

ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) 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 provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for eight named sources.

#### 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 October 12, 2001. 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 Commonwealth's source-specific RACT requirements to control VOC and NO<sub>x</sub> from eight individual gas compressor stations in the Pittsburgh area 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, Hydrocarbons, Incorporation by reference, Nitrogen

Oxides, Ozone, Reporting and recordkeeping requirements.

Dated: August 3, 2001.

**Thomas C. Voltaggio,**

*Deputy Regional Administrator, Region III.*

40 CFR part 52 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 *et seq.*

#### Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(164) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(164) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO<sub>x</sub> RACT, submitted by the Pennsylvania Department of Environmental Protection on August 1, 1995, December 8, 1995, April 16, 1996, July 1, 1997, July 2, 1997, January 21, 1997, and February 2, 1999.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection dated August 1, 1995, December 8, 1995, April 16, 1996, July 1, 1997, July 2, 1997, January 21, 1997, and February 2, 1999, transmitting source-specific RACT determinations.

(B) The following companies' Operating Permits (OP) or Enforcement Order (EO):

(1) Consolidated Natural Gas Transmission Corporation, Beaver Station, OP 04-000-490, effective June 23, 1995.

(2) Consolidated Natural Gas Transmission Corporation, Oakford Station, OP 65-000-837, effective October 13, 1995.

(3) Consolidated Natural Gas Transmission Corporation, South Oakford Station, OP 65-000-840, effective October 13, 1995.

(4) Consolidated Natural Gas Transmission Corporation, Tonkin Station, OP 65-000-634, effective October 13, 1995.

(5) Consolidated Natural Gas Transmission Corporation, Jeannette Station, OP 65-000-852, effective October 13, 1995.

(6) Carnegie Natural Gas Company, Creighton Station, EO 213, effective May 14, 1996, except for condition 2.7.

(7) Texas Eastern Transmission Corporation, Uniontown Station, OP 26-000-413, effective December 20, 1996.

(8) Consolidated Natural Gas Transmission Corporation, South Bend Station, OP 03-000-180, effective December 2, 1998.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in (i) (B), above.

[FR Doc. 01-20378 Filed 8-10-01; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52, 60, 61 and 62

[MT-001-0040a; FRL-7026-1a]

#### Approval and Promulgation of Air Quality Implementation Plans; Montana

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** On June 15, 2001, EPA published a direct final rule (66 FR 32545) partially approving and partially disapproving, and a parallel proposed rule (66 FR 32594) proposing to partially approve and partially disapprove, State Implementation Plan (SIP) revisions submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000. These submitted revisions are intended to recodify and modify the State's air quality rules so that they are consistent with Federal requirements, minimize repetition in the air quality rules, and clarify existing provisions. They also contain Yellowstone County's Local Regulation No.002—Open Burning. Also, in our June 15, 2001 publication, EPA announced that on May 16, 2001, we delegated the authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State. EPA also updated the NSPS and National Emissions Standards for Hazardous Air Pollutants (NESHAP) "Status of Delegation Tables" and the names and addresses of the Regional Office and State Offices in the Region. EPA also updated regulations to indicate that Montana provided a negative declaration. The direct final and proposed rule preambles explained that the direct final rule was to become effective on August 14, 2001. However, if EPA received an adverse comment by July 16, 2001, EPA would publish a timely withdrawal of the direct final rule and it would not take effect. Only

the June 15, 2001, parallel proposed rule preamble also stated that EPA would address all public comments in a subsequent final rule based on the proposed rule and that EPA would not institute a second comment period. Even though EPA did not receive adverse comments on the June 15, 2001, actions, EPA is withdrawing the June 15, 2001, direct final rule because the direct final and parallel proposed rules contain a number of errors that we have independently identified and want to correct before the direct final rule would otherwise become effective on August 14, 2001. EPA will issue another direct final rule and a parallel proposed rule correcting these errors and addressing the Governor of Montana's September 19, 1997, December 10, 1997, April 14, 1999, December 6, 1999, and March 3, 2000, submittals.

**DATES:** As of August 13, 2001, EPA withdraws the direct final rule published at 66 FR 32545.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202.

**FOR FURTHER INFORMATION CONTACT:** Laurie Ostrand, EPA Region 8, (303) 312-6437.

**SUPPLEMENTARY INFORMATION:** On June 15, 2001, EPA published a direct final rule (66 FR 32545) (FR Doc. 01-15027) partially approving and partially disapproving, and a parallel proposed rule (66 FR 32594) (FR Doc. 01-15028) proposing to partially approve and partially disapprove, State Implementation Plan (SIP) revisions submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000. The direct final rule was scheduled to become effective on August 14, 2001 (except that the delegation of the NSPS to Montana had already become effective on May 16, 2001). However, our preambles to the rules explained that if we received an adverse comment on our action by July 16, 2001, we would issue a timely withdrawal of the direct final rule and it would not take effect. In addition, only one of the June 15, 2001, rules—the parallel proposed rule—further explained that we would then issue another rule responding to any adverse comments and taking final action on the parallel proposal without instituting another public comment period. Our June 15, 2001, actions contained the following specific errors:

1. The June 15, 2001 direct final rule contained incorrect and misleading language in the Administrative Requirements section. Specifically, on page 32553, third column, the paragraph labeled "G. Submission to Congress and the Comptroller General" is incorrect in stating that "EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability." Instead, the paragraph should have stated that EPA will 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 U.S., prior to publication of the rule in the **Federal Register**. Our subsequent direct final rule will correct this inaccuracy.

2. The June 15, 2001, preamble to the direct final rule stated our intent to partially disapprove two of the State's air quality regulations, specifically, Administrative Rules of Montana (ARM) 17.8.309(5)(b) and 17.8.310(3)(e). See 66 FR at 32547, 32552. Although we indicated in the preamble that we intended to partially disapprove the rules, we failed to promulgate necessary corresponding regulatory text in 40 CFR part 52 subpart BB indicating that the State rules were to be disapproved. The subsequent direct final rule and parallel proposed rule will correct this error.

3. The June 15, 2001, direct final rule failed to identify the existence of or otherwise accurately cross-reference the parallel proposed rule published on the same day, or indicate that if we received an adverse comment—in addition to withdrawing the direct final rule—we would address all comments in a subsequent final rule based on the proposed rule, without instituting a second comment period. As a result, readers who reviewed our direct final rule alone, without knowledge of the parallel proposed rule, could not have been fully informed of our rulemaking process for this action. If, on the other hand, a reader reviewed both the direct final rule and the parallel proposed rule, she or he would have been presented with inconsistent descriptions of the process to be followed after submission of an adverse comment. Our failure to clearly and accurately describe the rulemaking process will be corrected in the subsequent direct final and parallel proposed rules.

4. The Summary of the June 15, 2001, proposed rule contains an inaccurate and misleading description of the proposed action. Specifically, the Summary indicated that we were proposing to take direct final action, which is confusing and not in fact what we intended. Instead, the proposal

should have simply stated that we were proposing to take the actions described in the Summary. The Summary also indicated that we were "approving" other provisions, thus suggesting that some things were not only being proposed but were the subject of final action in that proposed rule, when it should have stated that we were proposing to approve those provisions. Our subsequent parallel proposed rule will correct this mistake.

5. The June 15, 2001 preambles to the direct final and proposed rules stated our intent to approve most of the State's recodified air quality rules, including the State's recodified stack height rules. However, in another pending SIP action in Montana (Billings/Laurel), we have questioned aspects of the Montana stack height regulations that are repeated in the recodification. We do not believe we should act on the recodification of these rules before we give full consideration to relevant issues in the context of our ongoing action on the Billings/Laurel SIP, where the issues first arose and should be resolved. The direct final rule's inadvertent approval of the recodification was premature, and should not yet become effective. Accordingly, the subsequent direct final rule will indicate that we will act on the recodified stack height rules at a later date. This deferral of action will have no effect on the existing approved Montana stack height SIP.

We believe that the unique circumstances of the combination of errors in the June 15, 2001, direct final and parallel proposed rules for this action are best remedied, in this case, by a withdrawal of the direct final rule in advance of its taking effect, as would have occurred if someone had filed a comment objecting to the incorrect and misleading preamble language and the mistaken omission of regulatory language or the inadvertent and premature approval of the recodified stack height regulations. In addition, since the parallel proposed rule also contained an inaccurate and misleading description of the nature of that action and since we are withdrawing the direct final rule to which it was paired, it is appropriate to withdraw that rule. Our subsequent direct final and parallel proposed rules will clarify how we are treating the SIP submission, and will contain the necessary regulatory language to fully promulgate the direct final rule, should it become effective. Today's withdrawal action does not affect the status of the May 16, 2001, delegation of the NSPS to Montana, which had already become effective.

In the "Proposed Rules" section of today's **Federal Register** publication, we

are withdrawing the proposed rule published on June 15, 2001.

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

##### 40 CFR Part 60

Environmental protection, Air pollution control, Aluminum, Ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Drycleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Wool, Zinc.

##### 40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, Vinyl chloride.

##### 40 CFR Part 62

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

Dated: July 31, 2001.

**Jack W. McGraw,**

*Acting Regional Administrator, Region 8.*

Accordingly, under the authority of 42 U.S.C. 7401-7671q, the direct final rule (66 FR 32545) (FR Doc. 01-15027) published on June 15, 2001, is withdrawn.

[FR Doc. 01-19871 Filed 8-10-01; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52, 60, 61 and 62

[MT-001-0018a, MT-001-0019a, MT-001-0020a, MT-001-0022a, MT-001-0023a; MT-001-0031a; FRL-7026-3]

### Approval and Promulgation of Air Quality Implementation Plans; Montana

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action partially approving and partially disapproving State Implementation Plan (SIP) revisions submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000. These submitted revisions are intended to recodify and modify the State's air quality rules so that they are consistent with Federal requirements, minimize repetition in the air quality rules, and clarify existing provisions. They also contain Yellowstone County's Local Regulation No. 002—Open Burning. We are also announcing that on May 16, 2001 we delegated the authority for the implementation and enforcement of the New Source Performance Standards (NSPS) to the State. We are updating the NSPS and National Emissions Standards for Hazardous Air Pollutants (NESHAP) "Status of Delegation Tables" and the names and addresses of the Regional Office and State Offices in the Region. We are also updating regulations to indicate that Montana provided a negative declaration. EPA is either not acting on or disapproving certain provisions of the State's air quality rules that should not be in the SIP because they are not generally related to attainment of the National Ambient Air Quality Standards (NAAQS) or they are inconsistent with our SIP requirements. Finally, some provisions of the rules will be acted on at a later date. This action is being taken under sections 110 and 111 of the Clean Air Act.

**DATES:** This rule is effective on October 12, 2001 without further notice, unless EPA receives adverse comment by September 12, 2001. If adverse comment is received, EPA will before October 12, 2001 publish a withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect. The NSPS delegation of authority to Montana became effective on 5/16/2001.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air

and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material are available at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

**FOR FURTHER INFORMATION CONTACT:** Laurie Ostrand, EPA Region 8, (303) 312-6437.

**SUPPLEMENTARY INFORMATION:** For the purpose of this document, we are giving meaning to certain words as follows: (a) The words "EPA," "we," "us" or "our" mean or refer to the United States Environmental Protection Agency. (b) The words State or Montana mean the State of Montana unless the context indicates otherwise. (c) The initials MDEQ mean the Montana Department of Environmental Quality.

On June 15, 2001, EPA published a direct final rule (66 FR 32545) partially approving and partially disapproving, and a parallel proposed rule (66 FR 32594) proposing to partially approve and partially disapprove, the SIP revisions submitted by the Governor of Montana on September 19, 1997; December 10, 1997; April 14, 1999; December 6, 1999; and March 3, 2000. The direct final rule was scheduled to become effective on August 14, 2001, if EPA did not before that date withdraw the rule, possibly in response to submission of an adverse comment. In separate actions published today, we are withdrawing both the June 15, 2001, direct final rule and parallel proposed rule because the documents contain a number of errors that we had independently identified and wanted to correct before the direct final rule would have otherwise become effective on August 14, 2001. In the withdrawal actions, we indicate that we intend to issue another direct final rule and a parallel proposed rule correcting these errors and addressing the Governor of Montana's September 19, 1997, December 10, 1997, April 14, 1999, December 6, 1999, and March 3, 2000, submittals.