

EPA APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State submittal/approval date	EPA approval date	Explanation
<b>Division 7: Emission Reductions: Offsets</b>				
Section 116.170 .....	Applicability of Reduction Credits.	06/17/98	9/24/01 .....	The SIP does not include Section 116.170(2).
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[FR Doc. 01-23624 Filed 9-21-01; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[PA-4127a; FRL-7060-3]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Eight Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule**

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

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

**SUMMARY:** Due to receipt of a letter of adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for eight major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 13, 2001 (66 FR 42418), EPA stated that if it received adverse comment by September 12, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 13, 2001 (66 FR 42487). EPA will not institute a second comment period on this action.

**DATES:** The Direct final rule is withdrawn as of September 24, 2001.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford at (215) 814-2108.

**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: September 14, 2001.  
**James W. Newson,**  
*Acting Regional Administrator, Region III.*

Accordingly, the addition of § 52.2020(c)(164) is withdrawn as of September 24, 2001.

[FR Doc. 01-23759 Filed 9-21-01; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[PA-4137a; FRL-7060-4]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Two Individual Sources Located in the Pittsburgh-Beaver Valley Area; Withdrawal of Direct Final Rule**

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

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

**SUMMARY:** Due to an adverse comment, EPA is withdrawing the direct final rule to approve revisions which establish reasonably available control technology (RACT) requirements for two major sources of volatile organic compounds (VOC) located in the Pittsburgh-Beaver Valley ozone nonattainment area. In the direct final rule published on August 13, 2001 (66 FR 42415), EPA stated that if it received adverse comment by September 12, 2001, the rule would be withdrawn and not take effect. EPA subsequently received adverse comments from the Citizens for Pennsylvania's Future (PennFuture). EPA will address the comments received in a subsequent final action based upon the proposed action also published on August 13, 2001 (66 FR 42487). EPA will not institute a second comment period on this action.

**DATES:** The Direct final rule is withdrawn as of September 24, 2001.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford at (215) 814-2108.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: September 14, 2001.  
**James W. Newson,**  
*Acting Regional Administrator, Region III.*

Accordingly, the addition of § 52.2020(c)(171) is withdrawn as of September 24, 2001.

[FR Doc. 01-23760 Filed 9-21-01; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 70**

[AD-FRL-7064-1]

**Clean Air Act Final Approval of Operating Permits Program; State of New Hampshire**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking final action to fully approve the Clean Air Act Operating Permits Program of the State of New Hampshire for the purpose of complying with Federal requirements for an approvable State program to issue operating permits to all major stationary sources of air pollution, and to certain other sources. EPA granted interim approval to New Hampshire's operating permit program on October 2, 1996.

**DATES:** This direct final rule is effective on November 23, 2001 without further notice, unless EPA receives relevant adverse comment by October 24, 2001. If EPA receives relevant adverse comments, 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:** Comments may be mailed to Steven Rapp, Unit Manager, Air Permit Program Unit, Office of Ecosystem Protection (mail code CAP) U.S.

Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the State submittal, and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA.

**FOR FURTHER INFORMATION CONTACT:** Ida E. Gagnon, (617) 918–1653.

**SUPPLEMENTARY INFORMATION:** This section provides additional information by addressing the following questions: What is the operating permit program? How has New Hampshire addressed EPA's interim approval issue? What is involved in this final action?

### What Is the Operating Permits Program?

The Clean Air Act Amendments (CAA) of 1990 required all state and local permitting authorities to develop operating permit programs that meet certain Federal criteria. 42 U.S.C. 7661–7661e. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve compliance and enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how to determine compliance with those requirements.

Sources required to obtain an operating permit under this program include “major” sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. See 40 CFR § 70.3. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include: those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM 10); those that emit 10 tons per year of any single hazardous air pollutant specifically listed under the CAA (HAP); or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the National Ambient Air

Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as “serious,” such as parts of southern New Hampshire, major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

### How Has New Hampshire Addressed EPA's Interim Approval Issue?

Where an operating permit program substantially, but not fully, meets the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA may grant the program interim approval. Because New Hampshire's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on October 2, 1996 (61 FR 51370). In order for EPA to grant full approval to New Hampshire's operating permits program, they had to amend their regulations to provide for “section 502(b)(10) changes” at a Title V source. On May 14, 2001, New Hampshire submitted a revision to its operating permits program incorporating the relevant sections of 40 CFR § 70.4(b)(12) governing “section 502(b)(10) changes.” The State regulations implementing the necessary changes are Env–A 609.08(c)(3) and 612.02.

### What Is Involved in This Final Action?

The State of New Hampshire's program now addresses the interim approval issue EPA identified under Part 70. Therefore, EPA is taking final action to fully approve the State's operating permit program. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment 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 should relevant adverse comments be filed. This action will be effective November 23, 2001 unless the Agency receives adverse comments by October 24, 2001.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and 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.

Parties interested in commenting should do so at this time. If EPA receives no such comments, the public is advised that this action will be effective on November 23, 2001.

### Administrative Requirements

Under Executive Order 12866, “Regulatory Planning and Review” (58 FR 51735, October 4, 1993), this proposed action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. 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, “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because it 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, “Federalism” (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed 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) or Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply,

Distribution, or Use” (66 FR 28355 (May 22, 2001), because it is not a significant regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a current valid OMB control number.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA’s regulations codified at 40 CFR part 70. 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 State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program 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. section 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. section 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 November 23, 2001. Interested parties should comment in response to the proposed

rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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**

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

Dated: September 14, 2001.

**Ira W. Leighton,**

*Acting Regional Administrator, EPA New England.*

Part 70, title 40 of the Code of Federal Regulations 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. Appendix A to part 70 is amended by adding paragraph (b) in the entry for New Hampshire to read as follows:

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

\* \* \* \* \*

**New Hampshire**

\* \* \* \* \*

(b) The New Hampshire Department of Environmental Services submitted program revisions on May 14, 2001. EPA is hereby granting New Hampshire full approval effective on November 23, 2001.

\* \* \* \* \*

[FR Doc. 01-23763 Filed 9-21-01; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

**[Docket #: WA-01-001; FRL-7064-3]**

**Clean Air Act Finding of Attainment; Spokane, Washington Particulate Matter (PM-10) Nonattainment Area**

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

**ACTION:** Final rule.

**SUMMARY:** EPA has determined that the Spokane nonattainment area has attained the National Ambient Air Quality Standards for particulate matter with an aerodynamic diameter of less than or equal to 10 microns by the attainment date of December 31, 1997, as required by the Clean Air Act.

**EFFECTIVE DATE:** October 24, 2001.

**ADDRESSES:** Copies of all information supporting this action are available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Pacific Standard Time at EPA Region 10, Office of Air Quality, 10th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. A reasonable fee may be charged for copies.

**FOR FURTHER INFORMATION CONTACT:** Steven Body, EPA, Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553-0782.

**SUPPLEMENTARY INFORMATION**

**I. Background**

On May 16, 2001, we solicited public comment on a proposal to find that the Spokane nonattainment area has attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to 10 microns (PM-10) by the attainment date of December 31, 1997, as required by the Clean Air Act. In the proposal, we stated that EPA would accept public comments on the proposed finding until June 15, 2001. See 66 FR 27055 (May 16, 2001).

During the public comment period that ended on June 15, 2001, we received written comments from two commenters. The Washington State Department of Ecology (Ecology or State) supported EPA’s proposed determination. Earthjustice, on behalf of the Sierra Club, submitted adverse comments.

**II. Major Issues Raised by Commenters**

The following is a summary of the issues raised in the comments on the proposal, along with EPA’s response to those issues.

**A. Attainment Date for the Area**

Earthjustice stated that EPA’s proposal wrongly assumed that the attainment date for the Spokane PM-10 nonattainment area was December 31, 1997, and that, pursuant to section 188(c)(1) of the CAA, the attainment date for the area is December 31, 1994. According to Earthjustice, EPA’s temporary waiver of the attainment date was void from the outset and that, in any event, it did not purport to