainment, maintenance and contingency measures demonstrations. In a recent review of the Columbia Falls attainment demonstration the State believed that the 24-hour attainment

demonstration contained in the SIP revisions EPA approved in 1994 and 1996<sup>1</sup> had incorrectly labeled the source categories. The revised tables correct this error. With these minor revisions, Columbia Falls still demonstrates attainment of the PM-10 NAAQS.

We believe the revisions to the Columbia Falls PM-10 SIP are minor. We are approving the revisions to the Columbia Falls PM-10 SIP.

#### B. Butte PM-10 Control Plan

The July 8, 1997 SIP submittal revises the State's PM-10 attainment demonstration for Butte. Specifically, the SIP revision modifies the following tables contained in the SIP narrative: Table 47.10.14.3C, Contingency Measure Demonstration—24-Hour; Table 47.10.15A, Control Strategy Credit; Table 47.10.15.2A, Butte 24-Hour Demonstration of Compliance and the SIP narrative in sections 47.10.10.3, Rhone-Poulenc Basic Chemicals, Co. (Rhone-Poulenc) Control Efficiency, and 47.10.15.2, 24-Hour Demonstration of Attainment and Maintenance.

Rhone-Poulenc, a contributor of PM-10 to the Butte area, requested an increase in its permitted PM-10 emissions limit. In our review comments on the draft permit we indicated that the State would need to revise the Butte PM-10 SIP and submit documentation to support the Department's conclusion that although there was an increase in allowable emissions there would be no change in the PM-10 attainment and maintenance demonstrations for Butte.

In the earlier Butte PM-10 SIP revisions we approved in 1994 and 1995,<sup>2</sup> the allowable PM-10 emissions for Rhone-Poulenc was determined by multiplying the 1987-88 base year actual emissions by 1.2 (the allowable PM-10 emissions were 20% higher than the actual PM-10 emissions). Rhone-Poulenc's actual emissions were determined to be 117.7 tons of PM-10/year and the allowable PM-10 emissions were limited to 141.2 tons of PM-10/year.

On August 22, 1996, the Montana Department of Environmental Quality issued Air Quality Permit #1636-06 to

Rhone-Poulenc. This permit increases the PM-10 emission limitations on the #1 and #2 coke dryers and the silo scrubbers, as well as the total PM-10 emission limitation for the facility. The permit indicates:

The department has determined that the limits for the scrubbers controlling the #1 and #2 coke dryers, which also control emissions from the nodule sizing, crushing and handling activities, were established incorrectly. The Butte SIP outlines a control strategy which sets the Rhone-Poulenc's allowable emissions at 120% of the actual levels during the SIP base year of 1987-1988. The previous calculation of the actual base year emissions for the scrubbers controlling the coke dryers/nodule crushing and the scrubber controlling the silos was based on a source test performed by Rhone-Poulenc personnel in 1979. The department has determined that the use of data from these stack tests for establishing base-year emissions was not appropriate \* \* \*. Because the calculations of base year emissions used inappropriate data, the limits established for the #1 and #2 coke dryer scrubbers and the silo scrubber were set at abnormally low levels. Rhone-Poulenc has demonstrated that these three emission limits are not achievable even after completely rebuilding the scrubber internals.

This permit alteration will set limits for these sources based on source testing performed in 1992. The department feels that, because of more stringent QA/QC procedures and documentation of production levels as well as inlet particulate loadings to the control device, the testing performed in 1992 is a better source of data to use in estimating the base year actual emissions \* \* \*

The new permit's PM-10 emission limitation for Rhone-Poulenc is 242 tons/year. The base year actual PM-10 emissions are assumed to be 201.7 tons/year (242/1.2=201.7).

With the July 8, 1997 SIP revision, the State has shown that Rhone-Poulenc's PM-10 contribution to the attainment and maintenance demonstration and contingency measure control does not change from the SIP revisions EPA approved in 1994 and 1995 and that the area still demonstrates attainment and maintenance of the PM-10 NAAQS. Therefore, EPA is approving the 1997 revision to the Butte PM-10 SIP.

#### C. Missoula PM-10 and CO Control Plans

The July 8, 1997 SIP submittal revises the State's Table of Contents for the Missoula PM-10 Control Plan and updates the CO Control Plan.

With the July 8, 1997 submittal, the State is updating the Missoula PM-10 SIP Table of Contents by removing a reference to section "32.10.15 Maintenance Plan" and in its place putting a new section, "32.10.15 PM-10 Commitments." Previously the Table of

Contents indicated that the Maintenance Plan was in section 32.10.15 and the PM-10 Commitments were in section 32.10.16. The July 8, 1997 submittal does not appear to be making any revisions to the Missoula PM-10 SIP narrative that we already approved.

In reviewing previously submitted and federally approved Missoula PM-10 SIP revisions<sup>3</sup>, we found that although the previous Table of Contents referenced section "32.10.15 Maintenance Plan," we could not find that a corresponding section in the SIP narrative was ever submitted or federally approved. In discussions with staff at the DEQ, however, we learned that their Missoula PM-10 SIP documents do contain a section 32.10.15 Maintenance Plan which is basically a "place holder" for a future PM-10 maintenance plan required for redesignating the area to attainment.

With respect to the PM-10 Commitments, our records show that on November 30, 1992, the Governor of Montana submitted PM-10 Commitments to be included as part of the Missoula PM-10 SIP. The commitments were in the form of a letter. (It does not appear, however, that the final SIP narrative was ever submitted which incorporated the PM-10 Commitments.) EPA addressed the PM-10 commitments in its January 18, 1994 action. The State has since fulfilled these commitments. See EPA's December 13, 1994 and August 30, 1995 actions mentioned in footnote 3.

Since the July 8, 1997 submittal makes the Table of Contents consistent to what we believe is contained in the federally approved SIP, we are approving the revision to the Table of Contents.

The CO Control Plan revision consists of an update to the existing SIP narrative, adopted by the State in 1981 and approved by us on January 16, 1986 (51 FR 2397). With the 1997 revision, the State is updating the SIP narrative to reflect changes in emissions and monitored air quality values, and the addition of new control strategies since the original SIP was adopted. The SIP revision does not include a new attainment demonstration (none is required for the area under the 1990 Clean Air Act Amendments), nor does it include any new control strategies that we have not already approved.

The original CO SIP relied upon the Federal Motor Vehicle Control Program (FMVCP) and reconstruction of the

<sup>1</sup> We initially approved the Columbia Falls PM-10 control plan on April 14, 1994 (59 FR 17700) and the Columbia Falls PM-10 contingency measures and minor revisions to the attainment and maintenance demonstrations on March 19, 1996 (61 FR 11153).

<sup>2</sup> We initially approved the Butte PM-10 SIP on March 11, 1994 (59 FR 11550). On March 22, 1995 (60 FR 15056) we approved the PM-10 contingency measures for Butte and revisions to the attainment and maintenance demonstration due to the inclusion of a new emissions limit in a revised air quality permit for Montana Resources, Inc.

<sup>3</sup> We originally approved the Missoula PM-10 SIP on January 18, 1994 (59 FR 2537) with revisions approved on December 13, 1994 and August 30, 1995 (59 FR 64133 and 60 FR 45051, respectively).

Brooks/South/Russell intersection to bring the Missoula area into compliance with the CO NAAQS. The FMVCP is our ongoing nationally-implemented program to control motor vehicle emissions; the Brooks/South/Russell intersection reconstruction was completed in 1985. The revised SIP narrative discusses additional measures that have been implemented to control CO emissions in Missoula, including the woodburning control program (Rule 1428, Solid Fuel Burning Devices, approved by us on January 18, 1994 (59 FR 2537) with revisions approved on December 13, 1994 and August 30, 1995 (59 FR 64133 and 60 FR 45051, respectively)), the Reserve Street project to provide an alternative route to Brooks Avenue (not included in the SIP), and the oxygenated fuels program (approved by us on November 8, 1994 (59 FR 55585)).

The State submitted this update to the Missoula CO SIP narrative with the intention that it supersede the 1981 SIP narrative and incorporate the already-existing CO control strategies for Missoula into one document. The requirements of the 1990 Clean Air Act Amendments for CO that apply to Missoula have already been satisfied by the State in other submittals, and this document does not revise any of those SIP elements. We are approving this revision to the Missoula CO SIP.

#### D. Emergency Episode Plan

The July 8, 1997 SIP submittal revises the State's Emergency Episode Plan. The submittal, for the most part, revises the priority classification of several of the Air Quality Control Regions (AQCR) based on more current ambient data. The submittal also revises the discussion of the episode surveillance system and data acquisition for Priority I and II Regions. Specifically, the prior Emergency Episode Plan identified the specific ambient monitors to be used to identify emergency episodes and the frequency at which these monitors should be operated during different types of emergency episodes. The recently submitted Emergency Episode Plan indicates that the episode surveillance system will consist of all the air monitoring equipment determined annually in the network review. Additionally the Emergency Episode Plan indicates that during an emergency episode, PM-10, sulfur dioxide and CO concentrations will be determined by continuous monitors.

We last approved revisions to the State's Emergency Episode Plan on January 20, 1994 (59 FR 2988). In reviewing the current revisions to the Emergency Episode Plan we had several

concerns. On September 7, 1999, we sent a letter to Mark Simonich, Director, Department of Environmental Quality (DEQ), identifying the following concerns and requesting that the State address these concerns in its next revision to the Plan:

- We believe that AQCR 140 (Billings) should be a Priority II area for sulfur dioxide. Ambient data from 1993, 1994, 1995 and 1996 place the Billings/Laurel area in Priority II.

- We believe that AQCR 142 (Helena) should be a Priority II area for particulate matter due to PM-10 concentrations measured in 1998.

- Based on State's draft revisions to its Open Burning rules it appears that the National Weather Service (NWS) no longer provides certain weather forecasting information (e.g., ventilation). If the NWS no longer provides the information mentioned in the Emergency Episode Plan then the plan should be revised to indicate who is providing this information.

- In a letter dated December 4, 1996, we suggested that the Department change the sulfur dioxide significant harm level from 2620 µg/m<sup>3</sup> to 2.620 µg/m<sup>3</sup> as this was the value shown in 40 CFR 51.151. The State made the requested change with the July 1997 submittal of the Emergency Episode Plan. We now believe the CFR is incorrect and the value should remain 2620 µg/m<sup>3</sup>.

On October 22, 1999, Mark Simonich, Director, Department of Environmental Quality agreed to address our concerns with the next revision to the Emergency Episode Plan. Mr. Simonich indicated that priority classifications will be updated based upon the most recent three years of monitoring data (1997-1999). Based on the State's agreement to revise the Plan, we are approving the 1997 submittal of the State's Emergency Episode Plan. In this notice we are updating 40 CFR 52.1371 to indicate the current emergency episode priority classifications for the AQCRs.

#### E. Updates to 40 CFR Part 52, Subpart BB—Montana

At this time we are also updating 40 CFR part 52, subpart BB—Montana. We recently reviewed this subpart and found some of the sections to be out of date or found errors made when regulatory text was added to this subpart. The items below identify the changes we are making.

1. On November 3, 1995 (60 FR 55792) we approved revisions to Montana's prevention of significant deterioration (PSD) regulations. We inadvertently codified these revision into 40 CFR 52.1320(c)(42) in lieu of 40

CFR 52.1370(c)(42). We are removing these revisions from 40 CFR 52.1320(c)(42) and adding them to 40 CFR 52.1370(c)(42).

2. Prior Clean Air Act (Act) requirements were superceded following the 1990 amendments to the Act. Pursuant to the 1990 amended Act, on March 30, 1994 the Governor of Montana submitted a primary sulfur dioxide (SO<sub>2</sub>) SIP for the East Helena area. We approved the primary SO<sub>2</sub> SIP on January 27, 1995 (60 FR 5313). See also 40 CFR 52.1370(c)(37). Since EPA has approved the primary SO<sub>2</sub> SIP for the East Helena area, 40 CFR 52.1373 Control Strategy: Sulfur oxides is no longer applicable. Since 40 CFR 52.1373 is no longer applicable we are replacing 40 CFR 52.1373 with another entry. The 1990 amended Act also modified the attainment dates for the SO<sub>2</sub> NAAQS.<sup>4</sup> As a result, 40 CFR 52.1375 is not no longer applicable. We are removing 40 CFR 52.1375 from 40 CFR part 52, subpart BB—Montana.

3. On December 21, 1992 (57 FR 60485) we disapproved portions of the State's open burning regulations. Later the State submitted revisions to the open burning regulations which we approved on October 23, 1996 (61 FR 54946). At that time we should have removed 40 CFR 52.1384(b). Since 40 CFR 52.1384(b) is no longer applicable we are removing it from 40 CFR part 52, subpart BB—Montana.

4. On March 4, 1980 (45 FR 14036) and September 23, 1980 (45 FR 62982) we conditionally approved the State's source surveillance requirements. The State later submitted revisions which we approved on January 16, 1986 (51 FR 2397). At that time we should have removed 40 CFR 52.1385. Since 40 CFR 52.1385 is no longer applicable we are removing it from 40 CFR part 52, subpart BB—Montana.

## II. Final Action

We are approving the minor revisions to the Columbia Falls, Butte and Missoula PM-10 SIPs, Missoula CO SIP and the Montana Emergency Episode Plan submitted on July 8, 1997. We are also updating 40 CFR part 52, subpart BB as identified above. A separate Technical Support Document (TSD) has not been prepared for this notice.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing

<sup>4</sup> See our General Preamble published on April 16, 1992 at 57 FR 13546.

a separate document that will serve as the proposal to approve the SIP revision if adverse comments be filed. This rule will be effective February 4, 2000 without further notice unless the Agency receives adverse comments by January 5, 2000. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

### III. Administrative Requirements

#### A. Executive Order 12866

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

#### B. Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in

Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### C. Executive Order 13045

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

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

#### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation.

In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the

requirements of section 3(b) of E.O. 13084 do not apply to this rule.

#### E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

#### F. 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 rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to 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 annual 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.

*G. Submission to Congress and the Comptroller General*

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 rule is not a "major" rule as defined by 5 U.S.C. 804(2).

*H. National Technology Transfer and Advancement Act*

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

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

*I. 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 4, 2000. 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 22, 1999.

**William P. Yellowtail,**  
*Regional Administrator, Region VIII.*

40 CFR part 52, subparts AA and BB of chapter I, title 40 are 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 AA—Missouri**

**§ 52.1320 [Removed and reserved]**

2. Section 52.1320(c)(42) is removed and reserved.

**Subpart BB—Montana**

3. Section 52.1370 is amended by adding paragraph (c)(42) to read as follows:

**§ 52.1370 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

(42) On May 22, 1995, the Governor of Montana submitted revisions to the prevention of significant deterioration regulations in the Administrative Rules of Montana to incorporate changes in the Federal PSD permitting regulations for PM-10 increments.

(i) Incorporation by reference

(A) Revisions to the Administrative Rules of Montana (ARM), rules 16.8.945(3)(c), 16.8.945(21)(d), 16.8.945(24)(d), 16.8.947(1), 16.8.953(7)(a), and 16.8.960(4), effective 10/28/94.

4. Section 52.1371 is revised to read as follows:

**§ 52.1371 Classification of regions.**

The Montana Emergency Episode Plan was revised with a July 8, 1997 submittal by the Governor. The July 8, 1997 Emergency Episode Plan classifies the Air Quality Control Regions (AQCR) as follows:

Air quality control regions (AQCR)	Pollutant				
	Particulate matter	Sulfur oxide	Nitrogen dioxide	Carbon monoxide	Ozone
Billings Intrastate AQCR 140 .....	III	III	III	III	III
Great Falls Intrastate AQCR 141 .....	III	III	III	III	III
Helena Intrastate AQCR 142 .....	III	II	III	III	III
Miles City Intrastate AQCR 143 .....	III	III	III	III	III
Missoula Intrastate AQCR 144 .....	II	III	III	III	III

5. Section 52.1373 is revised to read as follows:

**§ 52.1373 Control strategy: Carbon monoxide.**

On July 8, 1997, the Governor of Montana submitted revisions to the SIP narrative for the Missoula carbon monoxide control plan.

6. Section 52.1374 is added to read as follows:

**§ 52.1374 Control strategy: Particulate matter.**

On July 8, 1997, the Governor of Montana submitted minor revisions to the Columbia Falls, Butte and Missoula PM-10 SIPs.

**§ 52.1375 [Removed and reserved]**

7. Section 52.1375 is removed and reserved.

**§ 52.1384 [Removed and reserved]**

8. Section 52.1384(b) is removed and reserved.

**§ 52.1385 [Removed and reserved]**

9. Section 52.1385 is removed and reserved.

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