



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2023-0473; FRL- 12257-02-R8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving 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) from 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 Standard (NAAQS). The EPA is finalizing approval of Montana’s SIP submittal pursuant the CAA.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2023-0473. All documents in the docket are listed on the <http://www.regulations.gov> website. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>,

or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Amrita Singh, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6103, singh.amrita@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our October 15, 2024, proposal (89 FR 82953). In that document we proposed to approve a SIP revision submitted by Montana on January 30, 2024. The submission included a request to change the status of the oxyfuels program in Missoula CO LMP from an active control measure to a contingency measure, as well as several ministerial and conforming changes to the related State regulations. To support the request, Montana’s January 30, 2024 SIP revision contains technical support materials to demonstrate the removal of the rules as control measures will not interfere with attainment or maintenance of the CO NAAQS or with any other applicable requirement of the CAA.

Specifically, the SIP revision addresses State regulations amended in the Missoula City-County Air Pollution Control (MCCAPC) program rules, Chapter 10: *Fuels*, Subchapter 1: *Oxygenated Fuels Program*, rules. 10.102(1), 10.105(1), 10.109(1), 10.110, 10.111, 10.111(2). In our proposed rulemaking, the EPA’s analysis of Montana’s January 30, 2024 SIP revision was organized into two parts under section II of this preamble. Part A provided the background, analysis, and discussion of non-interference demonstration for the change in status of Montana’s oxyfuels program from a control measure to a contingency measure in the federally approved Montana SIP; Part B contained information regarding the rules submitted for revision in the MCCAPC Chapter 10: *Fuels*, Subchapter 1: *Oxygenated Fuels Program*. The EPA is finalizing to act on the revision listed in the action.

We received one comment on the proposed rulemaking. Our response to the comment is found below.

II. Response to Comments

Comment: The commenter stated that they are in favor of the proposed rulemaking and believe it will help reduce pollution by reducing reliance on carbon-based fuels. The commenter also expressed that this rule would move society toward a greener future and reduce the influence of oil companies.

Response: We appreciate the commenter's support for the proposed rulemaking. However, the comment is outside the scope of this action, as this rulemaking is limited to approving a SIP revision reclassifying the oxygenated gasoline program in the Missoula CO LMP from a control measure to a contingency measure.

III. Final Action

For the reasons explained in our proposal, the EPA is finalizing its approval of Montana's January 30, 2024 SIP revision seeking to revise various air quality rules and to remove the oxygenated gasoline program from Montana's SIP as a control measure and make it a contingency measure instead. The EPA has the authority to approve removal of a State's oxygenated gasoline program as specified in CAA section 211(m)(6) and has determined that the criteria of CAA section 211(m)(6) has been satisfied. The EPA has determined that Montana has demonstrated that removal of the oxygenated fuels program from the SIP will not interfere with continued attainment or maintenance of any applicable NAAQS or with any other applicable requirement of the CAA, and that the requirements of CAA section 110(l) have been satisfied. As a result, the EPA is finalizing its approval of the changes to the MCCAPC oxyfuels program rules, Chapter 10: *Fuels*, Subchapter 1: *Oxygenated Fuels Program*, rules 10.102(1), 10.105(1), 10.109(1), 10.110, 10.111, 10.111(2) as submitted by Montana on January 30, 2024.

IV. Incorporation by Reference

In this document, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revised MCCAPC oxyfuels program rules, Chapter 10: *Fuels*, Subchapter 1: *Oxygenated Fuels Program*, rules 10.102(1), 10.105(1), 10.109(1), 10.110, 10.111, 10.111(12). These rules revise various air quality regulations by correcting spelling and other clerical errors and remove the oxygenated gasoline program from Montana’s SIP. The EPA is finalizing the incorporation by reference of the regulations described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by the EPA for inclusion in the SIP, have been incorporated by reference by the EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of the EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.¹

V. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

¹ 62 FR 27968 (May 22, 1997).

- 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, 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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the 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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. 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.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.” The MDEQ did not evaluate EJ considerations as part of its SIP submittal; the CAA and the applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have neutral impacts on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving EJ for people of color, low-income populations, and Indigenous people.

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 action 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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: January 02, 2025

KC Becker,
Regional Administrator,
Region 8.

For the reasons set forth in the preamble, the EPA amends 40 CFR part 52 as follows:

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

2. In § 52.1370, the table in paragraph (c) under (c)(2)(iv)(“Missoula County”), is amended by:

a. Revising the table entries for “10.102,” “10.105,” “10.109,” and “10.110;”

b. Adding in numerical order the table entry for “10.111”.

The revisions and addition read as follows:

§ 52.1370 Identification of plan.

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(c) * * *

State citation	Rule title	State effective date	EPA final rule date	Final rule citation	Comments
* * * * *					
(2) County Specific					
* * * * *					
(iv) Missoula County					
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10.102	Definitions	1/16/2024	[insert date of publication in the Federal Register],	[insert first page of Federal Register citation]	
* * * * *					
10.105	Oxygenate Blending Facility Requirements	1/16/2024	[insert date of publication in the Federal Register],	[insert first page of Federal Register citation]	
* * * * *					

10.109	Registration Fees	1/16/2024	[insert date of publication in the Federal Register],	[insert first page of Federal Register citation]	
10.110	When Authorized by the Federal Government – Cessation of Oxygenated Fuels Program	1/16/2024	[insert date of publication in the Federal Register],	[insert first page of Federal Register citation]	
10.111	Contingency Measure	1/16/2024	[insert date of publication in the Federal Register],	[insert first page of Federal Register citation]	
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[FR Doc. 2025-00380 Filed: 1/15/2025 8:45 am; Publication Date: 1/16/2025]