



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2025-2070; FRL-13177-01-R8]

#### Air Plan Approval; Montana; Revisions to Western Sugar Stipulation

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Montana State Implementation Plan (SIP). These revisions specifically address sulfur dioxide (SO<sub>2</sub>) emission limits and associated requirements related to the Western Sugar Cooperative facility in Billings, Montana. The EPA is taking this action pursuant to the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2025-2070, 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.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, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, telephone number: (303) 312-7104, email address: [clark.adam@epa.gov](mailto:clark.adam@epa.gov).

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

## **I. Background**

On March 3, 1978 (43 FR 8962), the Laurel, Montana area was designated as nonattainment for the 1971 primary annual and 24-hour SO<sub>2</sub> 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 SO<sub>2</sub> 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<sub>2</sub> 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 CAA 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<sub>2</sub> NAAQS, including Billings, were designated as attainment.

The CAA requires states to submit to the EPA a 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<sub>2</sub> NAAQS were not being attained, including outside of the existing nonattainment area in Laurel and in Billings.<sup>1</sup> 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,<sup>2</sup> finding the SIP was substantially inadequate to attain or maintain the SO<sub>2</sub> 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.

The EPA made a final determination regarding the SIP Call when we partially and limitedly approved and partially and limitedly disapproved the Billings/Laurel SO<sub>2</sub> SIP revisions submitted by the State in response to the request letter (67 FR 22168, 22173, May 2, 2002). Among the revisions that the EPA approved into the Montana SIP with this 2002 final action was the June 12, 1998 Board Order issued by the Montana Board of Environmental Review adopting and incorporating the Stipulation of the Montana Department of Environmental Quality (MDEQ) and the Western Sugar Cooperative, including the Stipulation (hereon “Western Sugar Stipulation”) and Exhibit A, “Emission Limitations and Conditions,” to the Western Sugar Stipulation (hereon “Exhibit A”), and attachments to Exhibit A.<sup>3</sup>

The SO<sub>2</sub> requirements in Exhibit A of the Western Sugar Stipulation included establishing; 1) emission limits and monitoring and reporting requirements for the boiler house stack and pulp dryer stacks; 2) a facility-wide 190-day campaign limit, and; 3) requirements to modify the boiler house stack and remove fuel oil capability for the Erie City and Cleaver Brooks boilers. Although it was not a requirement of the Western Sugar Stipulation, by 2000 the

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<sup>1</sup> As stated in the EPA’s proposed federal implementation plan (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.

<sup>2</sup> The EPA published this letter in the *Federal Register* on August 4, 1993 (58 FR 41430).

<sup>3</sup> 67 FR 22240, May 2, 2002.

facility had also removed the capacity to use fuel oil as a source of combustion for the pulp dryers, replacing it with natural gas. As a result of these changes, average annual SO<sub>2</sub> emissions at Western Sugar decreased by about 74%.<sup>4</sup> On September 25, 2025, Montana submitted a SIP revision that revises Exhibit A.

## **II. The EPA’s Analysis of the Proposed SIP Revision**

Montana’s September 25, 2025 submission requested that the EPA approve revisions to Exhibit A. Montana’s proposed revisions include; 1) removal of the continuous emission monitor and flow rate monitor requirements on the boiler house stack; 2) replacement of the 190-day annual campaign limit with a heat input limit; 3) removal of the SO<sub>2</sub> emission limits and monitoring and reporting requirements (MRR) for the pulp dryer units and the addition of a requirement to burn natural gas, and; 4) the removal of “facility modifications” requirements, which have already been completed. The EPA’s analysis of these revisions is provided below.

### *A. Removing Continuous Emissions Monitoring Requirements*

This revision removes the requirements of section 6 of Exhibit A to operate and maintain a continuous emission monitor and continuous stack flow rate monitor to measure SO<sub>2</sub> concentrations from the boiler house stack. In their September 25, 2025 submission, MDEQ included 2011-2023 continuous emission monitoring data showing that none of the three SO<sub>2</sub> emission limits in section 3(A)(1)(a) of Exhibit A have been approached during that period.<sup>5</sup> The submission also includes a calculation demonstrating that, even under the most conservative assumptions, the SO<sub>2</sub> emission limits at the boiler house stack could not be exceeded.<sup>6</sup> Western

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<sup>4</sup> See the spreadsheet “Historic Emissions Data – Western Sugar,” in the docket for this action. The baseline (385 tons/year) is the average annual SO<sub>2</sub> emissions from 1990-1995, as the facility was required to remove fuel oil capability at the Erie City and Cleaver Brooks Boilers in 1996, per the Western Sugar Stipulation at Exhibit A, section 3(B)(2). Annual SO<sub>2</sub> emissions from 2000 (when fuel oil had been fully replaced by natural gas at the pulp dryer units) to 2023 averaged 99 tons/year.

<sup>5</sup> September 25, 2025 submission at pdf page 9. The maximum recorded values during this 13-year period were below 70% of the 3-hour SO<sub>2</sub> limit, below 60% of the 24-hour SO<sub>2</sub> limit, and below 25% of the annual SO<sub>2</sub> limit, respectively. Exhibit A, section 3(A)(1)(a) contains 3-hour, 24-hour and annual SO<sub>2</sub> emission limits for the boiler house stack.

<sup>6</sup> *Id.* at pdf pages 8-10. The demonstration shows that at the maximum sulfur content and maximum fuel throughput, the boiler house stack would still meet the limits in Exhibit A, section 3(A)(1)(a), before considering SO<sub>2</sub> reductions from the wet scrubbers.

Sugar will continue to perform an annual source test to demonstrate ongoing compliance with the SO<sub>2</sub> emission limits at Exhibit A, section 3(A)(1)(a). The EPA is proposing to find that these revisions are approvable because the annual source test is sufficient to demonstrate ongoing compliance with the boiler house stack SO<sub>2</sub> emission limits.

*B. Replacing the Campaign Limit with a Heat Input Limit*

This revision replaces the 190-day limit on the duration of each operating season, previously located at section 3(C) of Exhibit A, with an annual heat input limit on the boiler house stack of 2,237,760 MMBtu/year that was developed to correlate with the annual SO<sub>2</sub> limit at section 3(A)(1)(a)(iii).<sup>7</sup> MDEQ's submission demonstrated that the heat input limit is protective of the annual SO<sub>2</sub> limit for this stack.<sup>8</sup> Therefore, the EPA is proposing to approve this revision.

*C. Removing the Emission Limits and MRR for the Pulp Dryer Units*

This revision removes the SO<sub>2</sub> emission limits for the east dryer stack and west dryer stack in section 3(A)(1) of Exhibit A, as well as the fuel oil flowmeter, daily fuel oil and beet sulfur analysis requirements for these units in sections 4 and 5 of Exhibit A. All of these requirements have been replaced by the Exhibit A, section 3(A)(1)(d) requirement that only natural gas shall be used for fuel in the pulp dryers. By 2000, Western Sugar had decommissioned and removed the fuel oil system from the facility so that the pulp dryers no longer had the capability to combust fuel oil.<sup>9</sup> Since 2000, the pulp dryers have since operated solely on natural gas, which emits very little SO<sub>2</sub>.<sup>10</sup> As a result, the annual maximum combined emissions from the two pulp dryer stacks since the fuel oil system was removed is 0.027 tons/SO<sub>2</sub>, while the combined annual limit for the two stacks in the Western Sugar Stipulation (at

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<sup>7</sup> *Id.* at pdf page 8.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at pdf page 10.

<sup>10</sup> See EPA's "AP-42: Compilation of Air Emissions Factors from Stationary Sources" at Chapter 1.4, in the docket for this action, or at [https://www.epa.gov/sites/default/files/2020-09/documents/1.4\\_natural\\_gas\\_combustion.pdf](https://www.epa.gov/sites/default/files/2020-09/documents/1.4_natural_gas_combustion.pdf).

Exhibit A, section 3(A)(1)(b)(iii)) is 74.34 tons/SO<sub>2</sub>.<sup>11</sup> Because these emission limits and associated MRR were based on the operation of these units using fuel oil, and because the Western Sugar Stipulation was revised to require only natural gas be used for fuel at these units, the EPA is proposing to find that these revisions are approvable.

#### *D. Removing the Facility Modifications Requirements*

This revision removes section 3(B) of Exhibit A, “Facility Modifications,” which required the modification of the boiler house stack and the removal of the fuel oil guns from the Erie City and Clever Brooks boilers, such that these two boilers could only operate using natural gas following the modification. The EPA is proposing to approve this revision, as these modifications were completed as of October 1, 1996.

### **III. Consideration of Section 110(I) of the CAA**

Under section 110(I) of the CAA, the EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress toward attainment of the NAAQS, or any other applicable requirement of the Act. To “interfere” means to hamper, frustrate, hinder, or impede any applicable CAA provision.<sup>12</sup> Therefore, the EPA’s approval of a SIP revision would be consistent with section 110(I) so long as “emissions in the air are not increased,” and “status quo air quality” is preserved. The appropriate analysis under section 110(I) is not standardized and is determined on a case-by-case basis given the nature of the SIP revision.<sup>13</sup> To demonstrate noninterference where the EPA anticipates that a SIP revision may result in increased emissions, a state may either substitute equivalent or greater emission reductions in order to preserve status quo air quality or submit an air quality analysis showing that the SIP revision will not interfere with any applicable

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<sup>11</sup> See the spreadsheet titled “Historic Emissions Data – Western Sugar,” in the docket for this action. The other SO<sub>2</sub> limits in Exhibit A, section 3(A)(1)(b) for the combined East and West Dryer Stacks (combined) are 88.5 pounds (3-hour) and 708 pounds (calendar day).

<sup>12</sup> Bryan A. Garner, *Garner’s Dictionary of Legal Usage* 570 (3d ed. 2011); see also Merriam-Webster’s Collegiate Dictionary 652 (11th ed. 2005) (“to interpose in a way that hinders or impedes”).

<sup>13</sup> *Ky. Res. Council, Inc. v. EPA*, 467 F.3d 986, 991 (6th Cir. 2006); see also *Indiana v. EPA*, 796 F.3d 803, 806 (7th Cir. 2015); *Ala. Env’t Council v. EPA*, 711 F.3d 1277, 1292-93 (11th Cir. 2013); *Galveston-Houston Ass’n for Smog Prevention v. EPA*, 289 F. App’x 745, 754 (5th Cir. 2008).

requirements.<sup>14</sup> In addition, section 110(*l*) requires that each revision to an implementation plan submitted by a state be adopted by the state after reasonable notice and public hearing. In evaluating Montana’s submitted SIP revision, the EPA considered whether approval of the revision would result in interference under CAA section 110(*l*).

The EPA reviewed air quality design values for the Billings/Laurel area, which demonstrate that it currently meets the more stringent 2010 primary SO<sub>2</sub> NAAQS and 2024 secondary SO<sub>2</sub> NAAQS by a significant margin.<sup>15</sup> There are no operational changes included in the revisions that could meaningfully increase SO<sub>2</sub> emissions at the Western Sugar facility, which is among the lower emitting SO<sub>2</sub> sources in the Billings/Laurel area.<sup>16</sup> Montana’s submittal provides adequate evidence that the provisions were adopted after reasonable public notice and hearings. Based on these considerations, the EPA has concluded that the September 25, 2025 SIP revision we are proposing to approve with this action does not interfere with any applicable requirements of the Act and that the CAA section 110(*l*) requirements are satisfied.

#### **IV. Proposed Action**

The EPA is proposing to approve Montana’s September 25, 2025 revisions to Exhibit A of the Western Sugar Stipulation into the Montana SIP. The EPA is taking this action pursuant to the CAA.

#### **V. Incorporation by Reference**

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference “Western Sugar June 12, 1998 Exhibit A. Emission Limitations and Other Conditions.” The EPA has made, and will continue to make, these

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<sup>14</sup> See *Ky. Res. Council, Inc. v. EPA*, 467 F.3d at 995.

<sup>15</sup> <https://www.epa.gov/air-trends/air-quality-design-values>. As this demonstrates, the maximum design value for Yellowstone County for the most recent 2022-2024 design value period was 22 ppb for the 1-hour NAAQS of 75 ppb, and 1 ppb for the annual NAAQS of 10 ppb.

<sup>16</sup> September 25, 2025 submission at pdf page 7, Figure 1. See also “Historic Emissions Data – Western Sugar,” in the docket for this action, which shows that Western Sugar emits roughly 2% of the total SO<sub>2</sub> emissions in Yellowstone County annually.

materials generally available through <https://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).

## **VI. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 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) and 13563 (76 FR 3821, 2011);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;



- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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).

#### **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.

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

Dated: January 14, 2026 .

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Cyrus M. Western,  
Regional Administrator,  
Region 8.