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 seven 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 November 13, 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/or NO_X from seven individual sources in the Philadelphia area of Pennsylvania 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 dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 29, 2001.

Thomas C. Voltaggio,

Acting 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)(179) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(179) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and/or NO_X RACT for seven sources located in the Philadelphia-Wilmington-Trenton ozone nonattainment area submitted by the Pennsylvania Department of Environmental Protection on August 1, 1995, February 2, 1999, July 27, 2001, and August 8, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations, in the form of plan approvals, operating permits, or compliance permits on the following dates:

August 1, 1995, February 2, 1999, July 27, 2001, and August 8, 2001.

(B) Operating permits (OP), or Compliance Permits (CP) issued to the following sources:

(*1*) PECO Energy Company, Cromby Generating Station, OP–15–0019, effective April 28, 1995.

(*2*) Waste Resource Energy, Inc. (Operator); Shawmut Bank, Conn. National Assoc. (Owner); Delaware County Resource Recovery Facility, OP–23–0004, effective November 16, 1995.

(*3*) G-Seven, Ltd., OP–46–0078, effective April 20, 1999.

(*4*) Leonard Kunkin Associates, OP–09–0073, effective June 25, 2001.

(*5*) Kimberly-Clark Corporation, OP–23–0014A, effective June 24, 1998 as revised August 1, 2001.

(*6*) Sunoco, Inc. (R&M); Marcus Hook Plant; CP–23–0001, effective June 8, 1995 as revised August 2, 2001, except for the expiration date.

(*7*) Waste Management Disposal Services of Pennsylvania, Inc. (GROWS Landfill), Operating Permit OP–09–0007, effective December 19, 1997 as revised July 17, 2001.

(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 paragraph (c)(179)(i)(B) of this section.

[FR Doc. 01–22615 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0048a, CO–001–0049a, CO–001–0050a; FRL–7044–6]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Trip Reduction, and Reduction of Diesel Vehicle Emissions

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 Governor of Colorado on May 10, 2000. This submittal revises Colorado's Regulation 12, Reduction of Diesel Vehicle Emissions, and repeals Colorado's Regulation 9, Trip Reduction. EPA is taking this action under section 110 of the Clean Air Act (CAA).

DATES: This direct final rule is effective on November 13, 2001 without further notice, unless the EPA receives adverse comments by October 11, 2001. If adverse comment is received, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public 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, 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 VIII, 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 Colorado Air Pollution

Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Kerri Fiedler, EPA, Region VIII, (303) 312–6493.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''our,'' or ''us'' is used, we mean EPA.

Table of Contents

I. Summary of EPA's Actions

We are taking direct final rulemaking action to approve revisions to Colorado's SIP submitted by the Governor on May 10, 2000. This submittal updates Colorado's Regulation 12, Reduction of Diesel Vehicle Emissions. Specifically, this revision removes the program from Colorado Springs, Ft. Collins, and Greeley, or areas outside the Denver particulate matter of 10 microns in size or smaller (PM_{10}) non-attainment boundary. In addition, the May 10, 2000 submittal repeals Regulation 9, Trip Reduction. These regulations are obsolete and have been effectively replaced by other transportation programs.

II. What Is the State's Process To Submit These Materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of revisions to a SIP. The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to us. Section 110(a)(2) of the CAA requires that each SIP revision be adopted after reasonable notice and public hearing. This must occur prior to the revision being submitted by a State to us.

A. Regulation 9, Trip Reduction

The Colorado Air Quality Control Commission (AQCC) held a public hearing on February 17, 2000, to repeal Regulation 9, Trip Reduction, and remove it from the SIP because it has been effectively replaced by other transportation programs. The Denver Regional Council of Governments RideArrangers program, the Regional Transportation District's ECOPass program, and the Transportation Management Associations are all transportation control measures in the SIP and are federally enforceable. The AQCC repealed Regulation 9 on February 17, 2000. This SIP revision became State effective on April 30, 2000, and was submitted by the Governor to us on May 10, 2000.

B. Regulation 12, Reduction of Diesel Vehicle Emissions

The Colorado AQCC held a public hearing on March 16, 2000, for Regulation 12, Reduction of Diesel Vehicle Emissions, to remove the program from the SIP for Colorado Springs, Ft. Collins, and Greeley (areas outside the Denver PM_{10} non-attainment area). The AQCC adopted the revisions to the SIP on March 16, 2000. This SIP revision became State effective on May 30, 2000, and was submitted by the Governor to us on May 10, 2000.

We have evaluated the Governor's submittal and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA. By operation of law under section 110(k)(1)(B) of the CAA, the Governor's May 10, 2000, submittal became complete on November 10, 2000.

III. Evaluation of the State's Submittal

A. Regulation 9, Trip Reduction

Colorado's Regulation 9 is entitled ''Trip Reduction.'' In this action, we are approving Colorado's May 10, 2000, repeal and removal of Regulation 9 from the SIP, as adopted by the AQCC on February 17, 2000, and State effective on April 30, 2000. The purpose of Regulation 9 was to promote alternatives to single occupancy driving, but did not itself establish alternative transportation measures. Rather, Regulation 9 required government and large businesses to provide employees with information regarding public transit, ride sharing, and other emission-reducing means of travel, as well as providing bicycle and car pool parking at the employment site. Regulation 9 was identified as one of many possible transportation control measures in the 1979 Ozone SIP; however, no emissions reduction credit was specifically assigned to Regulation 9.

Regulation 9 was partially implemented by the State between 1979 and 1983, at which point the State ceased further activity with respect to this regulation. Subsequent SIP revisions failed to identify Regulation 9 as a transportation control measure. The Governor submitted a SIP revision in 1990 to remove this regulation from the SIP, but EPA returned this SIP revision to the Governor in 1991 as incomplete. The ozone maintenance plan for Denver submitted in August 1996 demonstrated maintenance of the ozone standard without Regulation 9, and revisions to this maintenance plan recently adopted by the AQCC for hearing also demonstrate that Regulation 9 is not necessary for maintenance of the ozone standard. The regulation has been effectively superseded by several other SIP and non-SIP transportation programs such as Denver Regional Council of Government's RideArrangers program, the Regional Air Quality Council's Ozone Action Day program, the Regional Transportation District's ECOPass program, and Transportation Management Associations which develop and implement travel reduction programs, promote alternative transportation measures, and provide assistance to employers with travel reduction. The Denver Regional Council of Governments RideArrangers program, the Regional Transportation District's ECOPass program, and the Transportation Management Associations are all transportation control measures in the SIP and are federally enforceable.

On November 30, 2000, the Governor of Colorado submitted a revised redesignation request and maintenance plan for the 1-hour ozone standard for Denver. Colorado was able to demonstrate maintenance of the ozone National Ambient Air Quality Standards (NAAQS) with out emission reduction credit assigned to Regulation 9. In addition, Regulation 9 was not referred to as a transportation control measure in the ozone SIP. We are currently processing Denver's redesignation request and maintenance plan for the 1-hour ozone standard and expect approval of Denver's plan in Summer 2001.

Section 110(l) and 193 of the CAA states that no control requirement may be modified in a nonattainment area unless the modification insures equivalent or greater emission reductions of the specified air pollutant. Because we are currently redesignating Denver to attainment for the 1-hour ozone standard and expect approval of the redesignation request and maintenance plan in Summer 2001, we have determined Regulation 9 can be repealed. Furthermore, Regulation 9 does not directly affect a specific pollutant, but rather Regulation 9 was aimed at reducing vehicle miles traveled, which has been made up for by other transportation programs. Regulation 9 has been effectively

replaced by other programs, and thus, it may be removed from the SIP.

B. Regulation 12, Reduction of Diesel Vehicle Emissions

Colorado's Regulation 12 is entitled ''Reduction of Diesel Vehicle Emissions.'' In this action, we are approving Colorado's May 10, 2000, revisions to Regulation 12, as adopted by the AQCC on March 16, 2000, and State effective on May 30, 2000, and note these revisions supersede and replace the version of Regulation 12 that we approved on November 19, 1992 (57 FR 54509). We note that the Governor submitted another revision to Regulation 12 prior to May 10, 2000, that we never approved and that the Governor's May 10, 2000, submittal also supersedes and replaces this other revision to Regulation 12.

Regulation 12 was revised to remove the ''Reduction of Diesel Vehicle Emissions'' program from the SIP for the areas of Colorado Springs, Ft. Collins, and Greeley (El Paso County, Larimer County, and Weld County.) Regulation 12 is a control measure relied upon to demonstrate attainment in the Denver PM_{10} SIP. The entire diesel program was included in the SIP which includes El Paso County, Larimer County, and Weld County. The program will be retained as a State only enforceable program in those areas, and will be retained in the SIP for the Denver metro area. The program is not necessary to meet the federal requirements outside the non-attainment area, and thus, the SIP revisions are approvable. The diesel inspection programs established in Regulation 12, are federally required because the State took emissions reduction credit for such program in the attainment demonstration for the 1995 Denver PM_{10} SIP.

In addition, the revision corrects the statutory reference defining the areas of applicability, as well as statutory references that specify eligible vehicles. These non-substantive, editorial corrections are approvable.

IV. Final Action

In this action, we are approving the State of Colorado's revisions to Regulation 12, Reduction of Diesel Vehicle Emissions. We are also approving the repeal of Colorado's Regulation 9, Trip Reduction. These SIP revisions were submitted by the Governor of Colorado on May 10, 2000. We are publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revisions if adverse comments are filed. This rule will be effective November 13, 2001 without further notice unless the Agency receives adverse comments by October 11, 2001. If we receive adverse comments, then we will publish a timely withdrawal of the direct final rule, 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. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 13, 2001, and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

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. 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 (Public Law 104–4). 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), 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. 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.*).

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). This rule will be effective November 13, 2001

unless EPA receives adverse written comments by October 11, 2001.

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 November 13, 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 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, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 10, 2001.

Kerrigan G. Clough,

Acting Regional Administrator, Region VIII.

Part 52, Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart G—Colorado

2. Section 52.320 is amended by adding paragraph (c)(11)(i) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(11) * * *

(i) Regulation 9, ''Trip Reduction,'' previously approved on October 5, 1979, and now deleted without replacement.

* * * * *

(91) On May 10, 2000, the Governor of Colorado submitted revisions to the Colorado State Implementation Plan consisting of: Revisions to Regulation 12 to remove the ''Reduction of Diesel Vehicle Emissions'' program from areas outside the Denver PM_{10} non-attainment area, and Regulation 9 ''Trip Reduction,'' effective on January 30, 1979, is rescinded.

(i) Incorporation by reference.

(A) Revisions to Colorado Air Quality Control Commission Regulation No. 12, 5 CCR 1001–15, adopted by the Colorado Air Quality Control Commission on March 16, 2000, State effective May 30, 2000.

[FR Doc. 01–22612 Filed 9–10–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[CO–001–0054; FRL–7044–8]

Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver 1-Hour Ozone Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 11, 2001, EPA published a notice of proposed rulemaking (NPR) that used EPA's parallel processing procedure to propose approval of the State of Colorado's request to redesignate the Denver-Boulder metropolitan (Denver) ''transitional'' ozone nonattainment area to attainment for the 1-hour ozone National Ambient Air Quality Standard (NAAQS). In that NPR, EPA proposed to approve the maintenance plan for the Denver area and the additional State Implementation Plan (SIP) elements involving revisions to Colorado's Regulation No. 3 ''Air Contaminant Emissions Notices'' and Colorado's Regulation No. 7 ''Emissions of Volatile Organic Compounds'' that were previously submitted by Governor Roy Romer, for our approval, on August 8, 1996.

In this action, EPA is approving the Denver 1-hour ozone redesignation request, the maintenance plan, the revisions to Regulation No. 3 and Regulation No. 7, and the Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) transportation conformity budgets.

EFFECTIVE DATE: October 11, 2001.

ADDRESSES: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices: United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 300, Denver, Colorado 80202–2466.

Copies of the State documents relevant to this action are available for public inspection at: Colorado Department of Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' are used we mean the Environmental Protection Agency.

I. What Is the Purpose of This Action?

In this final rulemaking action, we are approving the Denver 1-hour ozone redesignation request, maintenance plan, and the associated additional SIP elements.

With the publication of our NPR on May 11, 2001, (66 FR 24075), we utilized our parallel processing procedure for public comment to consider a proposed maintenance plan that the Colorado Air Quality Control Commission (AQCC) proposed for public comment at the State level on October 19, 2000. The AQCC adopted the maintenance plan, with minor technical changes that we did not consider significant, on January 11, 2001. Parallel processing allows EPA to propose rulemaking on a SIP revision, and solicit public comment, at the same time the State is processing the SIP revision. For further information regarding parallel processing, please see 40 CFR part 51, appendix V, section 2.3.1.

On May 7, 2001, the Governor submitted to us for approval the final Denver redesignation request and maintenance plan. The revisions to Regulation No. 3 and Regulation No. 7 were submitted on August 8, 1996, by former Governor Roy Romer.

In this final action, we are approving the change in the legal designation of the Denver area from nonattainment to attainment for the 1-hour ozone NAAQS (hereafter referred to as ''ozone NAAQS'' or ''ozone standard''), we're approving the AQCC-adopted maintenance plan that is designed to keep the area in attainment for ozone for the next 13 years, and we're approving the changes to AQCC Regulation No. 3 and AQCC Regulation No. 7. We also note that in his November 30, 2000, letter, the Governor asked that we parallel process a potential alternative provision for the maintenance plan that