

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[SIP No. MT-001-0005, MT-001-0006; FRL-7609-1]

**Approval and Promulgation of Air Quality Implementation Plans; Montana; Thompson Falls PM<sub>10</sub> Nonattainment Area Control Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the Governor of Montana on June 26, 1997, and June 13, 2000, as meeting the requirements for moderate PM-10 nonattainment areas contained in Part D of the Clean Air Act. (Portions of the June 26, 1997, submittal were withdrawn by the Governor of Montana on February 28, 1999. We are only acting on the portions of the June 26, 1997, submittal that were not withdrawn.) 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 (PM<sub>10</sub>) in order to attain the PM<sub>10</sub> National Ambient Air Quality Standards (NAAQS) in Thompson Falls. We are approving the control measures and the emissions inventory as part of the Montana SIP and making the control measures Federally enforceable. Also, we will be taking action on other portions of the June 13, 2000, submittal at a later time. This action is being taken under section 110 of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective February 23, 2004.

**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 80202-2466 and copies of the Incorporation by Reference material at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620.

**FOR FURTHER INFORMATION CONTACT:** Laurel Dygowski, EPA, Region 8, (303) 312-6144.

**SUPPLEMENTARY INFORMATION:** On November 19, 2003 (68 FR 65229), we proposed to approve SIP revisions submitted by the Governor of Montana on June 26, 1997, and June 13, 2000, as meeting the requirements for moderate PM-10 nonattainment areas contained in Part D of the Clean Air Act.<sup>1</sup> 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 (PM<sub>10</sub>) in order to attain the PM<sub>10</sub> National Ambient Air Quality Standards (NAAQS) in Thompson Falls. A discussion of the control measures is contained in the November 19, 2003, proposed rulemaking. With this action, we are approving the submitted emission inventory and control measures for Thompson Falls as meeting the requirements of Part D of the Clean Air Act and also making the control measures Federally enforceable.

**I. Final Action**

We received no comment on our November 19, 2003, notice of proposed rulemaking. EPA is approving State Implementation Plan revisions submitted by the Governor of Montana on June 26, 1997, and June 13, 2000. The June 26, 1997, submittal contains the Thompson Falls Air Pollution Control Plan and an emissions inventory for the Thompson Falls PM<sub>10</sub> 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 PM<sub>10</sub> control measures, control demonstration and enforceability sections of the plan. We are approving the emissions

<sup>1</sup> 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 contained corrections to chapter 45.10.10 and the emissions inventory submitted on June 26, 1997. We are only approving the portions of the SIP that the Governor did not withdraw, as corrected by the June 13, 2000 submittal.

inventory for Thompson Falls and chapters 45.2, 45.10.10 and 45.10.12 of the Thompson Falls Air Pollution Control Plan as meeting the requirements for moderate PM-10 nonattainment areas contained in Part D of the Clean Air Act.

**II. Statutory and Executive Order Reviews**

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. 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 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 (Pub. L. 104-4).

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 (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 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 "Protection of Children from Environmental Health Risks and Safety Risks" (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. 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).

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 March 22, 2004. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 31, 2003.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended to read 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 BB—Montana

■ 2. Section 52.1370 is amended by adding paragraph (c)(60) to read as follows:

#### § 52.1370 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(60) On June 26, 1997, the Governor of Montana submitted the Thompson Falls Air Pollution Control Plan and on June 13, 2000, the Governor submitted revisions to the June 26, 1997, submittal. 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. EPA is approving sections 45.2, 45.10.10 and 45.10.12 of the Thompson Falls Air Pollution Control Plan.

(i) Incorporation by reference.

(A) Board Order issued June 20, 1997, by the Montana Board of Environmental Review, as reprinted in section 45.2.2 of the Thompson Falls Air Pollution Control Plan. The Board Order adopts and incorporates the May 1997 Maintenance Agreement Between the City of Thompson Falls, Montana Department of Transportation, and Montana Department of Environmental Quality which contains the control plan for the attainment and maintenance of the PM-10 National Ambient Air Quality Standards in the Thompson Falls area.

(B) May 1997 Maintenance Agreement between the City of Thompson Falls, Montana Department of Transportation, and Montana Department of Environmental Quality, as reprinted in section 45.2.1 of the Thompson Falls Air Pollution Control Plan.

(ii) Additional Material.

(A) Sections 45.2, 45.10.10 and 45.10.12 of the Thompson Falls Air Pollution Control Plan.

■ 3. Section 52.1391 is amended by redesignating the existing paragraph as paragraph (a) and adding paragraph (b) to read as follows:

#### § 52.1391 Emission inventories.

\* \* \* \* \*

(b) As part of the Thompson Falls Air Pollution Control Plan (approved at § 52.1370(c)(60)), the Governor of Montana submitted a PM-10 emission inventory for the Thompson Falls area as a SIP revision. The PM-10 emission inventory covers the time period of July 1, 1990 through June 30, 1991.

[FR Doc. 04-1233 Filed 1-21-04; 8:45 am]

BILLING CODE 6560-50-P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[CA264-0430; FRL-7607-5]

#### Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District, Yolo-Solano Air Quality Management District

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing a limited approval and limited disapproval of revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and Yolo-Solano Air Quality Management District (YSAQMD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on April 25, 2003, and concerns volatile organic compound (VOC) emissions from industries storing, loading, and transferring organic liquids as part of their operations. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves these local rules that regulates these emission sources and directs California to correct rule deficiencies.

**EFFECTIVE DATE:** This rule is effective on February 23, 2004.

**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours by appointment. You can inspect copies of the submitted SIP revisions by appointment at the following locations:

Environmental Protection Agency,  
Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901;  
Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460;