

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE METERS

1. The authority citation for 39 CFR part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605; Inspector General Act of 1978, as amended (Pub. L. 95-452, as amended), 5 U.S.C. App. 3.

§§ 501.18 through 501.29 [Redesignated as **§§ 501.19 through 501.30**]

Sections 501.18 through 501.29 are redesignated as §§ 501.19 through 501.30 and new § 501.18 is added to read as follows:

§ 501.18 Secure destruction.

(a) Authorized meter manufacturers/distributors may destroy meters, when required, in accordance with methods approved in advance by the manager of Postage Technology Management. The postage meter must be rendered completely inoperable by the destruction process and associated postage-printing dies must be destroyed in accordance with § 501.17.

Manufacturers/distributors must submit the proposed destruction method; a schedule listing the meters to be destroyed, by serial number and model; and the proposed time and place of destruction to the manager of Postage Technology Management for approval prior to any meter destruction.

Manufacturers/distributors must record and retain the serial numbers of the meters to be destroyed, and provide the list in electronic form in accordance with Postal Service requirements for postage meter accounting and tracking systems. Manufacturers/distributors must give sufficient advance notice of the destruction to allow the manager of Postage Technology Management to schedule observation by Postage Technology Management or its designated representative. The Postal Service representative must ensure that the serial numbers of the meters destroyed are the same as the serial numbers recorded by the manufacturer/distributor on the list of destroyed meters, and that the destruction is performed in accordance with a Postal Service-approved method or process.

(b) These requirements for meter destruction apply to all postage meters, postage evidencing systems, and postal security devices included as a component of a postage evidencing system.

Stanley F. Mires,
Chief Counsel, Legislative.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[SIP NOS. MT-001-0024; MT-001-0025; MT-001-0026; MT-001-0034; MT-001-0035; FRL-7093-6]

Approval and Promulgation of Air Quality Implementation Plans; Montana; State Implementation Plans; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction.

SUMMARY: The EPA published in the *Federal Register* on June 12, 2001 and June 18, 2001 several documents that, among other things, approved updates to Montana's State Implementation Plan (SIP). In the June 12, 2001, rule, which approved the State's Emergency Episode Avoidance Plan and Cascades County's Local Regulation Chapter 7, Open Burning, EPA inadvertently omitted a sentence from the Administrative Requirements section of the document. EPA is correcting the Administrative Requirements section with this document. In the June 18, 2001, rule, which partially approved and partially disapproved the East Helena Lead (Pb) SIP, EPA inadvertently referenced an incorrect date in the preamble and inadvertently failed to promulgate regulatory text for those portions of the plan we disapproved, and to indicate that we determined that the East Helena Pb nonattainment area had attained the Pb NAAQS. In addition, in the regulatory text that was promulgated in the June 18, 2001 document, EPA inadvertently failed to indicate that the partially approved Pb SIP superseded the previously approved Pb SIP. Also, quotation marks were placed in the wrong location in the June 18, 2001 regulatory text. EPA is correcting the date in the preamble, promulgating the regulatory text for the disapproved provisions of the plan, correcting the promulgated regulatory text to indicate that the partially approved Pb SIP supercedes the previously approved Pb SIP, and correcting the location of quotation marks in the promulgated regulatory text with this document.

EFFECTIVE DATE: This rule is effective December 3, 2001.

FOR FURTHER INFORMATION CONTACT: Laurie Ostrand, EPA, Region VIII, (303) 312-6437.

SUPPLEMENTARY INFORMATION:

June 12, 2001, Rulemaking

In our June 12, 2001 (66 FR 31548) (FR Doc. 01-14612) rulemaking we

approved Montana's Emergency Episode Avoidance Plan and Cascades County's Local Regulation Chapter 7, Open Burning. In the Administrative Requirements section of that rulemaking, on page 31549, third column, the paragraph that starts with "The Congressional Review Act * * *", the following sentence should be added between the first and second sentence: "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*." ¹

June 18, 2001, Rulemaking

In our June 18, 2001 (66 FR 32760) (FR Doc. 01-15142) rulemaking we partially approved and partially disapproved the East Helena Lead SIP. On page 32764, second and third columns, we inadvertently referenced the wrong date. At the bottom of the second column, paragraph starting with "We are disapproving * * *", "June 21, 1996" should be replaced with "June 26, 1996." In the third column, paragraph starting with "We are disapproving paragraphs 15 and 15 * * *", "June 21, 1996" should be replaced with "June 26, 1996."

Additionally, in the June 18, 2001 rulemaking, we partially disapproved provisions of the State's East Helena Lead SIP (see 66 FR at 32761 and 32764) and determined that the East Helena Pb nonattainment area had attained the Pb NAAQS (see 66 FR 32765). However, we failed to promulgate corresponding text in the Code of Federal Regulations. In this document we are promulgating changes to 40 CFR 52, subpart BB, specifically § 52.1384 (Emission control regulations) to correspond to the partially disapproved plan provisions and § 52.1375 (Control strategy: Lead) to correspond to the attainment determination.

Also, the East Helena Pb Plan partially approved on June 18, 2001 superseded a previously approved Pb Plan submitted on September 29, 1983. We are correcting the regulatory text (at § 52.1370(c)(51)) to indicate that the

¹ Note, although the Administrative Requirements section in the June 12, 2001 preamble did not include the statement that we would submit a report containing the rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States, on June 6, 2001, we did, in fact, fulfill this requirement by sending a report to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States containing the Montana rule and other required information.

September 29, 1983 Pb Plan is superseded.

Finally, in the June 18, 2001 rulemaking, on page 32766, third column, paragraph (5), the quotation mark ending the quotation was placed in the wrong location. We are correcting the regulatory text to read as follows:

The words, “or a method approved by the Department in accordance with the Montana Source Testing Protocol and Procedures Manual shall be used to measure the volumetric flow rate at each location identified,” in section 7(A)(2) of exhibit A.

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 administrative text and dates in the preamble of previous rulemakings, promulgating regulatory text for rules disapproved in a previous rulemaking and correcting regulatory text in a previous rulemaking. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

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 June 12, 2001, rule, approving Montana’s Emergency Episode Avoidance Plan and Cascade County’s Local Regulation Chapter 7, Open Burning, and in the June 18, 2001, rule, partially approving and partially disapproving the East Helena Lead SIP.

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 December 3, 2001. 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**. This correction 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.

Accordingly, 40 CFR part 52, subpart BB of chapter I, title 40 is corrected by making the following amendments:

PART 52—[CORRECTED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Revise § 52.1370(c)(51) introductory text and (c)(51)(i)(B)(5) to read as follows:

§ 52.1370 Identification of plan.

* * * * *

(c) * * *

(51) The Governor of Montana submitted the East Helena Lead SIP revisions with letters dated August 16, 1995, July 2, 1996, and October 20, 1998. The revisions address regulating lead emission from Asarco, American Chemet and re-entrained road dust from the streets of East Helena. The revisions supersede the Lead Plan submitted to EPA on September 29, 1983 (see paragraph (c)(15) of this section).

(i) * * *

(B) * * *

(5) The words, “or a method approved by the Department in accordance with the Montana Source Testing Protocol and Procedures Manual shall be used to measure the volumetric flow rate at each location identified,” in section 7(A)(2) of exhibit A;

* * * * *

3. Add a new § 52.1375 to read as follows:

§ 52.1375 Control strategy: Lead.

Determination—EPA has determined that the East Helena Lead nonattainment area has attained the lead national ambient air quality standards through calendar year 1999. This determination is based on air quality data currently in the AIRS database (as of the date of our determination, June 18, 2001).

4. In § 52.1384 add paragraph (b) to read as follows:

§ 52.1384 Emission control regulations.

* * * * *

(b)(1) In 40 CFR 52.1370(c)(51), we incorporated by reference several documents that comprise the East Helena Lead SIP. Sections 52.1370(c)(51)(i)(B) and (C) indicate that certain provisions of the documents that were incorporated by reference were excluded. The excluded provisions of § 52.1370(c)(51)(i)(B) and (C) are disapproved. These provisions are disapproved because they do not entirely conform to the requirement of section 110(a)(2) of the Act that SIP limits must be enforceable, nor to the requirement of section 110(i) that the SIP can be modified only through the SIP revision process. The following phrases, words, or section in exhibit A of the stipulation between the Montana Department of Environmental Quality (MDEQ) and Asarco, adopted by order issued on June 26, 1996 by the Montana Board of Environmental Review (MBER), are disapproved:

(i) The words, “or an equivalent procedure” in the second and third sentences in section 2(A)(22) of exhibit A;

(ii) The words, “or an equivalent procedure” in the second and third sentences in section 2(A)(28) of exhibit A;

(iii) The words, “or an equivalent procedure” in the second sentence in section 5(G) of exhibit A;

(iv) The sentence, “Any revised documents are subject to review and approval by the Department as described in section 12,” from section 6(E) of exhibit A;

(v) The words, “or a method approved by the Department in accordance with the Montana Source Testing Protocol and Procedures Manual shall be used to measure the volumetric flow rate at each location identified,” in section 7(A)(2) of exhibit A;

(vi) The sentence, “Such a revised document shall be subject to review and approval by the Department as described in section 12,” in section 11(C) of exhibit A;

(vii) The sentences, “This revised Attachment shall be subject to the review and approval procedures

outlined in Section 12(B). The Baghouse Maintenance Plan shall be effective only upon full approval of the plan, as revised. This approval shall be obtained from the Department by January 6, 1997. This deadline shall be extended to the extent that the Department has exceeded the time allowed in section 12(B) for its review and approval of the revised document,” in section 12(A)(7) of exhibit A; and

(viii) Section 12(B) of exhibit A.

(2) Paragraphs 15 and 16 of the stipulation by the MDEQ and Asarco adopted by order issued on June 26, 1996 by the MBER are disapproved. Paragraph 20 of the stipulation by the MDEQ and American Chemet adopted by order issued on August 4, 1995 by the MBER is disapproved.

* * * * *

Dated: October 22, 2001.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC 050–2027a; FRL–7094–7]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Nitrogen Oxides Budget Trading Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on a revision to the District of Columbia (the District) State Implementation Plan (SIP). This revision was submitted in response to EPA’s regulation entitled, “Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone,” otherwise known as the “NO_x SIP Call.” This revision establishes and requires a nitrogen oxides (NO_x) allowance trading program for large electric generating and industrial units, beginning in 2003. The intended effect of this action is to approve the District’s NO_x Budget Trading Program because it addresses the requirements of the NO_x SIP Call. On December 26, 2000, EPA made a finding that the District had failed to submit a SIP response to the NO_x SIP Call, thus starting the 18 and 24 month clocks for the mandatory

imposition of sanctions and the obligation for EPA to promulgate a Federal Implementation Plan (FIP) within 24 months. On May 21, 2001, the District of Columbia submitted its NO_x Budget Trading Program in response to the NO_x SIP Call. EPA found that SIP submission complete on June 8, 2001, thereby halting the sanctions clocks. Upon approval of this SIP revision, both the sanctions clocks and EPA’s FIP obligation are fully terminated.

DATES: This rule is effective on December 31, 2001 without further notice, unless EPA receives adverse written comment by December 3, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Cristina Fernandez, (215) 814–2178, or by e-mail at fernandez.cristina@epa.gov. Please note any comments on this rule must be submitted, in writing, as provided in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: On May 21, 2001, the Government of the District of Columbia, Department of Health submitted a revision to its SIP to address the requirements of the NO_x SIP Call. The revision consists of the adoption of Chapter 10—Nitrogen Oxides Budget Trading Program. The information in this section of this document is organized as follows:

I. EPA’s Action

- A. What Action Is EPA Taking In This Final Rulemaking?
- B. What Are the General NO_x SIP Call Requirements?
- C. What Is EPA’s NO_x Budget Trading Program?
- D. What Guidance Did EPA Use to Evaluate the District’s Submittal?