Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

POSTAL SERVICE

39 CFR Part 111

Dual Shipping Labels Discontinued

AGENCY: Postal Service™.

ACTION: Proposed rule.

SUMMARY: The Postal Service is proposing to amend *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®) to discontinue the use of dual shipping labels.

DATES: Submit comments on or before November 14, 2024.

ADDRESSES: Mail or deliver written comments to the manager, Product Classification, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 4446, Washington, DC 20260–5015. If sending comments by email, include the name and address of the commenter and send to *PCFederalRegister@usps.gov,* with a subject line of ''Dual Shipping Labels''. Faxed comments are not accepted.

You may inspect and photocopy all written comments, by appointment only, at USPS® Headquarters Library, 475 L'Enfant Plaza SW, 11th Floor North, Washington, DC 20260. These records are available for review on Monday through Friday, 9 a.m.–4 p.m., by calling 202–268–2906.

FOR FURTHER INFORMATION CONTACT: Catherine Knox at (202) 268–5636 or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

Background

On January 21, 2018, the Postal Service revised the DMM to provide information regarding the use of dual shipping labels based on feedback that some of our industry shipping partners had adopted the practice of using shipping labels which included both the USPS® and their own address formats to address their items.

Proposal

The Postal Service has reviewed the practice of using dual shipping labels and has found that this practice no longer serves the interests of the Postal Service. As a result, the Postal Service is proposing to discontinue the use of dual shipping labels. Items bearing dual shipping labels should not be accepted and may be returned to the sender.

The Postal Service is proposing to implement this change effective January 1, 2025.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the proposed revisions to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, the Postal Service proposes the following changes to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1):

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

■ 2. Revise the *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

600 Basic Standards for All Mailing Services

* * * * *

602 Addressing

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10.0 Dual Shipping Labels

[Revise the text of 10.0 to read as follows:]

Mailers must not use dual shipping labels. Items bearing dual shipping labels should not be accepted and may be returned to the sender.

* * * * *

Christopher Doyle,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2024–23823 Filed 10–11–24; 8:45 am]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2023–0587; FRL–11571–01–R8]

Revisions to the Federal Implementation Plan for the Billings/Laurel, Montana, Sulfur Dioxide Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to revise a Federal Implementation Plan (FIP) applicable to sulfur dioxide (SO_2) emissions from several sources located in Billings and Laurel, Montana. Specifically, the EPA is proposing to revise a portion of the FIP promulgated by the EPA in 2008 (2008 Billings/Laurel SO_2 FIP) by removing a provision which contained an affirmative defense for exceedances of flare emission limits during malfunctions, startups, and shutdowns. The EPA is proposing this action pursuant to the Clean Air Act (CAA).

DATES: Written comments must be received on or before December 16, 2024. *Public hearing:* If anyone contacts us requesting a public hearing on or before October 30, 2024, we will hold a hearing. Additional information about the hearing, if requested, will be published in a subsequent **Federal Register** document. Contact Adam Clark at *clark.adam@epa.gov,* to request a hearing or to determine if a hearing will be held.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2023–0587, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *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). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *https://www.regulations.gov.* Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Adam Clark, Air and Radiation Division, EPA, Region 8, Mail code 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–7104, email address: *clark.adam@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

Table of Contents

I. What action is the EPA proposing?

The EPA is proposing to revise the portion of the 2008 Billings/Laurel SO_2 FIP found at 40 CFR 52.1392(i), titled ''Affirmative defense provisions for exceedances of flare emission limits during malfunctions, startups, and shutdowns.'' This includes proposed withdrawal of all of the subsections under 40 CFR 52.1392(i), including § 52.1392(i)(1) and subsections therein, and § 52.1392(i)(2) and (3). The rationale for this proposed action is described in the following sections.

II. Background

A. Billings/Laurel SO_2 Area History

On March 3, 1978 (43 FR 8962), the Laurel, Montana area was designated as nonattainment for the 1971 primary SO_2 national ambient air quality standards (NAAQS). *See* 40 CFR 81.327. The nonattainment area consists of an area with a two-kilometer radius around the CHS Laurel Refinery. This designation was based on monitored and modeled violations of the NAAQS. The EPA reaffirmed this nonattainment designation on September 11, 1978 (43 FR 40412). The 1990 CAA Amendments, enacted November 15, 1990, again reaffirmed the nonattainment designation of Laurel with respect to the 1971 primary SO_2 NAAQS. Since the Laurel nonattainment area had a fully approved CAA title I part D plan, the State was not required to submit a revised plan for the area under the 1990 Amendments (*see* sections 191 and 192 of the CAA).

On March 3, 1978 (43 FR 8962), those areas in the State that were meeting the 1971 SO_2 NAAQS were designated as ''Better Than National Standards.'' The Billings area was in the portion of the State that was designated as ''Better Than National Standards.''

The CAA requires States to submit to the EPA a plan, termed a State Implementation Plan (SIP), to assure that the NAAQS are attained and maintained. Air quality modeling completed in 1991 and 1993 for the Billings/Laurel area predicted that the SO_2 NAAQS were not being attained, including outside of the existing nonattainment area and in Billings.[1] As a result, the EPA (pursuant to sections 110(a)(2)(H) and 110(k)(5) of the CAA) sent a letter to the Governor of Montana, dated March 4, 1993,[2] finding the SIP was substantially inadequate to attain or maintain the NAAQS (known as a ''SIP Call'') and requested the State of Montana revise its previously approved SIP for the Billings/Laurel area. In the request letter, we declared that the SIP Call would become final agency action when we made a final determination regarding the State of Montana's response to the SIP Call. In response, the State submitted revisions to the SIP on September 6, 1995, August 27, 1996, April 2, 1997, July 29, 1998, and May 4, 2000. We made a final determination regarding the SIP Call when we partially and limitedly approved and partially and limitedly disapproved the Billings/Laurel SO_2 SIP revisions submitted by the State in response to the request letter (67 FR 22168, 22173, May 2, 2002). On May 22, 2003 (68 FR 27908),[3] we partially approved and partially disapproved provisions of the Billings/Laurel SO_2 SIP. Montana Sulfur and Chemical Company filed a petition for review challenging the EPA's 2002 partial SIP disapproval. That petition was held in abeyance pending the EPA's promulgation of a FIP to remedy the disapproved portions of the Billings/Laurel SO_2 SIP.

B. Billings/Laurel SO_2 FIP

On April 21, 2008, the EPA promulgated a FIP applicable to several sources located in Billings and Laurel, Montana, hereon referred to as the ''2008 Billings/Laurel SO_2 FIP'' (73 FR 21418). The EPA promulgated the 2008 Billings/Laurel SO_2 FIP because of our previous partial and limited disapprovals of the Billings/Laurel SO_2 SIP. The intended effect of this action was to assure attainment of the 1971 SO_2 NAAQS in the Billings/Laurel, Montana area. The 2008 Billings/Laurel SO_2 FIP did not replace the SIP entirely, but instead replaced elements of, or filled gaps in, the disapproved portion of the SIP. Montana Sulfur and Chemical Company filed a petition for review challenging the EPA's 2008 FIP, at which point the previous litigation challenging the 2002 SIP disapproval was reactivated. The court ultimately issued a single ruling affirming the

[1] As stated in the proposed FIP, ''Laurel is located within the Yellowstone Valley approximately 15 miles southwest of Billings. . . . Although Laurel and Billings are 15 miles apart, the industries in Billings have some impact on the air quality in Laurel and the industry in Laurel has some impact on the air quality in Billings.'' 79 FR 39260–39261, July 12, 2006.

[2] EPA published this letter in the **Federal Register** on August 4, 1993 (58 FR 41430).

[3] *See* also June 2, 2003, correction document (68 FR 32799).

EPA's action on the SIP Call, 2002 SIP disapproval, and FIP.[4]

The 2008 Billings/Laurel SO_2 FIP, which remains in place today, contains emission limits and compliance determining methods for four sources located in Billings and Laurel, Montana. Three of the sources are petroleum refineries: CHS Inc. Laurel Refinery, Phillips 66 Billings Refinery (including the Jupiter Sulfur facility), and ExxonMobil Billings Refinery (now the Par Montana Refinery). The fourth source is Montana Sulphur and Chemical Company, which provides sulfur recovery for the Par Montana Refinery. Among the major components of the 2008 Billings/Laurel SO_2 FIP was the establishment of flare emission limits at all four sources (150 lbs SO_2/3-hour period at all but the Jupiter Sulfur flare, 75 lbs SO_2/3-hour period shared limit for the Jupiter Sulfur flare and the Jupiter Sulfur SRU/ATS stack) [5] and monitoring methods to determine compliance with those limits. To determine flare emissions, the 2008 Billings/Laurel SO_2 FIP required concentration monitoring (which can consist of continuous monitoring, grab sampling, or integrated sampling) and continuous flow monitoring. The 2008 Billings/Laurel SO_2 FIP also included an affirmative defense to civil penalties for violations of the flare limits that occur during startup, shutdown, and malfunction (SSM) periods.

These affirmative defense provisions for the flare limits, which the EPA finalized into the 2008 Billings/Laurel SO_2 FIP at 40 CFR 52.1392(i), are the portions of the 2008 Billings/Laurel SO_2 FIP we are proposing to remove from the 2008 Billings/Laurel SO_2 FIP with this action. Below, we provide further detail on the history of affirmative defense provisions and the rationale for our removal of these provisions in this proposed action.

C. Affirmative Defense Provision Policy History

On June 12, 2015, the EPA finalized ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction,'' hereafter referred to as the ''2015 SSM SIP Action'' (80 FR 33839). Prior to the 2015 SSM SIP Action, which is discussed later in this section, the Agency had a longstanding interpretation of the CAA with respect to the treatment of excess emissions during periods of SSM in SIPs. This statutory interpretation had been expressed, reiterated, and elaborated upon in a series of guidance documents issued in 1982, 1983, and 1999.

In the 1982 SSM Guidance, the EPA recommended the exercise of enforcement discretion to address periods of excess emissions occurring during SSM events.[6] Subsequently, in the 1983 SSM Guidance, the EPA expanded on this approach by recommending that a State could elect to adopt SIP provisions providing parameters for the exercise of enforcement discretion by the State's personnel.[7] In our 1999 SSM Guidance, the EPA interpreted that States could elect to create ''affirmative defense'' provisions applicable to SSM events in their SIPs.[8] Also in the 1999 Guidance, the EPA established parameters that should be included as part of such an affirmative defense in order to ensure that it would be available only in certain narrow circumstances.[9] In the 2008 Billings/Laurel SO_2 FIP, the EPA explained that we were following our national policy with respect to SSM periods as expressed in the 1999 SSM Guidance by including an affirmative defense in our 2008 Billings/Laurel SO_2 FIP. 73 FR 21434, April 21, 2008. Specifically, we stated, ''[t]o provide relief to the sources for truly unavoidable violations, while still maintaining appropriate incentives for compliance, we are providing an affirmative defense to penalties for violations of flare limits during malfunctions, startups, and shutdowns. The elements of the defense, which a source would have to prove in court or before an administrative judge, are enumerated in our 2008 final rule and are consistent with the elements described in our 1999 excess emissions memorandum.'' *Id.* at 73 FR 21432.

On February 22, 2013, the EPA proposed to take action on a petition for rulemaking that the Sierra Club filed with the EPA Administrator on June 30, 2011 (78 FR 12460). In that action, the EPA proposed to grant the Petitioner's claim with respect to affirmative defenses applicable to planned events such as startup and shutdown. This was a change from the EPA's interpretation of the CAA in the 1999 SSM Guidance, in which the EPA had interpreted that States could elect to create such affirmative defense provisions for startup and shutdown events, so long as the provisions were narrowly drawn and consistent with the established criteria to assure that they meet CAA requirements. The EPA's evaluation of the petition and the statutory basis for affirmative defense provisions initiated a review of the appropriateness of affirmative defense provisions applicable during startup and shutdown, which are ordinary modes of operation that are generally predictable and within the control of the source. As explained in more detail in the February 22, 2013 proposal document, the EPA's evaluation of the Sierra Club Petition in light of then-recent case law [10] caused the EPA to alter its view on the appropriateness of affirmative defenses applicable to planned events such as startup and shutdown. Specifically, the EPA stated that ''because these events are modes of normal operation, the EPA believes that sources should be expected to comply with applicable emission limitations during such events.'' (*Id.* at 12480)

The EPA distinguished between affirmative defense provisions for startup and shutdown and those for malfunctions, stating ''the distinction that makes affirmative defenses appropriate for malfunctions is that by definition those events are unforeseen and could not have been avoided by the owner or operator of the source, and the owner or operator of the source will have taken steps to prevent the violation and to minimize the effects of the violation after it occurs.'' *Id.*

Subsequent to the EPA's issuance of the February 22, 2013 proposal, on April 18, 2014, the U.S. Court of Appeals for the District of Columbia Circuit ruled that CAA sections 113 and 304 preclude the EPA the authority to create affirmative defense provisions in

[4] *See Montana Sulphur and Chemical Co.* v. *U.S. EPA,* 666 F.3d 1174, (9th Cir. 2012).

[5] SRU stands for sulfur recovery unit, and ATS stands for Ammonium Thiosulfate.

[6] Memorandum to Regional Administrators, Region I–X; From: Kathleen M. Bennett, Assistant Administrator for Air, Noise and Radiation; Subject: Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions. September 28, 1982.

[7] Memorandum to Regional Administrators, Regions I–X; From: Kathleen M. Bennett, Assistant Administrator for Air, Noise and Radiation; Subject: Policy on Excess Emissions During Startup, Shutdown, Maintenance, and Malfunctions. February 15, 1983.

[8] Memorandum to Regional Administrators, Regions I–X; From: Steven A. Herman, Assistant Administrator for Enforcement and Compliance Assurance, and Bob Perciasepe, Assistant Administrator for Air and Radiation; Subject: Policy on Excess Emissions During Malfunctions, Startup, and Shutdown. September 20, 1999.

[9] Id.

[10] Court decisions confirmed that this requirement for continuous compliance prohibits exemptions for excess emissions during SSM events. *See, e.g., Sierra Club* v. *EPA,* 551 F.3d 1019, 1021 (D.C. Cir. 2008); *US Magnesium, LLC* v. *EPA,* 690 F.3d 1157, 1170 (10th Cir. 2012).

the Agency's own regulations imposing emission limits on sources, because such provisions purport to alter the jurisdiction of federal courts to assess liability and impose penalties for violations of those limits in private civil enforcement cases.[11] In light of this decision, on September 17, 2014, the EPA issued a supplemental proposed rulemaking which outlined our updated policy that affirmative defense SIP provisions, even if they are narrowly tailored and applicable only to malfunctions, are not consistent with CAA requirements. Accordingly, the EPA proposed to grant the portion of Sierra Club's petition with regard to affirmative defenses in the case of malfunctions that it had previously proposed to deny.[12] In that supplemental proposal, the EPA stated that the reasoning of the court in the NRDC decision indicates that the States, like the EPA, have no authority in SIP provisions to alter the statutory jurisdiction of federal courts under CAA section 113 and 304 to assess penalties for violations of CAA requirements through affirmative defense provisions. We additionally noted that if States lack authority under the CAA to alter the jurisdiction of the federal courts through affirmative defense provisions in SIPs, then the EPA also lacks authority to approve any such provision in a SIP.[13]

On June 12, 2015, pursuant to CAA section 110(k)(5), the EPA finalized the 2015 SSM SIP Action. The 2015 SSM SIP Action clarified, restated, and updated the EPA's interpretation that SSM exemption and affirmative defense SIP provisions are inconsistent with CAA requirements. The 2015 SSM SIP Action found that certain SIP provisions in 36 States were substantially inadequate to meet CAA requirements and issued a SIP call to those States to submit SIP revisions to address the inadequacies.[14]

The EPA issued a Memorandum in October 2020 (2020 Memorandum), which stated that certain provisions governing SSM periods in SIPs, including affirmative defense provisions, could be viewed as consistent with CAA requirements.[15] However, on September 30, 2021, the EPA's Deputy Administrator withdrew the 2020 Memorandum and announced the EPA's return to the policy articulated in the 2015 SSM SIP Action (2021 Memorandum).[16] As articulated in the 2021 Memorandum, SIP provisions that contain exemptions or affirmative defense provisions are not consistent with CAA requirements and, therefore, generally are not approvable if contained in a SIP submission.

On March 1, 2024, the D.C. Circuit Court of Appeals issued a decision in *Environ. Comm. Fl. Elec. Power* v. *EPA,* No. 15–1239. The case is a consolidated set of petitions for review of the 2015 SSM SIP Action. The Court granted the petitions in part, vacating the SIP call with respect to SIP provisions that the EPA identified as automatic exemptions, director's discretion provisions, and affirmative defenses that are functionally exemptions; and denied the petitions in part as to other provisions that the EPA identified as ambiguous provisions, overbroad enforcement discretion provisions, or affirmative defense provisions that would preclude or limit a court from imposing relief in the case of violations, which the Court also refers to as ''specific relief.'' This is juxtaposed against the Court's granting of the petition as to affirmative defenses that are functionally exemptions because they ''create an exemption from the normal emission rule.'' [17] The EPA finds that the affirmative defense provision in the 2008 Billings/Laurel SO_2 FIP to be ''specific relief'' as interpreted by the Court, as the provision specifically states that an owner or operator ''may assert an affirmative defense to a claim for civil penalties for exceedances of such limits during periods of malfunction, startup, or shutdown,'' and ''to establish the affirmative defense and to be relieved of a civil penalty in any action to enforce such a limit, the owner or operator of the facility must meet the notification requirements of paragraph (i)(2) of this section in a timely manner and prove by a preponderance of evidence . . .'' [18] The EPA has assessed the impact of the decision with respect to the removal of the specific affirmative defense provisions at issue in the Billings/Laurel SO_2 FIP. We have concluded that the previously stated reasons for the proposed removal of these provisions, as articulated in the 2015 SSM SIP Action and 2021 Memorandum, are consistent with the recent D.C. Circuit decision. The Court upheld the EPA's 2015 SSM SIP Action with regard to affirmative defenses against specific relief, finding that because CAA 304(a) and 113(b) authorize citizens and the EPA to seek injunctive relief and monetary penalties against sources that violate a SIP's emission rules, such an affirmative defense would ''block that aspect of the Act's enforcement regime.'' [19]

To maintain consistency with our SSM policy regarding affirmative defenses against specific relief, and with the CAA's prohibition against such affirmative defenses, we are proposing to find that the affirmative defense provisions currently promulgated in the 2008 Billings/Laurel SO_2 FIP at 40 CFR 52.1392(i) are substantially inadequate to meet CAA requirements. Therefore, we are proposing to revise the 2008 Billings/Laurel SO_2 FIP by removing these provisions.

III. The EPA's Proposed Action

The EPA is proposing to revise the 2008 Billings/Laurel SO_2 FIP by removing § 52.1392(i) and all of the provisions therein, including paragraphs § 52.1392 (i)(1)–(3). The EPA is proposing this action in line with our policy regarding affirmative defense provisions against specific relief, as described in our 2015 SSM SIP Action and affirmed by the D.C. Circuit.

IV. Environmental Justice Considerations

The EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' [20] The EPA further defines the term ''fair treatment'' to mean that ''no group of people should bear a disproportionate burden of

[11] *See NRDC* v. *EPA,* 749 F.3d 1055 (D.C. Cir. 2014).

[12] *See* ''State Implementation Plans: Response to Petition for Rulemaking; Findings of Substantial Inadequacy; and SIP Calls To Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction; Supplemental Proposal To Address Affirmative Defense Provisions in States Included in the Petition for Rulemaking and in Additional States.'' 79 FR 55920, September 17, 2014.

[13] Id. at 79 FR 55929.

[14] The EPA established an 18-month deadline by which the affected States had to submit such SIP revisions. States were required to submit corrective revisions to their SIPs in response to the SIP call by November 22, 2016.

[15] October 9, 2020 memorandum ''Inclusion of Provisions Governing Periods of Startup, Shutdown, and Malfunctions in State Implementation Plans,'' from Andrew R. Wheeler, Administrator. The 2020 Memorandum stated that it ''did not alter in any way the determinations made in the 2015 SSM SIP Action that identified specific state SIP provisions that were substantially inadequate to meet the requirements of the Act.'' Accordingly, the 2020 Memorandum had no direct impact on the SIP call issued in 2015.

[16] September 30, 2021, memorandum ''Withdrawal of the October 9, 2020, Memorandum Addressing Startup, Shutdown, and Malfunctions in State Implementation Plans and Implementation of the Prior Policy,'' from Janet McCabe, Deputy Administrator.

[17] *See Environ. Comm. Fl. Elec. Power* v. *EPA,* 94 F.4th 77, 115 (D.C. Cir. 2024).

[18] *See* 40 CFR 52.1392(i)(1).

[19] *See Environ. Comm. Fl. Elec. Power* v. *EPA,* 94 F.4th 77, 114–115 (D.C. Cir. 2024).

[20] *See https://www.epa.gov/environmentaljustice/learn-about-environmental-justice.*

environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.'' [21] Recognizing the importance of these considerations to local communities, the EPA conducted an environmental justice screening analysis around the location of the facilities associated with this action to evaluate environmental and demographic indicators for the areas impacted by this proposed action. However, the EPA is providing the information associated with this analysis for informational purposes only. The information provided herein is not a basis of this proposed action.

The EPA conducted the screening analyses using EJScreen, an EJ mapping and screening tool that provides the EPA with a nationally consistent dataset and approach for combining various environmental and demographic indicators.[22] The EJScreen tool presents these indicators at a census block group (CBG) level or a larger user-specified ''buffer'' area that covers multiple CBGs.[23] An individual CBG is a cluster of contiguous blocks within the same census tract and generally contains between 600 and 3,000 people. EJScreen is not a tool for performing in-depth risk analysis, but is instead a screening tool that provides an initial representation of indicators related to EJ and is subject to uncertainty in some underlying data (*e.g.,* some environmental indicators are based on monitoring data which are not uniformly available; others are based on self-reported data).[24] For informational purposes, we have summarized EJScreen data within larger ''buffer'' areas covering multiple block groups and representing the average resident within the buffer areas surrounding the facilities. EJScreen environmental indicators help screen for locations where residents may experience a higher overall pollution burden than would be expected for a block group with the same total population in the U.S. These indicators of overall pollution burden include estimates of ambient particulate matter ($PM_{2.5}$) and ozone concentration, a score for traffic proximity and volume, percentage of pre-1960 housing units (lead paint indicator), and scores for proximity to Superfund sites, risk management plan (RMP) sites, and hazardous waste facilities.[25] EJScreen also provides information on demographic indicators, including percent of low-income, communities of color, linguistic isolation, and less than high school education.

The EPA prepared EJScreen reports covering buffer areas of approximately five kilometers around the four facilities subject to the 2008 Billings/Laurel SO_2 FIP. From those reports, no facilities showed EJ indices greater than the 80th national percentiles.[26] The full, detailed EJScreen reports are provided in the docket for this rulemaking.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is exempt from review under Executive Order 12866, as amended by Executive Order 14094, as it is not a rule of general applicability. This action specifically applies to 4 facilities in the State of Montana.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (PRA), because it revises the reporting requirements for 4 facilities in the State of Montana.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities as no small entities are subject to the requirements of this rule.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any State, local, or Tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. 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.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175, because this proposed rule would not apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that the Tribe has jurisdiction, and it will not impose substantial direct costs on Tribal governments or preempt Tribal law. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997). The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it merely removes a provision from the 2008 Billings/Laurel SO_2 FIP that is inconsistent with the requirements of the CAA.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

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[21] Id.

[22] The EJSCREEN tool is available at *https://www.epa.gov/ejscreen.*

[23] *See https://www.census.gov/programs-surveys/geography/about/glossary.html.*

[24] In addition, EJSCREEN relies on the five-year block group estimates from the U.S. Census American Community Survey. The advantage of using five-year over single-year estimates is increased statistical reliability of the data (*i.e.,* lower sampling error), particularly for small geographic areas and population groups. For more information, *see https://www.census.gov/content/dam/Census/library/publications/2020/acs/acs_general_handbook_2020.pdf.*

[25] For additional information on environmental indicators and proximity scores in EJSCREEN, *see* ''EJSCREEN Environmental Justice Mapping and Screening Tool: EJSCREEN Technical Documentation,'' chapter 3 and appendix C (September 2019) at *https://www.epa.gov/sites/default/files/2021-04/documents/ejscreen_technical_document.pdf.*

[26] For a place at the 80th percentile nationwide, that means 20 percent of the U.S. population has a higher value. The EPA identified the 80th percentile filter as an initial starting point for interpreting EJScreen results. The use of an initial filter promotes consistency for the EPA's programs and regions when interpreting screening results.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations and Executive Order 14096: Revitalizing Our Nation's Commitment to Environmental Justice for All

The EPA believes that it is not practicable to assess whether the human health or environmental conditions that exist prior to this action result in disproportionate and adverse effects on communities with environmental justice concerns. While the EPA has identified the sources that would be impacted by the finalization of this proposed action, the EPA cannot quantify the baseline conditions and impacts the affirmative defense provisions have had on these sources, nor can we project potential emissions impacts from these sources as a result of this action. However, the EPA finds that this proposed action is expected to have a neutral to positive impact on the air quality of the affected area.

The EPA performed a screening analysis using the EJScreen tool [27] to evaluate environmental and demographic indicators for the areas impacted by this proposed action. The results of this assessment are in the docket for this action. The EPA is providing this information for public information purposes, and not as a basis of our proposed action.

List of Subjects in 40 CFR Part 52

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

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

Michael S. Regan,

Administrator.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend 40 CFR part 52 as follows:

[27] EJSCREEN is an environmental justice mapping and screening tool that provides the EPA with a nationally consistent dataset and approach for combining environmental and demographic indicators; available at *https://www.epa.gov/ejscreen/what-ejscreen.*

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart BB—Montana

§ 52.1392 [Amended]

■ 2. In § 52.1392, remove and reserve paragraph (i).

[FR Doc. 2024–23568 Filed 10–11–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2023–0473; FRL–12257–01–R8]

Air Plan Approval; Montana; Missoula, Montana Oxygenated Fuels Program Removal, Carbon Monoxide, Limited Maintenance Plan

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 by the Montana Department of Environmental Quality (MDEQ or ''the State''), on January 30, 2024, requesting to change the status of gasoline requirements (the ''oxygenated fuels'' or ''oxyfuels'' program'') in the Missoula, Montana, Carbon Monoxide (CO) limited maintenance plan (LMP) area from an active control measure to a contingency measure. The SIP revision contains a non-interference demonstration under the Clean Air Act (CAA), which concludes that converting the oxygenated gasoline program from a control measure to a contingency measure in the Missoula CO LMP would not interfere with attainment or maintenance of the CO National Ambient Air Quality Standards (NAAQS). The EPA is proposing to approve Montana's SIP submittal pursuant to CAA.

DATES: Written comments must be received on or before November 14, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2023–0473, to the Federal Rulemaking Portal: *https://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *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). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www2.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in *https://www.regulations.gov*. Please email or call the person listed in the **FOR FURTHER INFORMATION CONTACT** section if you need to make alternative arrangements for access to the docket.

FOR FURTHER INFORMATION CONTACT: Joseph Stein, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–IO, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–7078, email address: *stein.joseph@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

The EPA is proposing to approve a SIP revision submitted by Montana on January 30, 2024, requesting to change the status of the oxyfuels program in the Missoula CO LMP from an active control measure to a contingency measure. To support the request, Montana's January 30, 2024 SIP revision contains technical support materials to demonstrate that the removal of the rules as a control measure will not interfere with attainment or maintenance of the CO NAAQS or with