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The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2002. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: August 13, 2002.

Robert W. Varney,
Regional Administrator, EPA New England.

Part 52 of 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 W—Massachusetts

2. Section 52.1129 is amended by adding paragraph (c) to read as follows:

§ 52.1129 Control Strategy: Ozone.

* * * * *

(c) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on April 10, 2002 and amended on July 26, 2002. The revisions are for the purpose of satisfying the rate of progress requirements of sections 182(b)(1) and 182(c)(2)(B) of the Clean Air Act for the Massachusetts portion of the Boston-Lawrence-Worcester serious ozone nonattainment area.

[FR Doc. 02-21940 Filed 8-27-02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[SIP Nos. MT-001-0042a, MT-001-0044a, MT-001-0045a; FRL-7261-1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and notice of delegation of authority.

SUMMARY: EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the Governor of Montana on April 30, 2001, May 21, 2001 and December 20, 2001. The April 30, 2001 and December 20, 2001 submittals revise the State's Administrative Rules of Montana (ARM) by updating Incorporation by Reference rules. The May 21, 2001 submittal repeals the State's Sulfur Oxide—Primary Copper rule. EPA is also announcing that on February 1, 2002, we updated the delegation of authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State. Finally, the Governor's April 30, 2001 submittal contains other SIP revisions which have been or will be addressed separately. The intended effect of this action is to make these revisions federally

enforceable. The EPA is taking this action under section 110 of the Clean Air Act (CAA).

DATES: This rule is effective on October 28, 2002, without further notice, unless EPA receives adverse comment by September 27, 2002. 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, D.C. 20460. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

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

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we" or "our" is used means EPA.

I. Analysis of the State's Submittal

A. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan admitted by a State must be adopted after reasonable notice and public hearing. Section 110(1) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action (see section 110(k)(1) and 57 FR 13565). EPA's completeness criteria are set out at 40 CFR part 51, appendix V. EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a

submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of submission.

To entertain public comment, the State of Montana, after providing adequate public notice, held public hearings on July 5, 2000, January 23, 2001 and May 10, 2001 to address revisions to the SIP. Following the public hearings and public comment period, the Montana Board of Environmental Review adopted the revisions. Revisions to ARM 17.8.102 and 17.8.103 were adopted on September 15, 2000 and July 20, 2001, revisions to 17.8.323 were adopted on March 16, 2001 and revisions to 17.8.302, 17.8.602, 17.8.702, 17.8.902, and 17.8.1002 were adopted on July 20, 2001.

The Governor of Montana submitted the revisions to the SIP with letters dated April 30, 2001, May 21, 2001 and December 20, 2001. The SIP revisions were reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. The submittals were found to be complete.

B. April 30, 2001 Revisions

1. ARM 17.8.102—Incorporation by Reference—Publication Dates

This section was revised to update the dates of documents which are incorporated by reference. The 1999 editions of the Code of Federal Regulations, the Montana Code Annotated and the Administrative Rules of Montana are referenced in the regulation. These changes are necessary to allow the State to include the most recent editions of State statutes and rules and federal regulations. Specifically, incorporation by reference changes were made to ARM 17.8.102(1)(a), (c) and (d). Subsequent revisions were made to ARM 17.8.102(1)(a) and (d) in the December 20, 2001 submission, and these changes are discussed below.

In addition, the State of Montana deleted language from the title of this section that refers to the availability of referenced documents. When the State proposed this rule in 1996, the State included information concerning the availability of referenced documents for the entire chapter of air quality rules. In response to comments, the State decided to delete this language from the final rule and place it in separate rules in each rule subchapter. However, the State did not amend the title of the rule to reflect this revision from the proposed rule. Specifically, the title of the rule has changed from

“Incorporation by Reference—Publication Dates and Availability of Referenced Documents” to “Incorporation by Reference—Publication Dates.” EPA believes these revisions are minor and we are approving them into the SIP.

2. ARM 17.8.103—Incorporation by Reference

The State revised ARM 17.8.103(1)(n) and (o) to correct references to statute subsections that were renumbered by the 1997 State legislature. Subsequent changes were made to ARM 17.8.103(1)(n) in the December 20, 2001 submission, and these changes are discussed below. EPA believes these revisions are minor and we are approving them into the SIP.

3. Other Revisions Submitted on April 30, 2001

On April 30, 2001, the State submitted revisions to the Missoula City-County Air Pollution Control Program. EPA approved the Missoula City-County revisions on November 15, 2001 (66 FR 57391).

Also on April 30, 2001, the State submitted a new credible evidence rule (ARM 17.8.132). EPA will act on the credible evidence rule in a separate notice.

C. May 21, 2001 Revisions

ARM 17.8.323—Sulfur Oxide Emissions—Primary Copper Smelter Rule

This revision repeals ARM 17.8.323, Sulfur Oxide Emissions—Primary Copper Smelter Rule. This rule was adopted by the State in 1972 and has remained in effect since that time, with minor amendments made in 1981. At the current time, there are no primary copper smelters operating within the State, and ARM 17.8.323 has been superceded by the federal New Source Performance Standards (NSPS) for primary copper smelters (40 CFR part 60, subpart P). The State believes the NSPS is more stringent than its Sulfur Oxide Emissions—Primary Copper Smelter rule. Additionally, the State has incorporated by reference the NSPS in ARM 17.8.302(1)(b) and has been delegated the authority to implement them (*see* 66 FR 42427, August 13, 2001). Because there are no existing copper smelters in the State and any new copper smelter would be subject to NSPS, EPA believes it is acceptable to remove this rule from the SIP.

D. December 20, 2001 Revisions

1. ARM 17.8.102—Incorporation by Reference—Publication Dates

This section was revised to update the dates of documents which are incorporated by reference. The 2000 editions of the Code of Federal Regulations and the Administrative Rules of Montana are referenced in the regulation. In addition, the incorporation by reference of the United States Code (U.S.C.) has been changed to refer to the 1994 edition. These changes are necessary to allow the State to include the most recent editions of State statutes and rules and federal regulations. Specifically, incorporation by reference changes were made to ARM 17.8.102(1)(a), (b) and (d).

2. ARM 17.8.103—Incorporation by Reference

a. 17.8.103(1)(m)—This section was revised to make minor corrections to citation references to the Clean Air Act (CAA). The reference to section 7412(b)(1) of the CAA was changed to 112(b)(1).

b. 17.8.103(1)(n) and (p)—These sections were revised to update references to rules concerning hazardous waste to reflect renumbering of the State's rules. References to section 54 of the State rules have been changed to reference section 53. These sections also contain minor grammatical revisions.

3. ARM 17.8.302—Incorporation by Reference

a. 17.8.302(1)(d)—This section was revised to update references to rules concerning hazardous waste to reflect renumbering of the State's rules. Reference to section 54 of the State rules have been changed to reference section 53.

b. 17.8.302(1)(e)—This section was changed to correct a minor grammatical error.

c. 17.8.302(1)(f)—This section was amended to incorporate by reference the Federal National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills. The EPA adopted this rule on January 12, 2001 (40 CFR 63, subpart MM).

4. ARM 17.8.602(1) and (2)—Incorporation by Reference

This section was revised to update references to rules concerning hazardous waste to reflect renumbering of the State's rules. Reference to section 54 of the State rules has been changed to reference section 53.

5. ARM 17.8.702(1)(g)—Incorporation by Reference

This section was revised to make minor corrections to citation references to the CAA.

6. ARM 17.8.902(1)(e) and ARM 17.8.1002(1)(e)—Incorporation by Reference

These sections were revised to make minor corrections to citation references to the CAA. Specifically, reference to section 7503 of the CAA was changed to section 173. In addition, these sections were changed to correct minor grammatical errors.

EPA believes the December 20, 2001 revisions (identified 1–6 above) are minor and we are approving them into the SIP.

Also, pursuant to the State's December 20, 2001 submittal, which updated the effective date of the incorporated NSPS, on February 1, 2002, EPA updated the delegation of authority for the implementation and enforcement of the NSPS to the State. The February 1, 2002 letter of delegation to the State follows:

Honorable Judy Martz
Governor of Montana, State Capitol, Helena,
Montana 59620-0801

Dear Governor Martz: On December 20, 2001 the State submitted a revision to the Administrative Rules of Montana (ARM) 17.8.102. Specifically, the State revised its rules to incorporate the July 1, 2000 Code of Federal Regulations. This revision, in effect, updates the citation of the incorporated Federal New Source Performance Standards (NSPS) to July 1, 2000.

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those

NSPS, so long as the State's regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of Montana and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of Montana. Therefore, pursuant to section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of Montana as follows:

(A) Responsibility for all sources located, or to be located, in the State of Montana subject to the standards of performance for new stationary sources promulgated in 40 CFR part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR part 60, as in effect on July 1, 2000. Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, and Ce. These subparts require state plans which are approved under a separate process pursuant to Section 111(d) of the Act.

(B) Not all authorities of NSPS can be delegated to States under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) Approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR part 60 being delegated in this letter, the enclosure lists examples of sections in 40 CFR part 60 that cannot be delegated to the State of Montana.

(C) As 40 CFR part 60 is updated, Montana should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

This delegation is based upon and is a continuation of the same conditions as those stated in EPA's original delegation letter of May 18, 1977, to the Honorable Thomas L.

Judge, then Governor of Montana, except that condition 6, relating to Federal facilities, was voided by the Clean Air Act Amendments of 1977. Please also note that EPA retains concurrent enforcement authority as stated in condition 3. In addition, if at any time there is a conflict between a State and Federal NSPS regulation, the Federal regulation must be applied if it is more stringent than that of the State, as stated in condition 9. EPA published its May 18, 1977 delegation letter in the notices section of the September 6, 1977 **Federal Register** (42 FR 44573), along with an associated rulemaking notifying the public that certain reports and applications required from operators of new or modified sources shall be submitted to the State of Montana (42 FR 44544). Copies of the **Federal Register** notices are enclosed for your convenience.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of Montana will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** in the near future to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312-6005.

Sincerely yours,
Jack W. McGraw,
Acting Regional Administrator.

Enclosures.
cc: Jan Sensibaugh, Director, Montana Department of Environmental Quality, John Wardell, 8MO.

Enclosure to February 1, 2002 Letter Delegating NSPS in 40 CFR Part 60, to the State of Montana

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED

40 CFR sub-parts	Section(s)
A	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e).
Da	60.45a.
Db	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc	60.48c(a)(4).
Ec	60.56c(i), 60.8
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O	60.153(e).
DD	60.302(d)(3).
GG	60.332(a)(3) and 60.335(a).
VV	60.482-1(c)(2) and 60.484.
XX	60.502(e)(6)
AAA	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
JJJ	60.623.
NNN	60.663(e).
RRR	60.703(e).
SSS	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
WWW	60.754(a)(5).

II. Final Action

EPA is approving the following revisions to the Montana SIP submitted on April 30, 2001, May 21, 2001 and December 20, 2001: revisions to ARM 17.8.102, 103, 302, 602, 702, 902 and 1002 and the removal of ARM 17.8.323. EPA believes these revisions to the SIP are consistent with the Clean Air Act and EPA policy. We are also announcing that on February 1, 2002, we updated the delegation of authority for the implementation and enforcement of the NSPS to the State.

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the NAAQS or any other applicable requirements of the Act. The Montana SIP revisions that are the subject of this document do not interfere with the maintenance of the NAAQS or any other applicable requirement of the Act because of the following: (1) The update to incorporation by reference simply allows the State to include the most recent version of federal regulations; (2) the Sulfur Oxide Emissions—Primary Copper Smelter rule has been superceded by the federal NSPS regulations, which are more stringent than the existing rule; and (3) the NSPS delegation meets the requirements of section 111(c) of the CAA and 40 CFR part 60. Therefore, section 110(l) requirements are satisfied.

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 be filed. This rule will be effective October 28, 2002, without further notice unless the Agency receives adverse comments by September 27, 2002.

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. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the

absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2002. 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

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 60

Environmental protection, Air pollution control, Aluminum, ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Drycleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Zinc.

Dated: August 13, 2002.

Robert E. Roberts,

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)(55) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(55) On April 30, 2001, May 21, 2001 and December 20, 2001, the Governor of Montana submitted revisions to the Administrative Rules of Montana. The State revised its Incorporation by Reference Rules and repealed a Sulfur Oxide Emissions—Primary Copper Smelter rule (ARM 17.8.323). ARM 17.8.323, last incorporated by reference at 40 CFR 52.1370(c)(49)(i)(A), is removed from the SIP.

(i) Incorporation by reference.

(A) Administrative Rules of Montana (ARM) sections 17.8.102(1)(a), (b), (c) and (d), effective 8/10/01; 17.8.103(1)(m), (n), (o), and (p), effective 8/10/01; 17.8.302(1)(d), (e) and (f), effective 8/10/01; 17.8.602(1) and (2), effective 8/10/01; 17.8.702(1)(g), effective 8/10/01; 17.8.902(1)(e), effective 8/10/01; and 17.8.1002(1)(e), effective 8/10/01.

[FR Doc. 02-21944 Filed 8-27-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 70**

[MO 161-1161a; FRL-7269-2]

Approval and Promulgation of Implementation Plans and Operating Permits Program; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is announcing it is approving a revision to the Missouri State Implementation Plan (SIP) and part 70 Operating Permits Program. This revision pertains to the state's part 70 operating permits rule. Approval of this revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revision.

DATES: This direct final rule will be effective October 28, 2002, unless EPA receives adverse comments by September 27, 2002. If adverse comments are 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: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551-7603.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions:

What is a SIP?

What is the Federal approval process for a SIP?

What does Federal approval of a state regulation mean to me?

What is the part 70 Operating Permits Program?

What is being addressed in this document? Have the requirements for approval of a SIP revision and part 70 program revision been met?

What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by us. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by us under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled "Approval and Promulgations of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into