

(1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

This final rule is effective 30 days after publication.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96-354) requires the Federal Government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities. This rule has no significant effect on a substantial number of small entities. The Final Rule removes duplicative regulations governing the H-1A, D-1, H-1B and F-1 temporary nonimmigrant programs from title 29 of the CFR, and cross-references title 20 CFR, part 655, subparts D through K, where the relevant regulations remain in effect. This Final Rule addresses issues of agency administration which do not affect the obligations of the regulated public. Thus, the Final rule does not have a significant economic impact on a substantial number of small entities. Further, since this Final Rule was not preceded by a proposed rule, it is not a regulation subject to the provisions of the Regulatory Flexibility Act. Therefore, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

This regulation contains no information collection requirements which are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3500 et seq.).

List of Subjects

29 CFR Part 504

Administrative practice and procedure, Aliens, Employment, Enforcement, Health professions, Labor, Nurse, Penalties, Registered nurse, Reporting and recordkeeping requirements, Wages.

29 CFR Part 506

Administrative practice and procedure, Aliens, Crewmembers, Employment, Enforcement, Immigration, Labor, Longshore work,

Penalties, Reporting and recordkeeping requirements.

29 CFR Part 507

Administrative practice and procedure, Aliens, Employment, Enforcement, Fashion models, Immigration, Labor, Penalties, Reporting and recordkeeping requirements, Specialty occupations, Wages, Working conditions.

29 CFR Part 508

Administrative practice and procedure, Aliens, Employment, Enforcement, Immigration, Labor, Penalties, Reporting and recordkeeping requirements.

Signed at Washington, DC, this 23rd day of September, 1996.

Robert B. Reich,
Secretary of Labor.

For the reasons set forth in the preamble, 29 CFR chapter V is amended as set forth below:

1. Part 504 is revised to read as follows:

PART 504—ATTESTATIONS BY FACILITIES USING NONIMMIGRANT ALIENS AS REGISTERED NURSES

Authority: 8 U.S.C. 1101(a)(15)(H)(i)(a) and 1182(m); sec. 3(c)(1), Pub. L. 101-238, 103 Stat. 2099, 2103; and sec. 341 (a) and (b), Pub. L. 103-182, 107 Stat. 2057.

§ 504.1 Cross-reference.

Regulations governing labor condition attestations by facilities using nonimmigrant aliens as registered nurses are found at 20 CFR part 655, subparts D and E.

2. Part 506 is revised to read as follows:

PART 506—ATTESTATIONS BY EMPLOYERS USING ALIEN CREWMEMBERS FOR LONGSHORE ACTIVITIES IN U.S. PORTS

Authority: 8 U.S.C. 1288 (c) and (d).

§ 506.1 Cross-reference.

Regulations governing attestations by employers using alien crewmembers for longshore activities in U.S. ports are found at 20 CFR part 655, subparts F and G.

3. Part 507 is revised to read as follows:

PART 507—LABOR CONDITION APPLICATIONS AND REQUIREMENTS FOR EMPLOYERS USING NONIMMIGRANTS ON H-1B SPECIALTY VISAS IN SPECIALTY OCCUPATIONS AND AS FASHION MODELS

Authority: 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; 29 U.S.C. 49 *et seq.*; Pub. L. 102-232, 105 Stat. 1733, 1748 (8 U.S.C. 1182 note); and sec. 341 (a) and (b), Pub. L. 103-182, 107 Stat. 2057.

§ 507.1 Cross-reference.

Regulations governing labor condition applications requirements for employers using nonimmigrants on H-1B specialty visas in specialty occupations and as fashion models are found at 20 CFR part 655, subparts H and I.

4. Part 508 is revised to read as follows:

PART 508—ATTESTATIONS FILED BY EMPLOYERS UTILIZING F-1 STUDENTS FOR OFF-CAMPUS WORK

Authority: 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101-649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

§ 508.1 Cross-reference.

Regulations governing attestations by employers using F-1 students in off-campus work are found at 20 CFR part 655, subparts J and K.

[FR Doc. 96-24820 Filed 9-27-96; 8:45 am]
BILLING CODE 4510-30-P; 4510-27-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MT26-7-6874a; FRL-5609-8]

Clean Air Act Approval and Promulgation of State Implementation Plan for Montana; Libby Moderate PM₁₀ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this action, EPA approves the State implementation plan (SIP) revisions submitted by the State of Montana on March 15, 1995 to satisfy the Federal Clean Air Act requirement to submit contingency measures for the Libby moderate PM₁₀ (particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers) nonattainment area. The March 15, 1995 submittal also recodified the Lincoln County regulations. In addition, EPA is approving a SIP revision submitted by the Governor of Montana on May 13,

1996, which included revisions to the Lincoln County regulations regarding open burning and other minor administrative amendments. EPA is approving these SIP revisions because they are consistent with the applicable requirements of the Clean Air Act, as amended (Act), and EPA guidance.

DATES: This action is effective on November 29, 1996 unless notice is received by October 30, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the State's submittal and other information are available for inspection during normal business hours at the following locations: Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466; Montana Department of Environmental Quality, Air Quality Division, 836 Front Street, Helena, Montana 59620-5520; and The Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8P2-A, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, (303) 312-6445.

SUPPLEMENTARY INFORMATION:

I. Background

The Libby, Montana area was designated nonattainment for PM₁₀ and classified as moderate under sections 107(d)(4)(B) and 188(a) of the Act, upon enactment of the Clean Air Act Amendments of 1990. See 56 FR 56694 (Nov. 6, 1991); 40 CFR 81.327 (specifying designations for Montana). Those States containing initial moderate PM₁₀ nonattainment areas were required to submit several provisions by November 15, 1991. These provisions, including an attainment demonstration (or demonstration that timely attainment is impracticable), are described in EPA's final rulemaking for the Libby moderate PM₁₀ nonattainment area SIP (59 FR 44627, August 30, 1994). The Libby PM₁₀ control measures targeted re-entrained road dust, residential wood burning, prescribed burning, and industrial sources for reductions in PM₁₀ emissions to demonstrate attainment of the PM₁₀ national ambient air quality standards (NAAQS). See the August 30, 1994 notice of final rulemaking and associated Technical Support Document (TSD) for further details.

Such States were also required to submit contingency measures by November 15, 1993 (see 57 FR 13543). The Governor of Montana submitted revisions to the SIP for Libby on March 15, 1995, to address this requirement.

In addition, on May 13, 1996, the Governor of Montana submitted revisions to the Lincoln County open burning rules and other minor revisions for approval into the SIP.

II. This Action

Section 110(k) of the Act sets out provisions governing EPA's review of SIP submittals (see 57 FR 13565-13566).

A. *Analysis Requirements for State Submissions*

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. [See sections 110(a)(2) and 110(l) of the Act.] EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action [see section 110(k)(1) of the Act and 57 FR 13565]. The EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V.

To entertain public comment, the State of Montana, after providing adequate notice, held public hearings on December 16, 1994 to consider the Libby PM₁₀ contingency measures and on February 1, 1996 to consider the revisions to the Lincoln County open burning rules and other minor revisions. Following the hearings, the Montana Board of Health and Environmental Sciences adopted the Libby PM₁₀ contingency measures and the revisions to the Lincoln County open burning rules. The SIP revisions were formally submitted to EPA for approval on March 15, 1995 and on May 13, 1996, respectively.

The SIP revisions were reviewed by EPA to determine completeness shortly after their submittal, in accordance with the completeness criteria referenced above. The submittals were found to be complete, and letters dated April 21, 1995 and July 3, 1996 were forwarded to the Governor indicating the completeness of the submittals and the next steps to be taken.

2. PM₁₀ Contingency Measures

The Clean Air Act requires States containing PM₁₀ nonattainment areas to adopt contingency measures that will take effect without further action by the State or EPA upon a determination by EPA that an area failed to make reasonable further progress (RFP) or to

timely attain the applicable NAAQS, as described in section 172(c)(9). See generally 57 FR 13510-13512 and 13543-13544. Pursuant to section 172(b), the Administrator has established a schedule providing that States containing initial moderate PM₁₀ nonattainment areas shall submit SIP revisions containing contingency measures no later than November 15, 1993. (See 57 FR 13543, n. 3.)

The General Preamble further explains that contingency measures for PM₁₀ should consist of other available control measures, beyond those necessary to meet the core moderate area control requirement to implement reasonably available control measures (see sections 172(c)(1) and 189(a)(1)(C) of the Act). Based on the statutory structure, EPA believes that contingency measures must, at a minimum, provide for continued progress toward the attainment goal during the interim period between the determination that the SIP has failed to achieve RFP or provide for timely attainment of the NAAQS and additional formal air quality planning following the determination (57 FR 13511).

Section 172(c)(9) of the Act specifies that contingency measures shall "take effect * * * without further action by the State or the [EPA] Administrator." EPA has interpreted this requirement (in the General Preamble at 57 FR 13512) to mean that no further rulemaking activities by the State or EPA would be needed to implement the contingency measures. In general, EPA expects all actions needed to effect full implementation of the measures to occur within 60 days after EPA notifies the State of its failure to attain the standard or make RFP. EPA recognizes that certain actions, such as notification of sources, modification of permits, etc., may be needed before some measures could be implemented. However, States must show that their contingency measures can be implemented with minimal further administrative action on their part and with no additional rulemaking action such as public hearing or legislative review.

The provisions for selection and implementation of contingency measures for the Libby moderate PM₁₀ nonattainment are in Section 75.1.103 of the Lincoln County Air Pollution Control Program. The County and State have targeted three sources of emissions for potential implementation of contingency measures: residential wood combustion, re-entrained road dust, and industry emissions. The County rule provides that, within 60 days of notification by the State or EPA that the Libby moderate PM₁₀ nonattainment

area has failed to attain the PM₁₀ NAAQS or to make RFP, one or more of three measures will be implemented depending on which source(s) of emissions is determined to be the significant contributor(s) to the problem. The County rule further provides that, if initially no source is determined to be the significant contributor, a comprehensive review, including chemical and microscopic analysis of exposed PM₁₀ filters, will be conducted by the County and the State to determine the significant contributor. In the meantime, the County rule requires that at least one of the three available contingency measures be implemented on an interim basis. This interim contingency measure will remain in effect until the significant source is identified and a permanent contingency measure has been implemented.

The specific contingency measures adopted for the Libby moderate PM₁₀ nonattainment area and their projected effectiveness are as follows:

a. Residential Wood Burning Contingency Measure

Section 75.1.206(3) of the local regulations contains the residential wood burning contingency measure. The County rule provides for early implementation of this contingency measure if needed, which is acceptable. If this measure is implemented, the County regulation provides that:

No solid fuel burning device shall be operated within the Libby Air Pollution Control District between October 1 and March 31 unless it has been permitted by the [Lincoln County Health] Department as a Class I, Class II, Low Income Exemption or Sole Source device or is operating on a validated Temporary Emergency Heating Authorization Permit.

This contingency measure goes beyond the existing control measure, which limits the use of these types of solid fuel burning devices only when an alert is called by the County (i.e., when PM₁₀ levels exceed 100 µg/m³ and conditions indicate that PM₁₀ levels will remain above 100 µg/m³).

If the residential wood burning contingency measure is implemented in the Libby nonattainment area, the State estimates that the control efficiency of the wood burning measures will be 57% in the 24-hour attainment demonstration (an increase of 5% over the control efficiency of the residential wood burning measures in the original SIP attainment demonstration). The State also estimates that the annual control efficiency of the wood burning measures would be 54% (an increase of 20% over the annual control efficiency

in the original SIP). Total reduction from the contingency measure is calculated to be 256 pounds of PM₁₀ reduced per day more than without the contingency measure, and 19.4 tons more per year.

b. Re-entrained Road Dust Contingency Measure

Section 75.1.303(3) of the County regulations contains the re-entrained road dust contingency measure. The County rule provides for early implementation of this contingency measure if needed, which is acceptable. If this measure is implemented, the following changes to the existing road dust control plan (which has been approved as part of the Libby PM₁₀ SIP) become effective:

(1) The Area of Road Sanding and Sweeping will be extended to the boundaries of the Air Pollution Control District. Thus, the prioritized street sweeping and flushing schedule will be expanded to apply to all public roadways within the Road Sanding and Sweeping District;

(2) The use of liquid de-icing agents (which was not previously required) will be mandatory on all roads and parking lots within the expanded Road Sanding and Sweeping District. Use of sanding materials will be prohibited except in emergency situations; and

(3) Any sanding materials used in an emergency situation must meet the specifications identified in Section 75.1.303(1) of the County regulation. The City of Libby and the Department of Transportation have installed tanks and converted equipment for the use of a liquid de-icer instead of sanding material.

If the re-entrained road dust contingency measure is implemented, the State estimates that the control efficiency of the re-entrained road dust measures will be 90% in the 24-hour attainment demonstration (an increase of 42% over the control efficiency of the re-entrained road dust measures in the original SIP attainment demonstration). The State also estimates that the annual control efficiency of the re-entrained road dust contingency measure will be 71% (an increase of 33% over the original SIP attainment demonstration). Total reduction from the contingency measure is calculated to be 7421 pounds of PM₁₀ per day and 403 tons of PM₁₀ per year than without the contingency measure.

c. Stimson Lumber Company Contingency Measure

Section 75.1.103(2)(c) of the County regulation states that, if industrial facility emissions are determined to be

one of the significant contributors to PM₁₀ exceedances in the Libby PM₁₀ nonattainment area, contingency measures reducing the industrial facility's emissions shall be initiated by the State. Implementation of this contingency measure was retained by the State because the authority to regulate sources governed by the Montana Clean Air Act (MCA), Title 75, Chapter 2, is not delegable to the local level. The requirements of this contingency measure are contained in the December 16, 1994 Board Order and Stipulation between Stimson Lumber Company and the State. The contingency measure consists of additional controls on fugitive dust sources.

The existing fugitive dust requirements in the permit include: chemical dust suppressant on the major haul routes to maintain compliance with the 20% opacity limitation (at least annually), and water sprays used as necessary to control dust emissions on active areas of the log yard. The contingency measures in the stipulation add the following requirements:

(1) The facility entrance and Plywood Plant access road shall be surfaced with either asphalt, concrete, or chip seal from Highway 2 to the Plywood Plant. Sweeping and flushing shall be conducted, as necessary, to maintain compliance with a 5% opacity limitation but not less than twice annually, with one application during the months of April-June and one application during the months of September-November.

(2) The chip sealed portions of the Plywood Plant access road shall consist of a double layer of oil base and chips which shall be watered, as necessary, to maintain compliance with a 5% opacity limitation. These portions shall also be maintained to avoid deterioration by evaluating the chip seal for cracking at a minimum of every 2 years, and by applying a crack sealer (e.g., rubberized asphalt) as needed. A thorough evaluation and assessment of the need to reseal the roadway shall be conducted no less than every 5 years.

(3) Chemical dust suppressant shall be applied to all remaining active unpaved areas within the facility as necessary to maintain compliance with the 5% opacity limitation, but not less than twice annually with one application during the months of April-June and one application during the months of September-November.

(4) The facility shall maintain a written record of all implemented contingency measures, which shall be made available to the Montana

Department of Environmental Quality upon request.

The stipulation provides that this contingency plan will become effective within 60 days after notification to the company and without further negotiation.

The State's March 15, 1995 SIP submittal did not contain an analysis of the effectiveness of the Stimson Lumber Company contingency measures. While this contingency measure specifically controls fugitive dust emissions in the log yard area and associated roads of Stimson Lumber Company, the main problem the State intended to address with these measures was the amount of mud and dirt carried out onto the public roads around the Plywood Plant by vehicles leaving the facility. However, the amount of PM₁₀ reductions due to a reduction in mud and dirt carryout from Stimson Lumber Company are not readily quantifiable. The State did not calculate the emissions reductions due to these fugitive dust contingency measures expected on the Stimson Lumber Company property itself because they believed the calculations would not accurately reflect the overall effectiveness of this contingency measure. EPA agrees with the State that the Stimson Lumber Company contingency measures will help to reduce mud and dirt carryout onto the public roads and, consequently, will reduce re-entrained road dust emissions, as well as reducing fugitive dust emissions emitted from the Stimson Lumber Company property. Thus, this contingency measure, if implemented, will provide for additional emissions reductions in the Libby PM₁₀ nonattainment area.

EPA believes the Libby contingency measures are approvable. The control measures implemented in the PM₁₀ SIP are projected to achieve more emissions reductions than needed to demonstrate attainment of the PM₁₀ NAAQS, as indicated by the State's predicted 24-hour attainment concentration of 135.9 µg/m³. Since the 24-hour PM₁₀ NAAQS is 150 µg/m³, this established safety margin further supports the reasonableness of these contingency measures.

3. Revisions to Lincoln County's Open Burning Regulations

The City of Libby and Lincoln County revised the open burning rules to address newly adopted provisions to the State's open burning rules. Specifically, the Lincoln County open burning rules were revised to add new provisions addressing open burning of Christmas tree waste, for commercial film or video productions, and for firefighter training.

In addition, the County rules were revised to add additional requirements for the issuance of conditional open burning permits, such as providing public notice and opportunity for public hearing. The County also added a provision stating that it could only issue a conditional open burning permit if emissions from the burn would not endanger public health or cause or contribute to a violation of the NAAQS.

The County rules were also revised to make other minor administrative changes to reflect the reorganization of the Montana Department of Environmental Quality (formerly Montana Department of Health and Environmental Sciences).

EPA believes the revisions to the County's rules submitted May 13, 1996 are consistent with the Act and will help to protect the PM₁₀ NAAQS in the Libby area. Therefore, EPA finds the revisions to be approvable.

4. Enforceability Issues

All measures and other elements in the SIP must be enforceable by the State and EPA (see sections 172(c)(6), 110(a)(2)(A) and 57 FR 13556). The EPA criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987, memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, *et al.* (see 57 FR 13541). SIP provisions also must contain a program to provide for enforcement of control measures and other elements in the SIP [see section 110(a)(2)(C)]. EPA believes the Libby PM₁₀ contingency measures and the local regulations meet the SIP enforceability requirements. For further details, see the TSD accompanying this action.

III. Final Action

EPA is approving the PM₁₀ contingency measures and the recodification of the local regulations submitted for the Libby moderate PM₁₀ nonattainment area by the Governor of Montana on March 15, 1995. This submittal adequately addressed the PM₁₀ contingency measure requirements for Libby. In addition, EPA is approving the revisions to the Lincoln County regulations submitted by the Governor of Montana on May 13, 1996 regarding open burning and other minor administrative amendments.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revisions should

adverse or critical comments be filed. Under the procedures established in the May 10, 1994 Federal Register (59 FR 24054), this action will be effective November 29, 1996 unless, by October 30, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 29, 1996.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600, *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify 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 government entities with jurisdiction over populations of less than 50,000.

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 impose any new requirements, the

Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. 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 no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. 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 November 29, 1996. 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 must be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: August 29, 1996.

Patricia D. Hull,

Acting Regional Administrator.

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. 7401-7671q.

Subpart BB—Montana

2. Section 52.1370 is amended by adding paragraph (c)(44) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(44) The Governor of Montana submitted PM₁₀ contingency measures and a recodification of the local regulations for Libby, Montana in a letter dated March 15, 1995. In addition, the Governor of Montana submitted revisions to the local open burning regulations and other minor administrative amendments on May 13, 1996.

(i) Incorporation by reference.

(A) Board order issued on December 16, 1994 by the Montana Board of Health and Environmental Sciences adopting stipulation of the Montana Department of Health and Environmental Sciences and Stimson Lumber Company.

(B) Board order issued December 16, 1994 by the Montana Board of Health and Environmental Sciences adopting the PM₁₀ contingency measures as part of the Libby air pollution control program.

(C) Board order issued on February 1, 1996 by the Montana Board of Environmental Review approving

amendments to the Libby Air Pollution Control Program.

(D) Lincoln Board of Commissioners Resolution No. 377, signed September 27, 1995, and Libby City Council Ordinance No. 1507, signed November 20, 1995, adopting revisions to the Lincoln County Air Pollution Control Program, Sections 75.1.103 through 75.1.719.

(E) Lincoln County Air Pollution Control Program, Sections 75.1.101 through 75.1.719, effective December 21, 1995.

[FR Doc. 96-24532 Filed 9-27-96; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Part 82

[FRL-5616-9]

Protection of Stratospheric Ozone

AGENCY: Environmental Protection Agency.

ACTION: Notice of denial of petition.

SUMMARY: This action notifies the public that the Agency received a petition pursuant to section 612(d) of the Clean Air Act, under the Significant New Alternatives Policy (SNAP) Program, and that EPA is denying the petition. SNAP implements section 612 of the amended Clean Air Act of 1990, which requires EPA to evaluate substitutes for ozone-depleting Substances (ODS) and to regulate the use of substitutes where other alternatives exist that reduce overall risk to human health and the environment. Through these evaluations, EPA generates lists of acceptable and unacceptable substitutes for each of the major industrial use sectors.

In developing the March 18, 1994 final SNAP rule (59 FR 13044), EPA identified HFC-134a as a potential replacement for CFC-12. It is manufactured by several companies worldwide. In the March 18, 1994 final rule, EPA found HFC-134a to be an acceptable substitute for CFC-12 in a variety of end-uses.

OZ Technology, Inc. submitted Hydrocarbon Blend B, or HC-12a, as a CFC-12 substitute in a variety of end-uses on July 19, 1994. In the June 13, 1995 final SNAP rule (60 FR 31092), EPA found the use of Hydrocarbon Blend B unacceptable as a substitute for CFC-12 in all end-uses other than industrial process refrigeration. This determination was based on a lack of adequate data demonstrating that HC-12a could be used safely in these end-uses. In addition, numerous other acceptable alternatives exist.