

and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### *National Environmental Policy Act*

An environmental assessment was prepared in 1997 on the expansion of Federal jurisdiction over fisheries and is available by contacting the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior with the concurrence of the Secretary of Agriculture determined that the expansion of Federal jurisdiction did not constitute a major Federal action significantly affecting the human environment, and therefore, signed a Finding of No Significant Impact. We have determined that an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared for this rule. This rule does not constitute a major Federal action significantly affecting the quality of the human environment.

#### *Compliance With Section 810 of ANILCA*

The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. A Section 810 analysis was completed as part of the FEIS process. The final Section 810 analysis determination appeared in the April 6, 1992, ROD, which concluded that the Federal Subsistence Management Program may have some local impacts on subsistence uses, but that the program is not likely to significantly restrict subsistence uses.

William Knauer drafted these regulations under the guidance of Peter J. Probasco of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Dennis Tol and Chuck Ardizzone, Alaska State Office, Bureau of Land Management; Greg Bos, Carl Jack, and Jerry Berg, Alaska Regional Office, U.S. Fish and Wildlife Service; Sandy Rabinowitch and Nancy Swanton, Alaska Regional Office, National Park Service; Dr. Warren Eastland, Pat Petrivelli, and Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs; and Steve Kessler, Alaska Regional Office, USDA-Forest Service provided additional guidance.

#### **List of Subjects**

##### *36 CFR Part 242*

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

##### *50 CFR Part 100*

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

■ For the reasons set out in the preamble, the Secretaries amend title 36, part 242, and title 50, part 100, of the Code of Federal Regulations, as set forth below.

#### **PART —SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA**

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

#### **Subpart A—General Provisions**

■ 2. In Subpart A of 36 CFR part 242 and 50 CFR part 100, § \_\_.3 is revised by adding paragraph (b)(5) to read as follows:

##### **§ \_\_.3 Applicability and scope.**

\* \* \* \* \*

(b) \* \* \*

(5) Southeastern Alaska—Makhnati Island Area: Land and waters beginning at the southern point of Fruit Island, 5°02'35" north latitude, 135°21'07" west longitude as shown on United States Coast and Geodetic Survey Chart No. 8244, May 21, 1941; from the point of beginning, by metes and bounds; S. 58° W., 2500 feet, to the southern point of Nepovorotni Rocks; S. 83° W., 5600 feet, on a line passing through the southern point of a small island lying about 150 feet south of Makhnati Island; N. 6° W., 4200 feet, on a line passing through the western point of a small island lying about 150 feet west of Makhnati Island, to the northwestern point of Signal Island; N. 24° E., 3000 feet, to a point, 5°03'15" north latitude, 135°23'07" west longitude; East, 2900 feet, to a point in course No. 45 in meanders of U.S. Survey No. 1496, on west side of Japonski Island; Southeasterly, with the meanders of Japonski Island, U.S. Survey No. 1496 to angle point No. 35, on the southwestern point of Japonski Island; S. 60° E., 3300 feet, along the boundary line of Naval reservation

described in Executive Order No. 8216, July 25, 1939, to the point beginning.

\* \* \* \* \*

Dated: August 9, 2006.

**Dirk Kempthorne,**

*Secretary of the Interior, Department of the Interior.*

Dated: August 15, 2006.

**Dennis E. Bschor,**

*Regional Forester, USDA-Forest Service.*

[FR Doc. 06–7119 Filed 8–23–06; 8:45 am]

**BILLING CODE 3410–11–P; 4310–55–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 52**

[Docket No. EPA–R08–OAR–2004–MT–0001, FRL–8202–1]

#### **Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Montana on April 18, 2003. The revisions modify the open burning rules and references to federal regulations in the Administrative Rules of Montana. The intended effect of this action is to make federally enforceable those provisions that EPA is approving. This action is being taken under section 110 of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective September 25, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket No. EPA–R08–OAR–2004–MT–0001. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. EPA requests that if at all possible, you contact the individual listed in the **FOR**

**FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Laurie Ostrand, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202-2466, (303) 312-6437, [ostrand.laurie@EPA.gov](mailto:ostrand.laurie@EPA.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

- I. Background
- II. Final Action
- III. Statutory and Executive Order Reviews

##### **Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (iii) The initials *SIP* mean or refer to State Implementation Plan.
- (iv) The words *State* or *Montana* mean the State of Montana, unless the context indicates otherwise.

##### **I. Background**

On July 20, 2004 (69 FR 43371), EPA published a notice of proposed rulemaking partially approving and partially disapproving SIP revisions submitted by the State of Montana on April 18, 2003 and August 20, 2003. The April 18, 2003 revisions modify the open burning rules and references to federal regulations and other materials in the Administrative Rules of Montana. EPA finalized action on portions of the August 20, 2003 submittal on January 24, 2006 (71 FR 3776).

##### **A. April 18, 2003 Submittal**

On April 18, 2003, the Governor submitted a SIP revision that contains amendments to open burning rules at the Administrative Rules of Montana (ARM) 17.8.601, 17.8.604, 17.8.605, 17.8.606, 17.8.610, 17.8.612 and 17.8.614 and an amendment to the incorporation by reference at 17.8.302(f). The amendments allow certain minor open burning to occur in the winter that had previously been prohibited; change the timeframe a permit to burn untreated wood waste at a landfill is valid from 30 days to one year and add the requirement that the department or its designated representative inspect burn piles at

licensed landfills prior to every burn to ensure that no prohibited materials are in the piles; allow the open burning of the detonation of unexploded ordnance; clarify the materials prohibited from open burning; revise the conditional open burning permit requirements and make minor editorial and grammatical changes. The submittal also contains amendments to ARM 17.8.302(f)—Incorporation by Reference. The Montana Board of Environmental Review (Board) adopted the amendments on December 6, 2002.

We proposed to approve all of the April 18, 2003 submittal except for a phrase in ARM 17.8.604(1)(a). See our July 20, 2004 proposal notice, 69 FR 43371 at 43373. We are finalizing our approval at this time, except that we are not taking final action on ARM 17.8.604(1)(a).

With the April 18, 2003 submittal, among other things, the state is revising ARM 17.8.604(1) to clarify the material that may not be disposed of by open burning. In our proposed rulemaking we indicated that we did not believe the changes impact the stringency of the rule. However, with the changes, we indicated that the state is adding a department discretion provision. Specifically, ARM 17.8.604(1)(a) indicates that waste moved from the premises where it was generated may not be disposed of by open burning except as provided by other provisions in the rule or “or unless approval is granted by the department on a case-by-case basis.” The phrase “or unless approval is granted by the department on a case-by-case basis” is considered a department discretion. A department discretion provision allows the Department to revise the SIP without completing a formal SIP revision. In our proposal we indicated that we could not approve department discretion provisions because they are inconsistent with section 110(i) of the Act. Therefore, we proposed to approve the changes to ARM 17.8.604(1) except that we proposed to disapprove the phrase “or unless approval is granted by the department on a case-by-case basis” in ARM 17.8.604(1)(a). EPA’s final notice on ARM 17.8.604(1)(a) will be addressed in a separate action.

##### **II. Final Action**

EPA is approving the following changes to the Administrative Rules of Montana (ARM) that were submitted on April 18, 2003 and effective on December 27, 2002: ARM 17.8.302(1)(f); 17.8.601(1), (7) and (10); 17.8.604(1) (except paragraph (1)(a)); 17.8.605(1); 17.8.606(3) and (4); 17.8.610(4); 17.8.612(4) and (5); and 17.8.614(1).

EPA is not acting on the revisions to ARM 17.8.604(1)(a) that were submitted on April 18, 2003 and effective on December 27, 2002. These revisions will be addressed in a separate action.

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. See our proposed approval of the changes to the State’s open burning rules. Therefore, section 110(l) requirements are satisfied.

##### **III. Statutory and Executive Order Reviews**

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 (Pub. L. 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 23, 2006. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 11, 2006.

**Kerrigan G. Clough,**

*Acting Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended to read 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)(63) to read as follows:

##### § 52.1370 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(63) Revisions to State Implementation Plan were submitted by the State of Montana on April 18, 2003. The revisions modify the open burning rules and references to federal regulations in the Administrative Rules of Montana.

(i) Incorporation by reference.

(A) Administrative Rules of Montana (ARM) sections: ARM 17.8.302(1)(f); 17.8.601(1), (7) and (10); 17.8.604(1) (except paragraph 604(1)(a)); 17.8.605(1); 17.8.606(3) and (4); 17.8.610(4); 17.8.612(4) and (5); and 17.8.614(1), effective December 27, 2002.

[FR Doc. E6-14052 Filed 8-23-06; 8:45 am]

**BILLING CODE 6560-50-P**

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 73

[DA 06-1572; MB Docket No. 04-115; RM-10926]

##### Radio Broadcasting Services; Huntsville, MO

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division grants a Petition for Rule Making filed by American Family Association, requesting the reservation of vacant Channel 278C2 at Huntsville, Missouri for noncommercial educational use. A staff engineering analysis determines that Channel \*278C2 can be allotted at Huntsville in compliance with the Commission's minimum distance spacing requirements at reference coordinates 39-29-45 NL and 92-25-05 WL.

**EFFECTIVE DATE:** September 18, 2006.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 04-115, adopted August 2, 2006, and released August 4, 2006. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

##### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 278C2 and by adding Channel \*278C2 at Huntsville.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E6-13747 Filed 8-23-06; 8:45 am]

**BILLING CODE 6712-01-P**