

authorization to do so from the Patrol Commander, who will be Petty Officer Austin Murai of the U.S. Coast Guard Marine Safety Office San Diego. He may be contacted via VHF-FM Channel 16.

Dated: September 9, 2002.

**S.P. Metruck,**

*Commander, U.S. Coast Guard, Captain of the Port, San Diego.*

[FR Doc. 02-24124 Filed 9-20-02; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[SIP NO. MT-001-0032, MT-001-0039; FRL-7374-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Montana; State Implementation Plan Corrections

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** On January 26, 1989, we approved the Butte Total Suspended Particulate (TSP) State Implementation Plan (SIP), and on March 11, 1994, we approved the Butte Particulate Matter with an aerodynamic diameter less than or equal to 10 micrometers (PM-10) SIP. The Butte PM-10 SIP replaced the Butte TSP SIP and therefore, EPA is making a correction to remove the Butte TSP SIP from the approved SIP. In addition, on August 13, 2001, EPA approved the recodification and revisions to the Administrative Rules of Montana (ARM). In the regulatory material of the August 13, 2001 rule, EPA inadvertently referenced the wrong date. We are correcting the date in this document. Also, in Federal Register documents published on September 21, 2001, November 15, 2001 and November 19, 2001, we incorporated by reference (IBR) materials that contained omission errors in the text. We are correcting the errors contained in the IBR material.

**DATES:** This rule is effective on September 23, 2002.

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

#### SUPPLEMENTARY INFORMATION:

Throughout this document, wherever “we” or “our” is used it means EPA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public

interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today’s rule final without prior proposal and opportunity for comment because we are merely correcting incorrect text in previous rulemakings. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

### I. Corrections

#### A. Correction to *Federal Register* Document Published on March 11, 1994 (59 FR 11550)

When we approved the Butte PM-10 SIP on 3/11/94 (59 FR 11550) (codified at 40 CFR 52.1370(c)(29)) we should have removed our prior approval of the Butte TSP plan that was approved on 1/26/89 (codified at 40 CFR 52.1370(c)(21)). Page 47.10.9(4) of the SIP narrative of the Butte PM-10 plan adopted on 11/15/91 indicates that the PM-10 control plan approved by the Montana Board of Health and Environmental Science (MBHES) on November 15, 1991 will replace the entire Butte TSP SIP. The SIP narrative explains that the PM-10 plan is more stringent than what was required in the TSP plan. Specifically street sweeping and street flushing requirements and permit requirements are more stringent in the PM-10 plan than was required in the TSP plan. Additionally, street paving projects identified in the TSP plan have been completed. We agree with the State’s assessment and under 110(k)(6) of the Clean Air Act, we are removing 40 CFR 52.1370(c)(21) from the approved SIP.

#### B. Correction to *Federal Register* Document Published on August 13, 2001 (66 FR 42427)

On August 13, 2001 (66 FR 42427), EPA approved, for the most part, a recodification and revisions to the Administrative Rules of Montana. In the regulatory text of that rulemaking, we erroneously identified an effective date of a rule. Specifically, in the introductory text of 40 CFR 52.1370(c)(49) we indicated that we were replacing in the SIP all previously approved Montana air quality regulations except for the Kraft Pulp Mill Rule, ARM 16.8.1413, effective December 13, 1972, and the Stack Heights and Dispersion Techniques Rule, ARM 16.8.1204-1206, effective June 13, 1986, with those regulations listed in paragraph (c)(49)(i)(A). The correct effective date for the Kraft Pulp Mill Rule is December 31, 1972 and not

December 13, 1972. We are correcting the introductory text of 40 CFR 52.1370(c)(49) to show the correct effective date for the Kraft Pulp Mill Rule as December 31, 1972.

#### C. Correction to *Federal Register* Documents Published on September 21, 2001 (66 FR 48561), November 15, 2001 (66 FR 57391), and November 19, 2001 (66 FR 57882)

In our September 21, 2001 (66 FR 48561) rulemaking, and subsequent rule correction on November 19, 2001 (66 FR 57882), we approved ARM 17.8.1305, Conformity, and made a rule correction to the regulatory text. With the September 21, 2001 and November 19, 2001 rules, we inadvertently submitted IBR material that had text missing. Specifically, the “\*” under Table B (page 9.2.2.13 (5)) should read: “\* If consultation on draft does not result in any revisions, distribution of a separate final document is not required. In this case consulted agencies may simply be notified that the draft has been adopted as final.” Therefore, we are correcting this error by resubmitting page 9.2.2.13 (5) of 17.8.1305 of the IBR material for the September 21, 2002 and November 19, 2001 rules to the Air and Radiation Docket and Information Center for incorporation into the SIP.

In our November 15, 2001 (66 FR 57391) rulemaking, we approved revisions to the Missoula County Air Pollution Control Program. With the November 15, 2001 rule, we inadvertently submitted IBR material that had text missing. Specifically, Rule 17.6.107(6), on page 32.9.1(41) was omitted. Therefore, we are correcting this error by resubmitting page 32.9.1(41) of the IBR material for the Missoula County Air Quality Program to the Air and Radiation Docket and Information Center for incorporation into the SIP.

### II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a “good cause” finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not

subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. 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). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). 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, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) 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 Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rules are discussed in the March 11, 1994 rule, approving the Butte PM-10 plan, the August 13, 2001 rule, approving, for the most part, a recodification and revisions to the Administrative Rules of Montana, the September 21, 2001 rule, approving Montana's conformity, and the

November 15, 2001 rule, approving revisions to the Missoula County Air Pollution Control Program.

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of October 23, 2002. 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. These corrections to the identification of plan for Montana is not a "major rule" as defined by 5 U.S.C. 804(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: August 27, 2002.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

40 CFR part 52 of chapter I, title 40 is amended as follows:

#### PART 52—[CORRECTED]

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 revising the introductory text of paragraphs (c)(29) and (c)(49) to read as follows:

##### § 52.1370 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(29) The Governor of Montana submitted a portion of the requirements

for the moderate nonattainment area PM10 State Implementation Plan (SIP) for Butte, Montana with a letter dated July 9, 1992, with technical corrections dated May 17, 1993. The submittals were made to satisfy those moderate PM10 nonattainment area SIP requirements due for Butte on November 15, 1991. The Butte PM10 SIP replaces the prior approved Butte total suspended particulate (TSP) SIP approved in paragraph (c)(21).

\* \* \* \* \*

(49) On September 19, 1997, December 10, 1997, April 14, 1999, December 6, 1999 and March 3, 2000, the Governor submitted a recodification and revisions to the Administrative Rules of Montana. EPA is replacing in the SIP all of the previously approved Montana air quality regulations except that the Kraft Pulp Mill Rule, ARM 16.8.1413, effective December 31, 1972, and Stack Heights and Dispersion Techniques Rule, ARM 16.8.1204–1206, effective June 13, 1986, with those regulations listed in paragraph (c)(49)(i)(A) of this section. The Kraft Pulp Mill Rule, ARM 16.8.1413, effective December 31, 1972, and Stack Heights and Dispersion Techniques Rule, ARM 16.8.1204–1206, effective June 13, 1986 remain a part of the SIP. In addition, the Governor submitted Yellowstone County's Local Regulation No. 002—Open Burning.

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[AZ 078-0036; FRL-7380-9]

### Revision to the Arizona State Implementation Plan, Arizona Department of Environmental Quality

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing a full disapproval of a revision to the Arizona Department of Environmental Quality (ADEQ) portion of the Arizona State Implementation Plan (SIP). This action was proposed in the Federal Register on December 18, 2000 and concerns visible emission sources. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action directs Arizona to correct the deficiencies in Rule R18-2-702.

**EFFECTIVE DATE:** Today's final rule is effective on October 23, 2002.