*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 March 3, 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, Incorporation by reference.

Dated: December 1, 1999.

**Jo Lynn Traub,**

*Acting Regional Administrator, Region 5.*

For the reasons stated in the preamble, 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(151) to read as follows:

**§ 52.720 Identification of plan.**

* * * * *

(c) * * *

(151) On July 23, 1998, the State of Illinois submitted a State Implementation Plan (SIP) revision that included certain ''clean-up'' amendments to the State's permitting rules.

*(i) Incorporation by reference.*

Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board.

(A) Subchapter a: Permits and General Provisions, Part 201: Permits and General Provisions.

(1) Subpart D: Permit Applications and Review Process, Section 201.152 Contents of Application for Construction Permit, 201.153 Incomplete Applications (Repealed), Section 201.154 Signatures (Repealed), Section 201.155 Standards for Issuance (Repealed), Section 201.157 Contents of Application for Operating Permit, Section 201.158 Incomplete Applications, Section 201.159 Signatures, 201.160 Standards for Issuance, Section 201.162 Duration, Section 201.163 Joint Construction and Operating Permits, and Section 201.164 Design Criteria. Amended at 22 Ill. Reg. 11451, effective June 23, 1998.

(2) Subpart E: Special Provisions for Operating Permits for Certain Smaller Sources, Section 201.180 Applicability (Repealed), Section 201.181 Expiration and Renewal (Repealed), Section 201.187 Requirement for a Revised Permit (Repealed), Repealed at 22 Ill. Reg. 11451, effective June 23, 1998.

(3) Subpart F: CAAPP Permits, Section 201.207 Applicability, Amended at 22 Ill. Reg. 11451, effective June 23, 1998.

[FR Doc. 99–33624 Filed 12–30–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[MT–001–0016a; FRL–6506–1]**

## Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Montana; Revisions to the Missoula County Air Quality Rules

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA approves the State implementation plan (SIP) revisions submitted by the Governor of Montana with a letter dated November 14, 1997. This submittal consists of several revisions to Missoula County Air Quality Control Program regulations, which were adopted by the Montana Board of Environmental Review (MBER) on October 31, 1997. These rules include regulations regarding general definitions, open burning, and criminal penalties. This submittal also includes revisions to regulations regarding national standards of performance for new stationary sources (NSPS) and National Emission Standards for

Hazardous Air Pollutants (NESHAPs), which will be handled separately.

**DATES:** This direct final rule is effective on March 3, 2000 without further notice, unless EPA receives adverse comment by February 2, 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:** Mail written comments to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202–2405. Documents relevant to this action can be perused during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202–2405. 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 at the Montana Department of Environmental Quality, 1520 E. 6th Avenue, Helena, Montana, 59620–0901.

**FOR FURTHER INFORMATION CONTACT:** Amy Platt, Environmental Protection Agency, Region VIII, (303) 312–6449.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever ''we'' is used it means EPA.

## I. Background

The Missoula, Montana area was designated nonattainment for $PM_{10}$ and classified as moderate under Sections 107(d)(4)(B) and 188(a) of the Clean Air Act, upon enactment of the Clean Air Act Amendments of 1990.[1] See 56 FR 56694 (Nov. 6, 1991); 40 CFR 81.327 (Missoula and vicinity). The air quality planning requirements for moderate $PM_{10}$ nonattainment areas are set out in Subparts 1 and 4 of Part D, Title I of the Act. The EPA has issued a ''General Preamble'' describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under Title I of the Act, including those State submittals containing moderate $PM_{10}$ nonattainment area SIP requirements (see generally 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)).

Those States containing initial moderate $PM_{10}$ nonattainment areas such as Missoula were required to submit, among other things, several provisions by November 15, 1991. These provisions are described in EPA's final rulemaking on the Missoula moderate $PM_{10}$ nonattainment area SIP (59 FR 2537–2540, January 18, 1994).

EPA has approved subsequent revisions to the Missoula moderate $PM_{10}$ SIP. On December 13, 1994 (59 FR 64133), EPA approved revisions to the Missoula County Air Pollution Control Program regulations related to, among other things, $PM_{10}$ and CO contingency measures, inspections, emergency procedures, minor source construction permitting, open burning and wood waste burners. On August 30, 1995 (60 FR 45051), EPA approved revisions to the Missoula County Air Pollution Control Program regulations related to emergency procedures; the paving of roads, driveways, and parking lots; and solid fuel burning devices.

## II. Analysis of State Submission

### *A. Procedural Background*

The Act requires States to follow certain procedures in developing implementation plans and plan revisions for submission to EPA. Sections 110(a)(2) and 110(l) of the Act provide that each implementation plan a State submits must be adopted after reasonable notice and public hearing.

We also must determine whether a submittal is complete and therefore warrants further review and action (see section 110(k)(1) of the Act and 57 FR 13565). EPA's completeness criteria for SIP submittals can be found in 40 CFR part 51, appendix V. EPA attempts to determine completeness within 60 days of receiving a submission. However, the law considers a submittal complete if we don't determine completeness within six months after we receive it.

To provide for public comment, the Montana Board of Environmental Review (MBER), after providing adequate notice, held a public hearing on October 31, 1997 to address the amendments to the Missoula County air quality rules. Following the public hearing, the MBER approved the amendments, with a minor clarification to the definition of essential agricultural burning.

The Governor of Montana submitted the revisions to the Missoula County air quality rules to EPA with a letter dated November 14, 1997. The revisions were deemed complete as of May 14, 1998.

### *B. November 14, 1997 Revisions*

As noted above, we will handle separately the revisions in the November 14, 1997 submittal regarding standards of performance for new stationary sources and emission standards for hazardous air pollutants. The revisions to the Missoula County air pollution control rules to be addressed in this document include revisions to general definitions, open burning, and changes to criminal penalties which involve the following sections of the Missoula County Air Quality Control Program: Chapter IX, Regulations, Standards and Permits, Subchapter 7, General Provisions and Subchapter 13 Open Burning; and Chapter XII, Criminal Penalties.

1. Revisions to Chapter IX, Regulations, Standards, and Permits

a. Subchapter 7, General Provisions, Rule 701—General Definitions: Revisions to this rule include the deletion of definitions for ''salvage operation,'' ''trade waste,'' and ''wood-waste burners.'' These definitions were added to the definitions section of the Missoula County open burning regulations (see subchapter 13 discussed below). This change was made to be consistent with the Montana statewide open burning definitions and is approvable.

b. Subchapter 13, Open Burning: The revisions to the open burning regulations were made, for the most part, to make the county rules consistent with state rules. Note that there are several places in the county rules that refer to rule 17.8.610, Major Open Burning Source Restrictions, of the Administrative Rules of Montana (ARM). This numbering is a recodification of the federally approved version of the ARM, in which the Major Open Burning Source Restrictions rule is numbered 16.8.1304. We will act on the ARM recodification at a later date.

In some cases, the Missoula County rules are more stringent than state rules. For example, the County rules require permits year-round for minor open burners. In addition, the allowed special burning period for essential agricultural open burning is shorter than that provided in the State regulations.

These revisions to Missoula County subchapter 13, Open Burning, are approvable.

2. Revisions to Chapter XII, Criminal Penalties

A revision was made to this chapter to increase the fine for a violation of the provisions, regulations, or rules of the Missoula County Air Quality Control

[1] The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law 101–549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended (''the Act''). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, *et seq.*

Program. The fine was increased from $1,000 to $10,000 per day of violation. This revision is approvable.

**III. Final Action**

EPA is approving certain sections of Montana's SIP revision, as submitted by the Governor with a letter dated November 14, 1997. The revisions being approved involve the following rules and Chapters of the Missoula County Air Quality Control Program: Chapter IX, Rule 701, General Definitions; Chapter IX, Rules 1301–1311, regarding open burning; and Chapter XII, Criminal Penalties.

In addition, the November 14, 1997 submittal included revisions to regulations regarding standards of performance for new stationary sources and emission standards for hazardous air pollutants, which are being handled separately.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. The State requested this action. 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 should be filed. This rule will be effective March 3, 2000 without further notice unless the Agency receives adverse comments by February 2, 2000. 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.

**IV. Administrative Requirements**

*A. Executive Order 12866*

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

*B. Executive Order 13132*

Executive Order 13132, entitled ''Federalism'' (64 FR 43225, 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 State, 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 Executive Order 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 Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

*D. Executive Order 13084*

Executive Order 13084: Consultation and Coordination with Indian Tribal Governments. Under Executive Order 13084, EPA may not issue a regulation that is not required by statue, 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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, Executive Order 13084 requires EPA to develop an effective process permitting elected officials 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 Executive Order 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 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 a 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. E.P.A.*, 427 U.S. 246, 256–66 (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 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 not 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 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 March 3, 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, and Reporting and recordkeeping requirements.

Dated: November 30, 1999.

**Max H. Dodson,**

*Acting Regional Administrator, Region VIII.*

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)(48) to read as follows:

**§ 52.1370 Identification of plan.**

* * * * *

(c) * * *

(48) The Governor of Montana submitted revisions to the Missoula County Air Quality Control Program with a letter dated November 14, 1997. The revisions address general definitions, open burning, and criminal penalties.

(i) Incorporation by reference.

(A) Board order issued on October 31, 1997 by the Montana Board of Environmental Review approving the amendments to Missoula County Air Quality Control Program Chapters IX and XII regarding general definitions, open burning, and criminal penalties.

(B) Missoula County Air Quality Control Program, Chapter IX, Rule 701, General Definitions, effective October 31, 1997.

(C) Missoula County Air Quality Control Program, Chapter IX, Rules 1301–1311, regarding open burning, effective October 31, 1997.

(D) Missoula County Air Quality Control Program, Chapter XII, Criminal Penalties, effective October 31, 1997.

[FR Doc. 99–33622 Filed 12–30–99; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

**[FRL–6517–1]**

### National Oil and Hazardous Substances Pollution Contingency Plan List Update

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of deletion of the PAB Oil and Chemical Services, Inc. Superfund Site from the National Priorities List (NPL).

**SUMMARY:** The Environmental Protection Agency (EPA) Region 6 announces the deletion of the PAB Oil and Chemical Services, Inc. Superfund Site (the ''Site'') located in Vermilion Parish, Louisiana from the National Priorities List (NPL). The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, 42 U.S.C. 9605, is codified at Appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300. With the concurrence of the State of Louisiana through the Louisiana Department of Environmental Quality (LDEQ), EPA has determined that responsible parties have implemented all appropriate response actions required at the Site. Moreover, EPA with the concurrence of the State of Louisiana through the LDEQ, has determined that Site investigations show that the Site now poses no significant threat to public health or the environment.