

Dated: August 3, 2001.

**Thomas C. Voltaggio,**

*Deputy Regional Administrator, Region III.*

[FR Doc. 01-20379 Filed 8-10-01; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

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

[MT-001-0018b, MT-001-0019b, MT-001-0020b, MT-001-0022b, MT-001-0023b; MT-001-0031b; FRL-7026-2]

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

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is 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 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 proposing to update 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 proposing to update regulations to indicate that Montana provided a negative declaration. EPA is either not acting on or proposing to disapprove 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. In the "Rules and Regulations" section of this **Federal Register**, EPA is partially approving and partially disapproving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and

anticipates no adverse comments. A detailed rationale for the partial approval and partial disapproval is set forth in the preamble to the direct final rule. If EPA receives no adverse comments, EPA will not take further action on this proposed rule and the direct final rule will take effect on October 12, 2001. If EPA receives adverse comments, EPA will withdraw the direct final rule before October 12, 2001 and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

**DATES:** Comments must be received in writing on or before September 12, 2001.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 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. 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:** See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

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

Dated: July 31, 2001.

**Jack W. McGraw,**

*Acting Regional Administrator, Region VIII.*

[FR Doc. 01-19873 Filed 8-10-01; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

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

[MT-001-0040b; FRL-7029-6]

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

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

**ACTION:** Withdrawal of proposed 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, parallel proposed 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 proposed rule published at 66 FR 32594.

**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) 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. 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 "Final Rules" section of today's **Federal Register** publication, we are withdrawing the direct final 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: August 2, 2001.

**Jack W. McGraw,**

*Acting Regional Administrator, Region 8.*

Accordingly, under the authority of 42 U.S.C 7401-7671q, the proposed rule (66 FR 32594) (FR Doc. 01-15028) published on June 15, 2001, is withdrawn.

[FR Doc. 01-20039 Filed 8-10-01; 8:45 am]

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 70**

[FRL-7031-7]

### **Clean Air Act Full Approval of Operating Permits Program in Idaho**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to fully approve the operating permits program submitted by the State of Idaho. Idaho's operating permits program was submitted in response to the directive in

the Clean Air Act that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authority's jurisdiction. EPA granted interim approval to Idaho's air operating permits program on December 6, 1996. Idaho has revised its program to satisfy the conditions of the interim approval and EPA therefore proposes to approve those revisions. Idaho has also made several other changes to its program and EPA proposes, with one exception, to approve these additional changes.

**DATES:** Comments on this proposal must be received in writing by September 12, 2001.

**ADDRESSES:** Written comments should be addressed to Denise Baker, Environmental Protection Specialist (OAQ-107), Office of Air Quality, at the EPA Regional Office listed below. Copies of Idaho's submittal, and other supporting information used in developing this action, are available for inspection during normal business hours at the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

**FOR FURTHER INFORMATION CONTACT:** Denise Baker, Office of Air Quality (OAQ-107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553-8087.

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#### **I. Background**

##### *A. What Is the Title V Air Operating Permits Program?*

The Clean Air Act (CAA) Amendments of 1990 required all state and local permitting authorities to develop operating permits programs that meet certain Federal criteria. In implementing the operating permits 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 permits program is to improve enforcement by issuing each source a permit that consolidates all the applicable CAA requirements into a Federally-enforceable document. By consolidating all the applicable requirements for a source in a single document, the source, the public, and regulators can more easily determine what CAA requirements apply to the source and whether the source is in compliance with those requirements.

Sources required to obtain operating permits under the title V program include "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. 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; those that emit 10 tons per year or more of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air