

not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

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 August 13, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

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

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: May 8, 2001.

**Norman Niedergang,**

*Acting Regional Administrator, Region 5.*

Title 40 of the Code of Federal Regulations, chapter I, 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.*

2. Section 52.1220 is amended by adding paragraph (c)(57) to read as follows:

#### § 52.1220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(57) On December 20, 2000, the State of Minnesota submitted a site-specific State Implementation Plan (SIP) revision for the control of emissions of sulfur dioxide (SO<sub>2</sub>) for Koch Petroleum Group, L.P., located in the Pine Bend Area of Rosemount, Dakota County, Minnesota. Specifically, EPA is approving into the SO<sub>2</sub> SIP Amendment No. 4 to the Administrative Order previously approved in paragraph (c)(35) of this section.

(i) Incorporation by reference.

(A) An administrative order identified as Amendment Four to Findings and Order by Stipulation, for Koch Petroleum Group, L.P., dated and

effective December 19, 2000, submitted December 20, 2000.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[SIP No. MT-001-0034a, MT-001-0035a; FRL-6991-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Montana; Emergency Episode Avoidance Plan and Cascade County Open Burning Rule

**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 on February 9, 2001. This submittal revises the State's Emergency Episode Avoidance Plan and Cascade County's Local Regulation Chapter 7, Open Burning. In addition, Billings and Great Falls Carbon Monoxide Limited Maintenance Plans were submitted on February 9, 2001. EPA will act on the Billings and Great Falls Plans at a later date. This action is being taken under section 110 of the Clean Air Act, 42 U.S.C. section 7410.

**DATES:** This rule is effective on August 13, 2001 without further notice, unless EPA receives adverse comment by July 12, 2001. 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 8, 999 18th Street, Suite 300, 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 8, 999 18th Street, Suite 300, Denver, Colorado, 80202 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 8, (303) 312-6437.

**SUPPLEMENTARY INFORMATION:** For the purpose of this document, we are giving meaning to certain words as follows: (a) The words "EPA," "we," "us" or "our" mean or refer to the United States Environmental Protection Agency. (b) The words State or Montana mean the State of Montana unless the context indicates otherwise. (c) The initials MDEQ mean the Montana Department of Environmental Quality.

#### I. Summary of SIP Revision

On February 9, 2001, the State of Montana submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of updates to the Montana Emergency Episode Avoidance Plan (EEAP) and Cascade County's Local Regulation Chapter 7, Open Burning. Other revisions to the SIP were also submitted on February 9, 2001 but will be acted on at a later date.

#### Montana's Emergency Episode Avoidance Plan

The February 9, 2001 submittal revises Montana's Emergency Episode Avoidance Plan (EEAP). The submittal revises the priority classification of two of the Air Quality Control Regions (AQCR) based on more current ambient data; replaces the references to the National Weather Service with references to the MDEQ meteorological staff; and makes grammatical corrections.

We last approved revisions to Montana's EEAP on December 6, 1999 (64 FR 68034). We are approving the 2001 revisions to Montana's EEAP and updating 40 CFR 52.1371 to indicate the current emergency episode priority classifications for the AQCRs.

#### Cascade County Air Pollution Control Program Regulation Chapter 7, Open Burning

In addition, the February 9, 2001 submittal revises the Cascade County Air Pollution Control Program. The submittal consists solely of Regulation Chapter 7, Open Burning. The Cascade County open burning regulations only apply to minor open burning sources. Major open burning sources are subject to the State's open burning regulations. We believe it is appropriate to incorporate local air pollution control programs in the SIP if the program is needed for attainment and maintenance of any National Ambient Air Quality Standard (NAAQS). The State's Group II PM-10 SIP relies on many rules,

including the State's open burning rules, to assure maintenance of the PM-10 NAAQS. We approved the Group II PM-10 SIP on January 20, 1994 (59 FR 2988). By approving the Cascade County Regulation Chapter 7, the State has given Cascade County the responsibility to ensure that State open burning rules are met for minor open burning sources. Since the County is implementing measures that the State is relying upon to assure that the PM-10 SIP NAAQS are maintained, we believe it is appropriate to incorporate the County's open burning rules in the SIP. In addition, including the County's open burning rules in the SIP will make the County open burning program federally enforceable, further assuring the effectiveness of the PM-10 plan. We are approving the Cascade County Air Pollution Control Program Regulation Chapter 7, Open Burning, into the SIP.

On May 22, 1995 the Governor of Montana submitted a SIP revision regarding the Cascade County Air Pollution Control Program. The May 22, 1995 submittal was later superseded by another SIP revision for Cascade County Air Pollution Control Program submitted by the Governor on September 4, 1997. To date we have not acted on the May 22, 1995 or September 4, 1997 submittals. The February 9, 2001 letter from the Governor of Montana indicates that the recent modifications to the Cascade County Air Pollution Control Program now supercede the 1997 submittal and, therefore, rescinds the September 4, 1997 submittal. We are not acting on the September 4, 1997 submittal, nor the May 22, 1995 submittal.

## II. Final Action

We are approving the revisions to the Montana Emergency Episode Avoidance Plan into the SIP and updating 40 CFR 52.1371 to indicate the current emergency episode priority classifications for the AQCRs. In addition, we are approving the Cascade County Air Pollution Control Program Regulation Chapter 7, Open Burning, into the SIP.

EPA is 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, EPA is 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 August 13, 2001 without further notice unless the Agency receives adverse comments by July 12, 2001. 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.

## III. 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. 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 (Public Law 104-4). This rule also does 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), nor will it 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. This rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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. section 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. 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. section 804(2). This rule will be effective August 13, 2001 unless EPA receives adverse written comments by July 12, 2001.

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 August 13, 2001. 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: May 22, 2001.

**Patricia D. Hull,**

*Acting Regional Administrator, Region 8.*

40 CFR part 52, subpart BB 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 BB—Montana**

2. Section 52.1370 is amended by adding paragraph (c)(50) to read as follows:

**§ 52.1370 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(50) On February 9, 2001, the Governor of Montana submitted revisions to Montana's Emergency Episode Avoidance Plan and Cascade County Air Pollution Control Program Regulation Chapter 7, Open Burning.

(i) Incorporation by reference.

(A) Board Order issued on October 16, 2000, by the Montana Board of Environmental Review approving the Cascade County Air Pollution Control Program.

(B) Cascade County Air Pollution Control Program, Regulation Chapter 7,

Open Burning, effective October 16, 2000.

(C) March 16, 2001 letter from Debra Wolfe, Montana Department of Environmental Quality, to Laurie Ostrand, EPA Region 8, explaining the effective date of the Cascade County Air Pollution Control Program Regulation Chapter 7, Open Burning.

3. Section 52.1371 is amended by revising the introductory text and revising the entries "Helena Intrastate AQCR 142" and "Missoula Intrastate AQCR144" in the table to read as follows:

**§ 52.1371 Classification of regions.**

The Montana Emergency Episode Avoidance Plan was revised with a February 9, 2001 submittal by the Governor. The February 9, 2001 Emergency Episode Avoidance Plan classified the Air Quality Control Regions (AQCR) as follows:

Air quality control regions (AQCR)	Pollutant				
	Particulate matter	Sulfur oxide	Nitrogen dioxide	Carbon mon-oxide	Ozone
Helena Intrastate AQCR 142	II	III	III	III	III
Missoula Intrastate AQCR 144	II	III	III	III	III

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[IN133-1a; FRL-6990-1]

**Approval and Promulgation of Implementation Plans; Indiana**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving revisions to the particulate matter (PM) regulations for Rolls-Royce Allison (Rolls-Royce), formerly Allison Engine Company. This facility is located in Marion County, Indiana. The Indiana Department of Environmental Management (IDEM) submitted the revised regulation on August 31, 2000 as a requested amendment to its State Implementation Plan (SIP). The revisions consist of a name change for the company and the addition of an alternate fuel. These requested SIP

revisions do not change Rolls-Royce's emissions limits.

**DATES:** This rule is effective on August 13, 2001, unless the EPA receives relevant adverse written comments by July 12, 2001. If adverse comment is received, the EPA 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

Number: (312) 886-6524, E-Mail Address: 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 Indiana's SIP for particulate matter regulations for Rolls-Royce Allison in Marion County, Indiana. IDEM submitted the revised regulation on August 31, 2000 as an amendment to rule 326 IAC 6-1-12.

The revisions consist of a name change for the company and the addition of landfill gas as an alternate fuel. Rolls-Royce Allison was formerly the Allison Engine Company. There is no change to the PM emissions limits.