

## VII. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as

specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organization compounds.

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

Dated: August 31, 2017.

**Debra H. Thomas,**

*Acting Regional Administrator, Region 8.*

[FR Doc. 2017-19574 Filed 9-13-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2017-0339; FRL-9967-65-Region 8]

### Montana Second 10-Year Carbon Monoxide Maintenance Plan for Missoula

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted to the EPA by the State of Montana. On September 19, 2016, the Governor of Montana's designee submitted a Clean Air Act (CAA) section 175A(b) second 10-year limited maintenance plan for the Missoula area for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS). This limited maintenance plan addresses maintenance of the CO NAAQS for a second 10-year period beyond the original redesignation. This action is being taken under sections 110 and 175A of the CAA.

**DATES:** Comments must be received on or before October 16, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2017-0339 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system).

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays. For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Adam Clark, Air Program, EPA, Region 8, Mailcode 8P-AR, 1595 Wynkoop, Denver, Colorado 80202-1129, (303) 312-7104, [clark.adam@epa.gov](mailto:clark.adam@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the "Rules and Regulations" section of today's **Federal Register**, the EPA is approving Montana'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 approval is set forth in the preamble to the direct final rule. If the EPA receives no adverse comments, the EPA will not take further action on this proposed rule. If the EPA receives adverse comments, the EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For additional information, see the direct final action, with the same title, that is located in the "Rules and Regulations" section of this issue of the **Federal Register**.

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

Dated: August 31, 2017.

**Debra H. Thomas,**

*Acting Regional Administrator, Region 8.*

[FR Doc. 2017-19462 Filed 9-13-17; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2017-0459, FRL-9967-76-Region 2]

### Approval and Promulgation of Implementation Plans; New York; Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to conditionally approve a State Implementation Plan (SIP) submitted by the State of New York for purposes of implementing Reasonably Available Control Technology (RACT) for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS). This proposed approval is conditioned on New York's timely submittal of a supplement to the SIP that includes a revised regulatory RACT requirement related to control of volatile organic compounds from Industrial Cleaning Solvents. The EPA is proposing to approve New York's RACT SIP as it applies to non-control technique guideline major sources and major sources of oxides of nitrogen. The EPA is also proposing to approve the State of New York's non-attainment new source review certification as sufficient for purposes of satisfying the 2008 8-hour ozone NAAQS. This action is being taken in accordance with the requirements of the Clean Air Act.

**DATES:** Written comments must be received on or before October 16, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R02-OAR-2017-0459 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be

accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Anthony (Ted) Gardella, Environmental Protection Agency, 290 Broadway, New York, New York 10007-1866, at (212) 637-3892, or by email at [Gardella.Anthony@epa.gov](mailto:Gardella.Anthony@epa.gov).

#### SUPPLEMENTARY INFORMATION:

The SUPPLEMENTARY INFORMATION section is arranged as follows:

#### Table of Contents

- I. What action is the EPA proposing?
- II. What is the background for this proposed rulemaking?
- III. What did New York submit?
- IV. What is the EPA's evaluation of New York's SIP submittal?
- V. How could New York get full approval for this SIP revision?
- VI. Statutory and Executive Order Reviews

#### I. What action is the EPA proposing?

The EPA is proposing to conditionally approve a State Implementation Plan (SIP) submitted by the State of New York on December 22, 2014 for purposes of implementing Reasonably Available Control Technology (RACT)<sup>1</sup> for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard). The State's December 2014 SIP revision consists of a demonstration that New York meets the RACT requirements for the two precursors for ground-level ozone, *i.e.*, oxides of nitrogen (NO<sub>x</sub>) and volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA or Act) with respect to the 2008 ozone standard.

However, in New York's December 2014 SIP submittal, the State indicates that the RACT requirements for the 2008 ozone NAAQS have been fulfilled with the exception of sources subject to the industrial cleaning solvents control techniques guidelines (CTG). In the State's submittal, New York committed

<sup>1</sup> The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979).

to address sources subject to this CTG through a timely revision to Part 226 entitled, "Solvent Metal Cleaning Processes" of Title 6 of the New York Codes, Rules and Regulations (6 NYCRR Part 226). Therefore, consistent with Section 110(k)(4) of the Clean Air Act, the EPA is conditioning its approval of New York's December 2014 SIP submittal on New York's commitment to submit, by a date certain but not later than one year after the date of the EPA's conditional approval of New York's December 2014 SIP submittal, a revised Part 226 addressing VOC emissions from industrial cleaning solvents. The State's commitment must be submitted to EPA, as a supplement to the SIP, and include a date certain by which the State will submit Part 226, and the date certain must be no later than one year from the effective date of the EPA's final rule making action on New York's December 2014 SIP submittal. New York must commit in writing to correct the deficiency discussed above.

The EPA is proposing to approve New York's RACT SIP as it applies to non-CTG major sources of VOCs and to major sources of NO<sub>x</sub>. The EPA is also proposing to approve New York's certification that nonattainment new source review (NNSR) applies statewide for NO<sub>x</sub> and VOC emissions from stationary sources.

It should be noted that a court ordered consent decree<sup>2</sup> requires that the EPA shall sign a notice of final rulemaking on New York's December 2014 RACT SIP no later than November 30, 2017.

#### II. What is the background for this proposed rulemaking?

In 2008, EPA revised the health based NAAQS for ozone, setting it at 0.075 parts per million (ppm) averaged over an 8-hour time frame. The EPA determined that the revised 8-hour standard would be more protective of human health, especially with regard to children and adults who are active outdoors and individuals with a pre-existing respiratory disease such as asthma.

On May 21, 2012 (77 FR 30087), the EPA finalized its attainment/nonattainment designations for areas across the country with respect to the 2008 8-hour ozone standard. This action became effective on July 20, 2012. The two 8-hour ozone marginal nonattainment areas located in New York State are the New York-Northern New Jersey-Long Island (NY-NJ-CT) nonattainment area and the Jamestown

<sup>2</sup> Center for *Biological Diversity v. Gina McCarthy*, Case No. 4:16-cv-04092-PJH (N.D.Ca.), Revised Consent Decree dated 1/19/17.