B. Submission to Congress and the Comptroller General

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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. 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 August 14, 2000. 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 approving the West Virginia 111(d)/129 plan for HMIWI may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 1, 2000.

Bradley M. Campbell,

Regional Administrator, EPA Region III.

40 CFR part 62, subpart XX, is amended as follows:

PART 62—[AMENDED]

1. The authority citation for Part 62 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart XX—West Virginia

2. A new center heading and §§ 62.12150, 62.12151, and 62.12152 are added to Subpart XX to read as follows:

Emissions From Existing Hospital/ Medical/Infectious Waste Incinerators (HMIWIs)—SECTION 111(d)/129 Plan

§ 62.12150 Identification of plan.

Section 111(d)/129 plan for HMIWIs and the associated West Virginia (WV) Department of Environmental Protection regulations, as submitted on August 18, 1999, and as amended on April 19, 2000.

§ 62.12151 Identification of sources.

The plan applies to all existing WV HMIWI for which construction was commenced on or before June 20, 1996.

§ 62.12152 Effective date.

The effective date of the plan is July 28, 2000.

[FR Doc. 00–14766 Filed 6–12–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[MT–001a; FRL–6714–4]

Clean Air Act Full Approval of Operating Permit Program; State of Montana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is promulgating full approval of the operating permit program submitted by the State of Montana. Montana's operating permit program was submitted for the purpose of meeting the federal Clean Air Act (Act) directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the states' jurisdiction.

DATES: This direct final rule is effective on August 14, 2000 without further notice, unless EPA receives adverse comment by July 13, 2000. If adverse comment is received, EPA 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 may be mailed to Richard R. Long, Director, Air and Radiation Program, Mail Code 8P–AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466. Copies of the documents relevant to this action are available for public inspection during normal business hours at the U.S. Environmental Protection Agency, Air and Radiation Program, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202–2466 and are also available during normal business hours at the Montana Department of Environmental Quality, 1520 East 6th Avenue, P.O. Box 200901, Helena, Montana 59620–0901.

FOR FURTHER INFORMATION CONTACT: Patricia Reisbeck, 8P–AR, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Denver, Colorado 80202–2466, (303) 312–6435.

SUPPLEMENTARY INFORMATION:

I. Background

As required under Title V of the Clean Air Act (''the Act'') as amended (42 U.S.C. 7401 *et seq.*), EPA has promulgated rules that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permit programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70 (part 70). Title V directs states to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act directs states to develop and submit operating permit programs to EPA by November 15, 1993, and requires that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. § 7661a) and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval. If EPA has not fully approved a program by two years after the November 15, 1993 date, or before the expiration of an interim program approval, it must establish and implement a federal program. The State of Montana was granted final interim approval of its program on May 11, 1995 (see 60 FR 25143) and the program became effective on June 12, 1995. Interim approval of the Montana program expires on December 1, 2001.

II. Analysis of State Submission

The Governor of Montana submitted an administratively complete Title V operating permit program for the State of Montana on March 29, 1994. This program, including the operating permit regulations (Title 16, Chapter 8, Sub-Chapter 20, Sections 16.8.2001 through 16.8.2025, inclusive, of the

Administrative Rules of Montana (ARM)), substantially met the requirements of part 70. EPA deemed the program administratively complete in a letter to the Governor dated May 12, 1994. The program submittal included a legal opinion from the Attorney General of Montana stating that the laws of the State provide adequate legal authority to carry out all aspects of the program, and a description of how the State would implement the program. The submittal additionally contained evidence of proper adoption of the program regulations, application and permit forms, and a permit fee demonstration.

EPA's comments noting deficiencies in the Montana program were sent to the State in a letter dated October 3, 1994. The deficiencies were segregated into those that would require corrective action prior to interim program approval, and those that would require corrective action prior to full program approval. The State committed to address the program deficiencies that would require corrective action prior to interim program approval in a letter dated October 20, 1994. The State submitted these corrective actions with letters dated March 30, and April 5, 1995. EPA reviewed these corrective actions and determined them to be adequate for interim program approval.

On January 15, 1998, Montana amended its operating permit program to make the corrections identified as necessary in the May 11, 1995 **Federal Register** notice of final interim approval. These program amendments, recodified at Title 17, Chapter 8, Sub-Chapter 12, Sections 1201, 1210, and 1213, ARM, were approved and adopted by the Montana Board of Environmental Review on January 15, 1998. The revised program regulations adequately addressed the problems identified in the May 11, 1995 **Federal Register** notice as requiring corrective action prior to full program approval. The State also submitted evidence of proper adoption of the revisions to its program regulations and a revised Attorney General's opinion dated July 31, 1998. The revised program and a request for full approval were submitted to EPA in a letter from the Governor of Montana dated February 4, 1999. EPA notified Montana, in a letter to the Department of Environmental Quality (DEQ) dated April 1, 1999, of two additional changes required for final approval. The DEQ revised the administrative rules to implement the two requested changes at Title 17, Chapter 8, Sub-Chapter 12, ARM. These amendments to Sub-Chapter 12 were approved and adopted by the Board on March 17, 2000. On April 12, 2000, the Governor of Montana submitted the revised program, with proof of proper adoption, and requested full approval of its operating permit program.

Areas in the Montana program that were identified by EPA as deficient and the State's corrective actions for full program approval consist of the following:

(1) The definition of administrative permit amendment allowed the department to exercise discretion in determining whether or not a change in monitoring or reporting requirements would be as stringent as current monitoring or reporting requirements. This did not satisfy the criteria for an administrative permit amendment listed in 40 CFR 70.7(d)(1)(iii), which require that only requirements for more frequent monitoring or reporting may be processed through an administrative permit amendment. Correction: The State deleted the problematic section of the administrative permit amendment definition, Section 17.8.1201(1)(d), ARM.

(2) The definition of administrative permit amendment allowed the State to determine if other types of permit changes not listed in the definition of administrative permit amendment could be incorporated into a permit through the administrative permit amendment process. This did not meet requirements of 40 CFR 70.7(d)(1)(vi). Correction: The State modified Section 17.8.1201(1), ARM, part of the administrative permit amendment definition, to state: ''(e) incorporates any other type of change which the department and EPA have determined to be similar to those revisions set forth in (a) through (d) above.''

(3) The definition of ''insignificant emissions unit'' included an emission threshold of 15 tons per year of any pollutant other than a hazardous air pollutant. EPA did not consider this to be a reasonable level at which to exempt emissions units from title V operating permit requirements. Correction: The State lowered the trigger level of 15 tons per year to 5 tons per year in the definition of ''insignificant emissions units'' to assure that the term will not encompass activities that are subject to applicable requirements (see Section 17.8.1201(22)(a)(i), ARM).

(4) The State was required to revise or delete Section 17.8.1201(24)(a)(ii), ARM, so that rules and requirements imposed under the State Implementation Plan (SIP) would not be included in the definition of ''non-federally enforceable.'' Correction: The State originally revised Section 17.8.1201(24)(a)(ii) to exclude only regulations that are not federally enforceable (not in the SIP). The State adopted an additional correction to this section on March 17, 2000, which is explained below.

(5) The State was required to include a severability clause in Sub-Chapter 12 consistent with 40 CFR 70.6(a)(5) of the federal permitting regulation. Correction: The State revised Section 70.8.1210(2)(l), ARM, to include a severability clause, which states ''If any provision of a permit is found to be invalid, all valid parts that are severable from the invalid part remain in effect. If a provision of a permit is invalid in 1 or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid applications.''

(6) The State was required to provide an Attorney General's opinion verifying Montana's authority to use any monitoring data to determine compliance and for direct enforcement or to revise the State's SIP-approved regulations to provide authority to use any monitoring data to determine compliance and for direct enforcement. Correction: The Attorney General's opinion and Section 17.8.1213(2) were amended to clarify Montana's authority. The revised opinion was submitted with the Governor's letter, dated February 4, 1999.

(7) The Attorney General's opinion was not clear regarding the State's authority to terminate permits. The State was required to provide an Attorney General's interpretation that Montana's statutory authority extends to ''terminating'' permits. Correction: This was clarified in the revised Attorney General's opinion.

(8) The State was required to demonstrate to EPA that it had the ability to make case-by-case MACT determinations pursuant to section 112(j) of the Act. Correction: This was adequately addressed in the revised Attorney General's opinion.

(9) The State was required to certify its ability to require annual certifications from part 70 sources regarding proper implementation of their risk management plans (RMP) and to provide a compliance schedule for sources that fail to submit the required RMP. Correction: The State will include a statement listing 40 CFR 68.215(a) as an applicable requirement in all Title V operating permits.

(10) The State was required to clarify that it has the authority to terminate or revoke and reissue permits in all circumstances in which cause to do so exists or amend Section 17.8.1210(2)(a) to eliminate any provisions that may be construed to limit ''cause'' in an unacceptable manner. Correction:

Section 17.8.1210(2)(a) has been revised to include: ''Permits may be terminated or revoked and reissued for cause. Appropriate 'cause' for permit termination is noncompliance with permit terms or conditions that is continuing or substantial in nature and scope.''

Two additional corrections, requested in the April 1, 1999 letter from EPA to the DEQ, are as follows:

(1) The revised definition of ''non-federally enforceable requirements'' in Section 17.8.1201(24)(a), ARM, included ''(ii) any term, condition or other requirement contained in any air quality preconstruction permit issued by the department under this chapter that is not contained in the Montana State implementation plan approved or promulgated by the administrator through rulemaking under title I of the FCAA.'' This was required to be changed or deleted as it implied that the terms and conditions of a preconstruction permit are not federally enforceable, unless they are contained in the Montana SIP or EPA regulation. In fact, every permit issued under a SIP-approved permit program is federally enforceable, and every term and condition of the permit is federally enforceable. Correction: The State has revised Section 17.8.1201(24) to delete this language in the definition of the phrase ''non-federally enforceable requirements.''

(2) Section 17.8.1225(4), ARM, incorrectly applied the permit shield to all administrative permit amendments. The permit shield provided by 40 CFR Part 70 applies only to permit actions that have gone through public review. Therefore, Section 17.8.1225(4) was required to be revised to say that the permit shield does not extend to administrative permit amendments except as allowed by 40 CFR 70.7(d)(4). Correction: The State revised Section 17.8.1225(4) to state that the permit shield does not apply to administrative permit amendments.

III. Final Action

In this document, EPA is granting full approval of the Montana part 70 operating permits program for all areas within the State except the following: any sources of air pollution located in ''Indian Country'' as defined in 18 U.S.C. 1151, including the following Indian reservations in the State: Northern Cheyenne, Rocky Boys, Blackfeet, Crow, Flathead, Fort Belknap, and Fort Peck Indian Reservations, or any other sources of air pollution over which an Indian Tribe has jurisdiction. See section 301(d)(2)(B) of the Act; see also 63 FR 7254 (February 12, 1998). The term ''Indian Tribe'' is defined under the Act as ''any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' See section 302(r) of the Act; see also 58 FR 54364 (Oct. 21, 1993).

The EPA is publishing this rule without prior proposal because the State is currently implementing its part 70 program and the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to grant full approval of the operating permit program submitted by the State of Montana should adverse comments be filed. This rule will be effective August 14, 2000 without further notice unless the Agency receives adverse comments by July 13, 2000.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed 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 on this rule must do so at this time.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612 (Federalism) and Executive Order 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This final rule will 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not establish a further health or risk-based standard because it approves state rules which implement a previously promulgated health or safety-based standard.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal

governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies 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 small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because part 70 approvals under section 502 of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

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

G. Submission to Congress and the Comptroller General

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 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. 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 August 14, 2000. 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 70

Administrative practice and procedure, Air pollution control, Environmental protection, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: June 2, 2000.

Rebecca W. Hanmer,

Acting Regional Administrator, Region VIII.

40 CFR part 70, is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. In appendix A to part 70 the entry for Montana is amended by adding paragraph (b) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Montana

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(b) The Montana Department of Environmental Quality submitted an operating permits program on March 29, 1994; effective on June 12, 1995; revised January 15, 1998, and March 17, 2000; full approval effective on August 14, 2000.

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[FR Doc. 00–14768 Filed 6–12–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL–6715–4]

Revisions to the Interim Enhanced Surface Water Treatment Rule (IESWTR), the Stage 1 Disinfectants and Disinfection Byproducts Rule (Stage 1 DBPR) and Revisions to State Primacy Requirements to Implement the Safe Drinking Water Act (SDWA) Amendments.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; withdrawal.

SUMMARY: Because we received adverse comments, EPA is withdrawing the direct final rule regarding the Interim Enhanced Surface Water Treatment Rule, the Stage 1 Disinfectant and Disinfection Byproducts Rule, and the Primacy Rule that published on April 14, 2000 (65 FR 20304).

In the direct final rule, we stated that if we received adverse comments by May 15, 2000, we would publish a timely withdrawal in the **Federal Register**. EPA subsequently received adverse comments. We will address those comments in a final rule based