

limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A final "Environmental Analysis Check List" and a final "Categorical Exclusion Determination" are available in the docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1

■ 2. A new temporary § 165.T09-117 is added to read as follows:

#### § 165.T09-117 Safety Zone; Great Lakes Water Sport Expo, Buffalo Outer Harbor, Buffalo, NY.

(a) *Location.* The following area is a temporary safety zone: all navigable waters of the Buffalo Outer Harbor, bound within 42°50'39" N, 078°51'39" W, extending south-west to 42°50'31" N, 078°52'18" W, then south-east to point 42°50'22" N, 078°52'12" W, extending north-east to point 42°50'36" N, 078°51'32" W then extending back to point of origin in Buffalo, NY. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Effective time and date.* This section is effective from 8 a.m. (local) until 10 a.m. (local) on July 30, 2006.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The "designated on-scene representative" of the Captain of the

Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The designated on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his designated on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given to them by the Captain of the Port Buffalo or his designated on-scene representative.

Dated: July 10, 2006.

**S.J. Ferguson,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo, Sector Buffalo.*

[FR Doc. E6-11374 Filed 7-18-06; 8:45 am]

**BILLING CODE 4910-15-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R08-OAR-2006-0009, FRL-8187-6]

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

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of Montana on October 25, 2005. The revisions are to the Administrative Rules of Montana and update the citations and references to federal documents and addresses where copies of documents can be obtained, and delete three definitions. 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.

**DATES:** This rule is effective on September 18, 2006 without further notice, unless EPA receives adverse comment by August 18, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2006-0009, by one of the following methods:

- <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- E-mail: [long.richard@epa.gov](mailto:long.richard@epa.gov) and [ostrand.laurie@epa.gov](mailto:ostrand.laurie@epa.gov).

- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- Mail: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 200, Denver, Colorado 80202-2466.

- Hand Delivery: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R08-OAR-2006-0009. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at

[www.regulations.gov](http://www.regulations.gov) including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information

about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, go to section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [www.regulations.gov](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. General Information
- II. Background
- III. EPA's Review of the State of Montana's October 25, 2005 Submittal
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**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. General Information**

*A. What Should I Consider as I Prepare My Comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through

[www.regulations.gov](http://www.regulations.gov) or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- d. Describe any assumptions and provide any technical information and/or data that you used.
- e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- f. Provide specific examples to illustrate your concerns, and suggest alternatives.
- g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- h. Make sure to submit your comments by the comment period deadline identified.

**II. Background**

On October 25, 2005, the Governor submitted a SIP revision that contains amendments to the following sections of the Administrative Rules of Montana (ARM) 17.8.102, 17.8.103, 17.8.302, 17.8.602, 17.8.767, 17.8.802, 17.8.902, 17.8.1002, and 17.8.1102. The amendments update citations and references to Federal documents and addresses where copies of documents can be obtained. The Board of Environmental Review adopted these amendments on June 3, 2005 and they became effective on June 17, 2005. Additionally, the October 2005 submittal deletes the definition of "public nuisance" from Sub-Chapter 1 and the definitions of "animal matter"

and "reduction" from Sub-Chapter 3. The Board of Environmental Review rescinded the definitions on May 18, 2001 and the rescission became effective on June 8, 2001.

**III. EPA's Review of the State of Montana's October 25, 2005 Submittal**

*A. Revisions to the Administrative Rules of Montana Adopted June 3, 2005 and Effective June 17, 2005*

1. Changes to Sub-Chapter 1—General Provisions

a. Review of changes to ARM 17.8.102—Incorporation by Reference—Publication Dates. The state is updating the reference to the United States Code, and the dates of the Code of Federal Regulations and other state rules that are referenced. We are approving ARM 17.8.102 as in effect on June 17, 2005.

b. Review of changes to ARM 17.8.103—Incorporation by Reference and Availability of Referenced Documents. The state is amending ARM 17.8.103(3) and (4) to update the addresses for obtaining copies of documents referenced in the rule. We are approving ARM 17.8.103(3) and (4) as in effect on June 17, 2005.

2. Changes to Sub-Chapter 3—Emission Standards

a. Review of changes to ARM 17.8.302—Incorporation by Reference. The state is making minor changes to ARM 17.8.302(2) and amending ARM 17.8.302(3) and (4) to update the addresses for obtaining copies of documents referenced in the rule. We are approving ARM 17.8.302(2), (3) and (4) as in effect on June 17, 2005.

3. Changes to Sub-Chapter 6—Open Burning

a. Review of changes to ARM 17.8.602—Incorporation by Reference. The state is making minor changes to ARM 17.8.602(2) and amending ARM 17.8.602(3) and (4) to update the addresses for obtaining copies of documents referenced in the rule. We are approving ARM 17.8.602(2), (3) and (4) as in effect on June 17, 2005.

4. Changes to Sub-Chapter 7—Permit, Construction and Operation of Air Contaminant Sources

a. Review if changes to ARM 17.8.767—Incorporation by Reference. EPA will address these revisions in a separate action with other revisions to Sub-Chapter 7 submitted previously.

5. Changes to Sub-Chapter 8—  
Prevention of Significant Deterioration  
of Air Quality

a. Review of changes to ARM 17.8.802—Incorporation by Reference. The state is making minor changes to ARM 17.8.802(2) and amending ARM 17.8.802(3), (4) and (5) to update the addresses for obtaining copies of documents referenced in the rule. We are approving ARM 17.8.802(2), (3), (4) and (5) as in effect on June 17, 2005.

6. Changes to Sub-Chapter 9—Permit  
Requirements for Major Stationary  
Sources or Major Modifications Locating  
Within Nonattainment Areas

a. Review of changes to ARM 17.8.902—Incorporation by Reference. The state is making minor changes to ARM 17.8.902(2) and amending ARM 17.8.902(3), (4) and (5) to update the addresses for obtaining copies of documents referenced in the rule. We are approving ARM 17.8.902(2), (3), (4) and (5) as in effect on June 17, 2005.

7. Changes to Sub-Chapter 10—  
Preconstruction Permit Requirements  
for Major Stationary Sources or Major  
Modifications Locating Within  
Attainment or Unclassified Areas

a. Review of changes to ARM 17.8.1002—Incorporation by Reference. The state is making minor changes to ARM 17.8.1002(2) and amending ARM 17.8.1002(3), (4) and (5) to update the addresses for obtaining copies of documents referenced in the rule. We are approving ARM 17.8.1002(2), (3), (4) and (5) as in effect on June 17, 2005.

8. Changes to Sub-Chapter 11—  
Visibility Impact Assessment

a. Review of changes to ARM 17.8.1102—Incorporation by Reference. The state is making minor changes to ARM 17.8.1102(2) and amending ARM 17.8.1102(3) and (4) to update the addresses for obtaining copies of documents referenced in the rule. We are approving ARM 17.8.1102(2), (3) and (4) as in effect on June 17, 2005.

*B. Deletion of Definitions from the  
Administrative Rules of Montana  
Rescinded May 18, 2001 and Effective  
June 8, 2001*

1. Changes to Sub-Chapter 1—General  
Provisions

a. Review of changes to ARM 17.8.101—Definitions. The state is deleting the definition of “public nuisance.” At the same time the state deleted its non-SIP approved odor rule they also deleted several definitions of terms that were included in the odor rule. Although the term “public

nuisance” is used on two other air quality rules the state intends for the statutory definition to apply to these rules. We are approving the removal of the definition of “public nuisance” effective on June 8, 2001.

2. Changes to Sub-Chapter 3—Emission  
Standards

a. Review of changes to ARM 17.8.301—Definitions. The state is deleting the definitions of “animal matter” and “reduction.” At the same time the state deleted its non-SIP approved odor rule they also deleted several definitions of terms that were included in the odor rule. The term “animal matter” is not used in any other air quality rules. The term “reduction” is used in other air quality rules, however, in the other rules its meaning is different than that contained in the definition being deleted. The state intends the term “reduction” to have the meaning indicated by the particular context of each rule. We are approving the removal of the definitions for “animal matter” and “reduction” effective on June 8, 2001.

**IV. Final Action**

EPA is approving the following changes to the ARM that were submitted on October 25, 2005 and effective on June 17, 2005: ARM 17.8.102(1), 17.8.103(3) and (4); 17.8.302(2), (3) and (4); 17.8.602(2), (3) and (4); 17.8.802(2), (3), (4) and (5); 17.8.902(2), (3), (4) and (5); 17.8.1002(2), (3), (4) and (5); and 17.8.1102(2), (3) and (4).

EPA is approving the deletion of the following definitions from the ARM that were submitted on October 25, 2005 and effective on June 8, 2001: “public nuisance” in Sub-Chapter 1 and “animal matter” and “reduction” in Sub-Chapter 3.

EPA is not acting on the following changes to the ARM that were submitted on October 25, 2005 and effective on June 17, 2005: ARM 17.8.767(1), (2), (3) and (4). 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. The October 25, 2005 submittal merely makes administrative amendments to the State’s Administrative Rules of

Montana. Therefore, section 110(l) requirements are satisfied.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments; we are merely approving administrative changes to Montana’s air rules. However, in the “Proposed Rules” section of today’s **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective September 18, 2006 without further notice unless the Agency receives adverse comments by August 18, 2006. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**V. 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 September 18, 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: June 13, 2006.

**Andrew M. Gaydos**,

*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)(64) to read as follows:

#### § 52.1370 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(64) Revisions to State

Implementation Plan were submitted by the State of Montana on October 25, 2005. The revisions are to the Administrative Rules of Montana and: update the citations and references to federal documents and addresses where copies of documents can be obtained; and delete the definition of "public nuisance" from Sub-Chapter 1 and the definitions of "animal matter" and "reduction" from Sub-Chapter 3.

(i) Incorporation by reference.

(A) Administrative Rules of Montana (ARM) sections: ARM 17.8.102(1), 17.8.103(3) and (4); 17.8.302(2), (3) and (4); 17.8.602(2), (3) and (4); 17.8.802(2),

(3), (4) and (5); 17.8.902(2), (3), (4) and (5); 17.8.1002(2), (3), (4) and (5); and 17.8.1102(2), (3) and (4), effective June 17, 2005.

[FR Doc. E6-11344 Filed 7-18-06; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 67

#### Final Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA), Department of Homeland Security, Mitigation Division.

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** *Effective Dates:* The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

**ADDRESSES:** The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** William R. Blanton, Jr., Engineering Management Section, Mitigation Division, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 29472, (202) 646-3151.

**SUPPLEMENTARY INFORMATION:** FEMA makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster