

requirements, Safety measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. In § 165.756, paragraph (d)(1)(i) is revised to read as follows:

§ 165.756 Regulated Navigation Area; Savannah River, Georgia.

* * * * *

(d) * * *
(1) * * *

(i) Except for a vessel that is moored at a marina, wharf, or pier, and remains moored, no vessel 1600 gross tons or greater may approach within two nautical miles of an LNG tankship that is underway within the RNA without the permission of the Captain of the Port (COTP).

* * * * *

Dated: October 28, 2003.

H.E. Johnson,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 03–28813 Filed 11–18–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MT–001–0005, MT–001–0006; FRL–7588–8]

Approval and Promulgation of Air Quality Implementation Plans; Montana; Thompson Falls PM₁₀ Nonattainment Area Control Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Governor of Montana on June 26, 1997, and June 13, 2000. (Portions of the June 26, 1997, submittal were withdrawn by the Governor of Montana on February 8, 1999.) These revisions contain an inventory of emissions for Thompson Falls and establish and require continuation of all control measures adopted and implemented for reductions of particulate matter with an

aerodynamic diameter less than or equal to 10 micrometers (PM₁₀) in order to attain the PM₁₀ National Ambient Air Quality Standards (NAAQS) in Thompson Falls. Using the PM₁₀ clean data areas approach, we propose to approve the control measures and the emissions inventory that were submitted as part of the PM₁₀ nonattainment area SIP for Thompson Falls. Also, we will be taking action on other portions of the June 26, 1997, and June 13, 2000, submittals at a later time. We are acting under section 110 of the Clean Air Act (CAA or Act) for this proposed approval.

DATES: Written comments must be received on or before December 19, 2003.

ADDRESSES: Written comments may be submitted by mail 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 80202–2466. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in (Part (I)(B)(1)(i) through (iii)) of the SUPPLEMENTARY INFORMATION section.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA Region 8, 999 18th Street, Suite 300, MS 8P–AR, Denver, CO 80202, 303–312–6144, e-mail dygowski.laurel@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* EPA has established an official public rulemaking file for this action under MT–001–0005, MT–001–0006. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air and Radiation Program, EPA Region 8, 999 18th Street, Suite 300, Denver, CO. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. You may

view the public rulemaking file at the Regional Office Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

2. *Copies of the State submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency.* Copies of the State documents relevant to this action are also available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

3. *Electronic Access.* You may access this **Federal Register** document electronically through the Regulations.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on, Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking MT–001–0005, Mt–001–0006" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your

comment. Also include this contact information on the outside of any disk or CD-ROM you submit, and in any cover letter accompanying the disk or CD-ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail*. Comments may be sent by electronic mail (e-mail). Please send any comments simultaneously to long.richard@epa.gov and dygowski.laurel@epa.gov and include the text "Public comment on proposed rulemaking MT-001-0005, MT-001-0006" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through "Regulations.gov" (see below), EPA's e-mail system will automatically capture your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulations.gov*. Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to [Regulations.gov](http://www.regulations.gov) at <http://www.regulations.gov>, then click on the button "TO SEARCH FOR REGULATIONS CLICK HERE," and select Environmental Protection Agency as the Agency name to search on. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD-ROM*. You may submit comments on a disk or CD-ROM that you mail to the mailing address identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail*. Send your comments 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 80202-2466. Please include the text "Public comment on proposed rulemaking MT-001-0005, MT-001-0006" in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier*. Deliver your comments 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 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD-ROM, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD-ROM, mark the outside of the disk or CD-ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

II. Summary of SIP Revision

A. Background

The Thompson Falls area was designated nonattainment for PM₁₀ and classified as moderate under section 107(d)(3) of the Clean Air Act on December 21, 1993.¹ See 57 FR 43846 (September 22, 1992), 58 FR 67334 (December 21, 1993) and 40 CFR 81.327 (Sanders County (part)). The Thompson Falls designation became effective on January 20, 1994. The air quality planning requirements for moderate PM₁₀ nonattainment areas are set out in subparts 1 and 4 of title I of the Act. Subpart 1 applies to nonattainment areas generally and subpart 4 applies to PM₁₀ nonattainment areas. At times, subpart 1 and subpart 4 overlap or conflict. We have attempted to clarify the relationship among these provisions in guidance entitled the "General Preamble" (see 57 FR 13498, April 16, 1992, and 57 FR 18070, April 28, 1992) and, as appropriate, in today's notice.

B. What Requirements Do States Need To Follow in Developing PM₁₀ Nonattainment Area SIPs?

Our "General Preamble" describes our preliminary views on how we will review SIPs and SIP revisions submitted under title I of the Act, including State-submitted SIPs for moderate PM₁₀ nonattainment areas (see generally 57 FR 13498, April 16, 1992, and 57 FR 18070, April 28, 1992). In this document, we are applying our interpretations considering the specific factual issues presented.

A State containing a moderate PM₁₀ nonattainment area designated after the 1990 Amendments is normally required to submit several provisions within 18 months of the effective date of the designation. These provisions were due for the Thompson Falls area by July 20, 1995. They include an emissions inventory, control measures, an attainment demonstration, quantitative

¹ The 1990 Amendments to the Clean Air Act made significant changes to the Act. See Public Law 101-549, 104 Stat. 2399. References herein are to the Clean Air Act, as amended ("the Act"). The Clean Air Act is codified, as amended, in the U.S. Code at 42 U.S.C. 7401, *et seq.*

milestones for reasonable further progress (RFP), and contingency measures. Requirements for the control measures include: Provisions to assure that reasonably available control measures (RACM), including reasonably available control technologies (RACT), shall be implemented no later than four years after designation, which was January 20, 1998, for Thompson Falls. However, under the PM₁₀ clean data areas approach that we are proposing to use here, we are only proposing to require the control measures (including the provisions for enforcing those measures) and the emissions inventory for Thompson Falls.

1. Clean Data Areas Approach

The clean data areas approach applies EPA's clean data policy concept, already in place for ozone nonattainment areas², to selected PM₁₀ nonattainment areas in order to approve control measures for these areas into the SIP. The approach only applies to PM₁₀ areas with simple PM₁₀ source problems, such as residential wood combustion and fugitive dust problems. If an area meets the following requirements, the state will no longer be required to develop an attainment demonstration, contingency measures or a RFP demonstration. The area must meet the following requirements:

(a) The area must be attaining the PM₁₀ NAAQS with the three most recent years of quality-assured air quality data.

(b) The state must continue to operate an appropriate PM₁₀ air quality monitoring network, in accordance with 40 CFR part 58, in order to verify the attainment status of the area.

(c) The control measures for the area, which were responsible for bringing the area into attainment, must be approved by EPA as meeting the CAA requirements for RACM/RACT.

(d) A PM₁₀ emissions inventory must be completed for the area.

III. Analysis of Requirements To Use Clean Data Areas Approach

A. Attainment of the PM₁₀ NAAQS

Whether an area has attained the PM₁₀ NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. See 40 CFR part 50 and 40 CFR 50, appendix K. On November 1, 2001 (66 FR 55102), we published a

final rulemaking action declaring that the Thompson Falls PM₁₀ nonattainment area was in attainment of the PM₁₀ standard based on 1998–2000 monitoring data and that the area had attained the standard by its attainment date. The applicable attainment date as required by the CAA for Thompson Falls was December 31, 2000. If you wish to obtain more information regarding our attainment determination, please see our November 1, 2001, **Federal Register** document.

To use the PM₁₀ clean data areas approach, an area must be attaining with the three most recent years of quality assured data at the time of the proposed notice. In this case, the three most recent years are 2000–2002. During the 2000–2002 period, data was collected at the Thompson Falls High School station (AQS identification #30–089–0007). The regulatory requirement for data capture in 40 CFR part 50, Appendix K, is 75 percent on a quarterly basis. The 2000–2002 monitoring data shows no exceedances of either the 24-hour or annual PM₁₀ NAAQS during this period, and data capture met the 75 percent criterion with the exception of two quarters. Data capture was 73 percent during the third quarter of 2000 and 71 percent during the fourth quarter of 2001. According to the “Guideline on Exceptions to Data Requirements for Determining Attainment of Particulate Matter Standards” (see EPA document #405–/4–87–005, April 1987), when data capture is at least 50 percent but less than 75 percent, data may be substituted for the missing data. Per the above-referenced guideline, monitoring data from the same quarter in any one of the years use to determine attainment may be substituted for missing PM₁₀ data. The maximum PM₁₀ value that was observed in that quarter over the last three years is substituted for missing scheduled sampling days. When we apply data substitution per the above-referenced guideline, we find no exceedances of the 24-hour or annual PM₁₀ NAAQS for the 2000–2002 period.

B. Continued Operation of PM₁₀ Monitoring Network

The Montana Department of Environmental Quality (MDEQ) will continue to operate its PM₁₀ air quality monitoring network in accordance with 40 CFR part 58, in order to verify the attainment status of the area. We approved Montana's state-wide air quality monitoring program on March 9, 1981 (see 46 FR 15686). This approval established the state and local air monitoring station (SLAMS) network, the maintenance requirements for the

monitoring stations, and the method of data reporting and annual review for the stations. The stations are to monitor ambient levels of criteria pollutants (for which NAAQS have been established). All SLAMS are to be operated in accordance with the criteria established in 40 CFR 58, subpart B, and are to be sited according to 40 CFR 58, appendix E. Reference or equivalent monitors are to be used as defined in 40 CFR 50.1 and the quality assurance procedures are to be followed as outlined in 40 CFR 58, appendix A. On December 21, 1993 (see 58 FR 67324), we approved revisions to the state-wide monitoring SIP to update the existing monitoring SIP.

Monitoring in Thompson Falls for PM₁₀ is currently performed at the Thompson Falls High School station (AQS identification #30–089–0007). EPA Region VIII conducts periodic reviews of Montana's ambient air network, which includes the Thompson Falls site. Based on these reviews, our monitoring staff has approved this monitoring station.

C. Control Measure Requirements

The moderate PM₁₀ nonattainment areas, designated after the 1990 Amendments, must submit provisions to ensure that RACM is implemented no later than 4 years after designation, which was January 20, 1998 for Thompson Falls (see sections 172(c)(1) and 189(a)(1)(C)). The General Preamble contains a detailed discussion of our interpretation of the RACM requirements (see 57 FR 13539–13545 and 13560–13561).

The State should identify available control measures to make sure they are reasonable and that they meet the area's attainment needs, (see 57 FR 13540–13544). A State may reject an available control measure if it is technologically infeasible or unreasonably expensive. In addition, RACM doesn't require controls on emissions from sources that are insignificant (*de minimis*) and doesn't require an area to use all available control measures if it demonstrates timely attainment and if using additional controls wouldn't expedite attainment.

Thompson Falls Control Measures

Montana's SIP revisions for Thompson Falls contain control measures for sources of re-entrained fugitive dust that were adopted on June 24, 1997, and are part of a maintenance agreement between the city of Thompson Falls, the Montana Department of Transportation (MDT) and the MDEQ. The maintenance agreement is applicable inside the

² See memorandum from John Seitz, Director, Office of Air Quality Planning and Standards (OAQPS) to Regional Division Directors entitled “Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,” May 10, 1995.

Thompson Falls PM₁₀ nonattainment area, which encompasses the majority of the city. Per the maintenance agreement, street sweeping is the primary PM₁₀ control strategy, as Thompson Falls experiences high concentrations of PM₁₀ during the late winter and early spring. The maintenance agreement also specifies the type of sanding or chip seal material that may be used by the MDT and the city of Thompson Falls on paved roads and parking lots, and includes provisions for the paving of parking lots, alleys and unpaved roads within the Thompson Falls central business district.

Street Sweeping Requirements. The MDT is responsible for approximately 4.83 km of street sweeping on Highway 200 from the western limits of the PM₁₀ nonattainment area boundary through the city to the Harvest Food store east of town. The city of Thompson Falls is responsible for street sweeping 5.8 km of local priority routes as listed below.

CITY STREET SWEEPING PRIORITY ROUTES

Route	Approximate length (in miles)
Golf from City Shop to Haley.	.20
Haley from Golf to Ferry	.85
Bus Loop at Jr. High	.20
Ferry from Jr. High to Preston.	.25
Preston from Ferry to East Crossing and East Crossing from Preston to Main.	.15
Preston from East Crossing to Clay.	.20
Clay from Preston to 5th	.40
West Crossing from Main to Gallatin.	.15
Washington from Preston to 4th.	.35
Spruce from Preston to 3rd.	.35
Gallatin from Preston to 3rd.	.25
Jefferson from Preston to 3rd.	.25
Total	3.6 miles = 5.8 km

During winter months, the MDT is required to commence street sweeping on Highway 200 on the first business day that the highway becomes temporarily or permanently ice-free and the temperatures are expected to remain above 35° F for a 24-hour period. Unless interrupted by additional snowfall or temperatures below 35° F, the MDT is required to have Highway 200 swept clean within two business days. During winter months, the city of Thompson Falls is required to commence street sweeping on priority routes on the first

business day that the highway becomes temporarily or permanently ice-free and the temperatures are expected to remain above 35° F for a 24-hour period. Unless interrupted by additional snowfall or temperatures below 35° F, the city of Thompson Falls is required to have priority routes swept clean within four business days. During summer months, priority routes and Highway 200 will be swept on an as needed basis. In the event that a PM₁₀ exceedance occurs within the Thompson Falls nonattainment area, the maintenance agreement includes contingency measures that will remain in effect until such time as the SIP control measures are revised and approved by EPA. In the event of a PM₁₀ exceedance, the city of Thompson Falls shall increase its frequency of street sweeping on priority routes from four business days to two business days and the MDT shall increase its street sweeping frequency on Highway 200 from two business days to one business day.

Both the city of Thompson Falls and the MDT will only apply sanding or chip seal material on paved roads and parking lots that has a durability of greater than or equal to 9 as defined by the Montana Modified L.A. Abrasion test. The sanding or chip seal material will have a material content smaller than 200 mesh that does not exceed 4.0 percent oven dry weight as determined by a standard wet sieving method.

Other Requirements. The maintenance agreement also includes provisions for the paving of streets and parking lots. Within the central business district of Thompson Falls, the city of Thompson Falls may not construct any new street or road unless it is paved or construct any new parking lot with a capacity greater than 15 vehicles or more than 50 vehicles/day turnover unless the parking lot is paved.

The Thompson Falls nonattainment area does include significant emissions from point sources; however, the MDEQ chose not to implement any RACT measures at these sources and to focus on reducing emissions from area sources. This approach is allowed under the Clean Air Act due to the fact that Montana has demonstrated that Thompson Falls did not need to implement RACT for point sources in order to attain the 24-hour PM₁₀ standard; the implemented control measures (RACM) were enough to bring the area into attainment. See 57 FR 13541 of the General Preamble.

We have reviewed the State's documentation and have concluded that it adequately justifies the control measures that are being used. The implementation of Montana's PM₁₀

nonattainment plan for Thompson Falls resulted in the attainment of the PM₁₀ NAAQS. The Thompson Falls control plan was adopted on June 24, 1997, and implemented by the applicable implementation date of January 20, 1998, specified by the CAA. We are approving the Thompson Falls PM₁₀ plan control strategies as satisfying the RACM requirement.

As required under the CAA, all measures in the SIP must be enforceable by EPA and the State (see sections 172(c)(6) and 110(a)(2)(A) of the Act and 57 FR 13556). Our criteria addressing the enforceability of SIPs and SIP revisions were stated in a September 23, 1987, memorandum (with attachments) from J. Craig Potter, Assistant Administrator for Air and Radiation, *et al.* (see 57 FR 13541). Nonattainment area plan provisions also must contain a program to provide for enforcement of control measures and other elements in the SIP (see section 110(a)(2)(C) of the Act). When a State relies on a local government for the implementation of any SIP provision, the State is responsible for ensuring adequate implementation of the provision. See section 110(a)(2)(E) of the Act.

The maintenance agreement between the city of Thompson Falls, the MDT and the MDEQ provides new requirements for street sweeping, determines the type of sanding or chip seal material that can be used on paved roads and parking lots and specifies requirements for the paving of new streets, roads or parking lots within the Thompson Falls central business district. In order to make these requirements an enforceable part of the Thompson Falls PM₁₀ SIP, the State adopted and incorporated the maintenance agreement requirements in a Board Order to be approved as part of the *State of Montana Air Quality Control Implementation Plan*. We have reviewed the maintenance agreement for enforceability and determined that it meets all the criteria included in the September 23, 1987, Potter Memorandum.

The MDEQ has the authority to implement and enforce the maintenance agreement adopted by the Montana Board of Environmental Review (MBER). Any failure by the city or the Montana Department of Transportation to perform their specific obligations under this agreement would warrant enforcement by MDEQ.

The State also submitted a State Attorney General's opinion interpreting the authority of MDEQ to enforce any State and local air quality provisions if a local air quality program fails to do so. In practice, MBER issues a board order

when it approves a local program or amendments to a program. Since the Montana Clean Air Act (MCAA) authorizes MDEQ to enforce board orders issued by MBER, MDEQ has the authority to assume jurisdiction over, and implement, an approved local program. However, the MCAA also requires a hearing before MBER before such an assumption of jurisdiction and authority can be taken.

D. Emissions Inventory

Section 172(c)(3) of the Act requires that nonattainment plan provisions include a comprehensive, accurate, current inventory of actual emissions from all sources of relevant pollutants in the nonattainment area. MDEQ submitted an emissions inventory for Thompson Falls on June 26, 1997, withdrew that inventory on February 28, 1999, and resubmitted it with revisions on June 13, 2000.

MDEQ chose July 1990 through June 1991 as the Thompson Falls base year inventory of PM₁₀ emissions. The results of the emissions inventory indicate that area sources contribute approximately 77 percent of the total emissions for the area, of which re-entrained road dust (from paved roads) contributes approximately 59 percent and woodburning contributes approximately 14.4 percent. Stationary sources accounted for 23 percent of the emissions inventory (this figure includes 2.8 percent for industrial road dust).³

EPA is proposing to approve the emission inventory for Thompson Falls because it is accurate and comprehensive, and consistent with the requirements of sections 172(c)(3) and 110(a)(2)(K) of the Act.⁴

In addition to the above requirements for the use of the clean data areas approach, any requirements that are dependent solely on designation or classification, such as new source review (NSR) and RACM/RACT, will remain in effect. New source review requirements have been approved as part of the Administrative Rules of Montana, title 17, chapter 8, subchapters 8 and 9 and were approved

as part of the SIP on August 13, 2001 (see 66 FR 42427). New source review requirements that were approved into the SIP will continue to be in effect. However, the requirements under CAA section 172(c) for developing attainment demonstrations, RFP demonstrations, and contingency measures are waived due to the fact that the areas which are eligible under this approach have already attained the PM₁₀ NAAQS and have met RFP. Any sanctions clocks that may be running for an area due to failure to submit, or disapproval of, any attainment demonstration, RFP or contingency measure requirements, are stopped. In addition, areas are still required to demonstrate transportation conformity using the build/no-build test, or the no-greater-than-1990 test. The emissions budget test would not be required, because the requirements for an attainment demonstration and RFP, which establish the budgets, no longer apply. The applicable tests for general conformity still apply. The use of the clean data areas approach doesn't act as a CAA section 107(d) redesignation, but only serves to approve nonattainment area SIPs required under part D of the CAA.

IV. Proposed Action

We are proposing to approve State Implementation Plan (SIP) revisions submitted by the Governor of Montana on June 26, 1997, and June 13, 2000. The June 26, 1997, submittal revises the SIP by adding the Thompson Falls Air Pollution Control Plan and an emissions inventory for the Thompson Falls PM₁₀ nonattainment area. On February 28, 1999, the Governor of Montana withdrew all chapters of the Thompson Falls Air Pollution Control Plan submitted on June 26, 1997, except chapters 45.2, 45.10.10 and 45.10.12 and the emissions inventory. The June 13, 2000 submittal contains corrections to chapter 45.10.10 of the Thompson Falls Air Pollution Control Plan and the emissions inventory submitted on June 26, 1997. Chapters 45.2, 45.10.10 and 45.10.12 of the Thompson Falls Air Pollution Control Plan include the PM₁₀ control measures, control demonstration and enforceability sections of the plan. We are proposing to approve the emissions inventory for Thompson Falls and chapters 45.2, 45.10.10 and 45.10.12 of the Thompson Falls Air Pollution Control Plan using the PM₁₀ clean areas data approach.

We are soliciting public comments on the issues discussed in this document, or on other relevant matters. If you submit comments, they will be considered before we take final action. Interested parties may participate in the

Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the ADDRESSES section of this document.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 (Pub. L. 104-4).

This proposed 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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely proposes to approve 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 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), because it is not economically significant.

³ Emissions from Conoco Inc. were not included in the Thompson Falls emissions inventory even though Conoco is inside the emissions inventory boundary. Conoco operates an unloading facility in Thompson Falls; this is a minor source (emissions are less than 100 tons per year for any one pollutant) with a state-issued permit. Actual PM₁₀ emissions from this source are very low as most of the emissions are volatile organic compounds (VOCs).

⁴ EPA issued guidance on PM₁₀ emissions inventories prior to the enactment of the Clean Air Act Amendments in the form of the 1987 PM-10 SIP Development Guideline. The guidance provided in this document is consistent with the revised Act.

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. This proposed 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 12, 2003.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. 03-28910 Filed 11-18-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 210-4302; FRL-7588-4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions To Update the 1-Hour Ozone Maintenance Plan for the Reading Area (Berks County)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision amends Pennsylvania's ten-year plan to maintain the 1-hour ozone national ambient air quality standard (NAAQS) in the Reading area (Berks County). The maintenance plan is being amended to revise the attainment year inventories and motor vehicle emission budgets using MOBILE6. The contingency measures portion of the plan is also being amended. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before December 19, 2003.

ADDRESSES: Written comments may be mailed to Robert Kramer, Chief, Energy, Radiation and Indoor Environment, Mailcode 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT:

Martin T. Kotsch, Energy, Radiation and Indoor Environment Branch, U.S. Environmental Protection Agency, 1650 Arch Street, Mail Code 3AP23, Philadelphia, Pennsylvania 19103-20209, (215) 814-3335, or by e-mail at Kotsch.Martin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On May 7, 1997 (62 FR 24826), EPA approved Pennsylvania's redesignation request and ten year plan for continued maintenance of the 1-hour ozone NAAQS in the Reading area as a revision to the Pennsylvania SIP. This maintenance plan included, among other things, MOBILE5-based motor vehicle emissions budgets (MVEBs).

On October 14, 2003, the Pennsylvania Department of Environmental Protection (DEP) submitted a request that EPA parallel process revisions to the Pennsylvania SIP's 1-hour ozone maintenance plan for the Reading area.

The maintenance plan identifies and establishes the applicable MVEBs for the Reading area to which the area's transportation improvement program and long range transportation plan must conform. Conformity to MVEBs in a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. The Reading area maintenance plan identifies and establishes the applicable MVEBs for the Reading area for both volatile organic compounds (VOC) and nitrogen oxides (NO_x), which are precursors of ground level ozone, for the years 1992, 2004, and 2007.

The MOBILE model is an EPA emissions factor model for estimating pollution from on-road motor vehicles.

The MOBILE model calculates emissions of VOCs, NO_x and carbon monoxide (CO) from passenger cars, motorcycles, buses, and light-duty and heavy-duty trucks. The model accounts for the emission impacts of factors such as changes in vehicle emission standards, changes in vehicle populations and activity, and variation in local conditions such as temperature, humidity, fuel quality, and air quality programs. The MOBILE model is used to calculate current and future inventories of motor vehicle emissions at the national and local level. These inventories are used to make decisions about air pollution policies and programs at the local, State and national level. MOBILE-based inventories are also used to meet the Federal Clean Air Act's SIP and transportation conformity requirements.

The MOBILE model was first developed in 1978. It has been updated many times to reflect changes in the vehicle fleet and fuels, to incorporate EPA's growing understanding of vehicle emissions, and to cover new emissions regulations and modeling needs. EPA released MOBILE6, a new version of the motor vehicle emissions factor model on January 29, 2002 (67 FR 4254). Although some minor updates were made in 1996 with the release of MOBILE5b, MOBILE6 is the first major revision to MOBILE since MOBILE5a was released in 1993. Beginning in January of 2004, all conformity determinations for new Transportation Improvement Programs and/or Transportation Plans will be required to use the MOBILE6 emissions model to demonstrate conformity.

II. Summary of the Proposed SIP Revisions to the Reading Area Maintenance Plan

A. Revisions to the Motor Vehicle Emission Budgets (MVEBs)

In the original maintenance plan approved for the Reading area on May 7, 1997 (62 FR 24826), emissions growth was projected for all source categories (point, area, and highway mobile) starting with the year that the area attained the NAAQS (1992). Those original mobile emissions budgets were projected based on the MOBILE5 emissions model. The October 14, 2003, proposed SIP revision amends the mobile inventories for the attainment year (1992) and the MVEBs for 2004 and 2007 using MOBILE6.

B. Revisions to the Contingency Measures

In the original maintenance plan for the Reading area, the Commonwealth's motor vehicle inspection and