

demand and for legal work in connection with the demand; expenses generated by equipment used to search for, produce, and copy the requested information; travel costs of the employee and the agency attorney, including lodging and per diem where appropriate. Such fees shall be assessed at the rates and in the manner specified in § 265.9.

(ii) At the discretion of the Inspection Service where appropriate, fees and costs may be estimated and collected before testimony is given.

(iii) The provisions in this section do not affect rights and procedures governing public access to official documents pursuant to the Freedom of Information Act, 5 U.S.C 552a.

(l) *Acceptance of service.* The rules in this section in no way modify the requirements of the Federal Rules of Civil Procedure (28 U.S.C. Appendix) regarding service of process.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 95-17326 Filed 7-17-95; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MT25-1-6541a; FRL-5251-8]

Approval and Promulgation of Air Quality Implementation Plans; Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is acting on revisions to the State Implementation Plan (SIP) submitted by the Governor of Montana on May 17, 1994. The submittal included, among other things, revisions to the State's construction permitting regulations to comply with Federal requirements and revisions to address outstanding rule deficiencies, as well as a request that the existing regulations in the SIP be replaced with the October 1979 recodification of the Administrative Rules of Montana (ARM). EPA is approving all of the regulations included in this submittal, with the exception of the two director's discretion provisions regarding hydrocarbon emissions which EPA is disapproving, the odor control rules and the sulfur oxide rules for lead smelters on which EPA is taking no action, and the variance provisions which EPA will be acting on in a separate notice. Also, EPA is not approving the submitted

versions of two provisions of the State's open burning rules which EPA previously disapproved. The previously-approved versions of these rules remain part of the SIP. In addition, EPA is only partially approving the State's nonattainment permitting rules for the Kalispell PM-10 nonattainment area. Last, EPA is approving Montana's construction permit rules for sources of hazardous air pollutants under section 112(l) of the Clean Air Act.

DATES: This final rule is effective on September 18, 1995, unless adverse or critical comments are received by August 17, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the State's submittal and other relevant information are available for inspection during normal business hours at the following locations: Air Programs Branch, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2466; and Air Quality Division, Montana Department of Health and Environmental Sciences, P.O. Box 200901, Cogswell Building, Helena, Montana 59620-0901.

FOR FURTHER INFORMATION CONTACT: Vicki Stamper, 8ART-AP, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202-2466, (303) 293-1765.

SUPPLEMENTARY INFORMATION:

I. Background

On May 17, 1994, the Governor of Montana submitted comprehensive revisions to the Montana SIP. Specifically, the submittal included the following revisions to the State's regulations:

(1) Revisions to the nonattainment new source review (NSR) permitting program by the addition of new ARM 16.8.1701-1705 and 16.8.1801-1806 to meet the requirements of 40 CFR 51.165 and the amended Clean Air Act (Act), as required for all of the State's nonattainment areas;

(2) Revisions to the prevention of significant deterioration (PSD) permitting program in ARM 16.8.945-963 to bring the State's PSD rules up to date with the Federal PSD requirements in 40 CFR 51.166 and with some of the new requirements of the amended Act;

(3) Revisions to the general NSR permitting requirements in ARM 16.8.1101-1120 to address outstanding EPA concerns and to reflect the major source preconstruction permitting requirements in subchapters 9, 17, and 18 of title 16, chapter 8 of the ARM;

(4) Revisions to address commitments in Montana's PM-10 SIPs including, among other things, revisions to: (1) The State's NSR rules as discussed above; (2) the source testing requirements in ARM 16.8.708-709; (3) the New Source Performance Standards (NSPS) in ARM 16.8.1423; and (4) the National Emission Standards for Hazardous Air Pollutants (NESHAPs) in ARM 16.8.1424;

(5) Revisions to the wood waste burner emission rule in ARM 16.8.1407 to address EPA's December 4, 1992 disapproval of the previous revision to this rule (see 57 FR 57345);

(6) Revisions to the general definitions for Montana's air program rules in ARM 16.8.701; and

(7) Miscellaneous revisions to other source-category emission control rules in ARM 16.8.1401, 1425, and 1427-1428.

Also as part of this submittal, the State submitted the entire State air quality rules which were recodified in October of 1979 to be incorporated into the SIP. Although the State recodified its rules in 1979, the State never formally submitted the recodified rules to replace the existing rules approved by EPA in the SIP. Only rules to which revisions were made after 1979 have been submitted to EPA and approved in the SIP. Therefore, in this submittal, the State submitted its entire air quality regulations to be incorporated into the SIP and to replace the existing State rules approved in the SIP.

A. Nonattainment NSR and PSD Requirements of the Act

The air quality planning requirements for nonattainment NSR are set out in part D of title I of the Act. The EPA has issued a "General Preamble" describing EPA's preliminary views on how EPA intends to review SIPs and SIP revisions submitted under part D, including those State submittals containing nonattainment area NSR SIP requirements (see 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992)). Because EPA is describing its interpretations here only in broad terms, the reader should refer to the General Preamble for a more detailed discussion of the interpretations of part D advanced in this notice and the supporting rationale. A brief discussion of the specific elements required in a State's nonattainment NSR program is also included in Section II.B. of this document.

EPA is currently developing rule revisions to implement the changes under the 1990 Clean Air Act Amendments (1990 Amendments) in the NSR provisions of parts C and D of title I of the Act. The EPA anticipates