

sections III.A. and III.B., the EPA is proposing to determine that the State has met all applicable requirements of CAA sections 107(d)(3)(E) and 175A.

#### IV. Proposed Action

After review and analysis of Montana's submittal, the EPA is proposing to redesignate the East Helena, Montana SO<sub>2</sub> NAA to attainment for the 1971 primary 24-hour and annual, and secondary 3-hour SO<sub>2</sub> NAAQS. The EPA is also proposing to approve the State's plan for continued maintenance and attainment of the 1971 primary 24-hour and annual, and secondary 3-hour SO<sub>2</sub> NAAQS in East Helena, Montana for ten years following redesignation to attainment.

#### V. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted 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 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 Clean Air Act; 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 proposed 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 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Sulfur oxides.

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

Dated: July 11, 2019.

**Gregory Sopkin,**

*Regional Administrator, EPA Region 8.*

[FR Doc. 2019-15111 Filed 7-16-19; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

**[EPA-R08-OAR-2019-0320; FRL-9996-63-Region 8]**

#### Approval and Promulgation of Air Quality Implementation Plans; State of Montana; East Helena Lead Nonattainment Area Maintenance Plan and Redesignation Request

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the Maintenance Plan, submitted by the State of Montana to the EPA on October 28, 2018, for the East Helena Lead (Pb) nonattainment area (East Helena NAA) and concurrently redesignating the East Helena NAA to attainment of the 1978

Pb National Ambient Air Quality Standard (NAAQS). The EPA is taking this action pursuant to the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before August 16, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-EPA-R08-OAR-2019-0320, 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 [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). 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>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](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 either electronically in [www.regulations.gov](https://www.regulations.gov) or in hard copy at the Air and Radiation Division, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that if at all possible, 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 FURTHER INFORMATION CONTACT:** James Hou, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-IO, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6210, [hou.james@epa.gov](mailto:hou.james@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

**I. Background**

The East Helena NAA is in southern Lewis and Clark County, and is defined as a rectangle that includes both the community of East Helena and unincorporated portions of southern Lewis and Clark County. On November 6, 1991 (56 FR 56694), the East Helena area was designated as nonattainment for the 1978 Pb NAAQS (1.5 µg/m<sup>3</sup>). This designation was effective on January 6, 1992 and required the State to submit a CAA, title I, part D Pb nonattainment state implementation plan (SIP) by July 6, 1993. On August 16, 1995, July 2, 1996 and October 20, 1998 the Governor of Montana submitted SIP revisions to meet the part D SIP requirements. The control plan submitted as part of the East Helena Pb attainment plan focused on limiting emissions from the ASARCO lead smelter, which comprised the majority of lead emissions in the NAA, as well as restricting emissions from the American Chemet Copper Furnace. These emission reductions were further assisted through the complete removal of lead in gasoline by 1995.

On April 4, 2001, ASARCO shut down its lead smelter operations, thereby eliminating 99.8 percent of all stationary source Pb emissions in the NAA. The facility’s three large smelter stacks were dismantled in August 2009. On April 15, 2007, ASARCO’s Title V permit expired, and ASARCO’s Montana Air Quality Permit was revoked in September 2013. The former ASARCO site is currently an active Superfund site, with no development possible until cleanup has been completed.

On June 18, 2001 (66 FR 32760), the EPA partially approved and partially disapproved the State’s part D SIP submittals, which satisfied the CAA’s criteria for Pb nonattainment SIPs. In the June 18, 2001 action, the EPA also determined that the NAA had attained the 1978 Pb NAAQS, based on air monitoring data through the calendar year 1999. The monitoring data used to determine attainment of the NAAQS included data while the ASARCO facility was still operating.

**II. Requirements for Redesignation***CAA Requirements for Redesignation of Nonattainment Areas*

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section

107(d)(3)(E) of the CAA allows for redesignation provided that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of title I of the CAA.

**III. Review of the Montana State Submittal Addressing the Requirements for Redesignation and Limited Maintenance Plans***Criteria (1)—Has the East Helena NAA attained the applicable NAAQS?*

Under section 179(c)(1), the EPA has the responsibility for determining whether a nonattainment area has attained the Pb NAAQS. The EPA must make an attainment determination as expeditiously as practicable, but no later than 6 months after the attainment date for the area. On June 18, 2001, the EPA determined that the East Helena NAA attained the 1978 Pb NAAQS (66 FR 32763).

*Criteria (2)—Does the East Helena NAA have a fully approved SIP under Section 110(k) of the CAA?*

The EPA has approved the applicable Montana SIP for the East Helena NAA under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. The EPA may rely on prior SIP approvals in approving a redesignation request (see Calcagni Memorandum<sup>1</sup> at p. 3) plus any additional measures it may approve in conjunction with a redesignation action. Following passage of the CAA of 1970, Montana has adopted and submitted, and the EPA has fully approved provisions addressing various SIP elements applicable for the 1978 lead NAAQS in the East Helena Pb NAA. See 66 FR 32760.

<sup>1</sup> September 4, 1992 memo from John Calcagni, entitled “Procedures for Processing Requests to Redesignate Areas to Attainment.”

*Criteria (3)—Has the East Helena Pb NAA met all the applicable requirements under Section 110 and Part D of the CAA?*

## General SIP Requirements

General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

## Title I, Part D—Applicable SIP Requirements

Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. All areas that were designated nonattainment for the 1978 lead NAAQS were designated under Subpart 1 in accordance with the deadlines in Subpart 5. For purposes of evaluating this redesignation request, the applicable Subpart 1 SIP requirements for all nonattainment areas are contained in sections 172(c)(1)–(9) and in section 176. A thorough discussion of the requirements contained in sections 172 and 176 can be found in the General Preamble for Implementation of title I. See 57 FR 13498 (April 16, 1992).

## Subpart 1, Section 172—Requirements

Section 172 requires states with nonattainment areas to submit attainment plans providing for timely attainment and meeting a variety of other requirements. The EPA’s longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not “applicable” for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before the EPA can redesignate the area. In the 1992 General Preamble for Implementation of Title I, the EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. See 57 FR 13498,

13564 (April 16, 1992). The EPA noted that the requirements for reasonable further progress (RFP) and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements “have no meaning” for an area that has already attained the standard. Id. This interpretation was also set forth in the Calcagni Memorandum. The EPA’s understanding of section 172 also forms the basis of its Clean Data Policy, which suspends a state’s obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, reasonably available control measures (RACM), and contingency measures under section 172(c)(9).

As noted above, EPA already approved Montana’s attainment plan for the Area. See 66 FR 32760 (June 18, 2001). Among other things, the approved attainment plan satisfied the section 172(c)(1) requirements for RACM; 172(c)(2) requirements related to RFP; 172(c)(3) requirements for an emissions inventory; 172(c)(6); and 172(c)(9) requirements for contingency measures.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. The 1990 CAA Amendments contained revisions to the NSR program requirements for the construction and operation of new and modified major stationary sources located in nonattainment areas. The CAA requires states to amend their SIPs to reflect these revisions but does not require submittal of this element along with the other SIP elements. The CAA established June 30, 1992, as the submittal date for the revised NSR programs (Section 189 of the CAA). Montana has a fully approved nonattainment NSR program, most recently approved on July 18, 1995 (60 FR 36715) at Administrative Rules of Montana (ARM) Subchapter 8. Montana also has a fully approved PSD program, most recently approved on July 18, 1995 (60 FR 36715). Upon the effective date of redesignation of an area from nonattainment to attainment, the requirements of the Part D NSR program will be replaced by the PSD program and the maintenance area NSR program.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, the Montana SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Section 172(c)(8) allows a state to use equivalent modeling, emission inventory, and planning procedures if such use is requested by the state and approved by the EPA. Montana has not requested the use of equivalent techniques under section 172(c)(8).

#### Section 176—Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that the EPA promulgated pursuant to its authority under the CAA. In light of the elimination of lead additives in gasoline, transportation conformity does not apply to the lead NAAQS. See 73 FR 66964 (November 12, 2008).

*Criteria (4)—Has the State demonstrated that the air quality improvement is due to permanent and enforceable reductions?*

For redesignating a nonattainment area to attainment, the CAA requires the EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). The EPA has determined that Montana has demonstrated that the observed air quality improvement in the East Helena NAA is due to permanent and enforceable reductions in emissions.

In the EPA’s June 18, 2001 approval of the State of Montana’s attainment plan (66 FR 32760), three major sources of Pb were identified in the East Helena NAA: The ASARCO Smelter complex; re-entrained dust from the roads of East Helena; and the American Chemet Corporation’s copper oxide

manufacturing facility. The East Helena attainment plan contained Pb control measures for these three sources, needed to attain the NAAQS to satisfy the section 172(c) RACM requirement. The EPA approved these controls as RACM/reasonably available control technology (RACT) and incorporated them into the SIP, making them permanent and enforceable SIP measures to meet the requirement of the CAA and the 1978 NAAQS. See (66 FR 32760).

On April 4, 2001, ASARCO shut down its lead smelter operations, thereby eliminating the largest source of Pb emissions in the NAA. The facility’s three large smelter stacks were dismantled in August 2009. On April 15, 2007, ASARCO’s Title V permit expired, and the ASARCO Montana Air Quality Permit was revoked in September 2013. With the removal of ASARCO lead smelter emissions, more than 99.8 percent of the lead emissions from all stationary sources in the NAA were permanently removed.

On June 10, 2013, the State of Montana submitted a request to remove stipulations limiting the allowable concentration of lead in raw feed at the American Chemet Corporation’s East Helena facility. In order to approve the SIP revision, the EPA requested that the Montana Department of Environmental Quality (MDEQ) provide modeling to demonstrate noninterference with the attainment and maintenance of the Pb NAAQS and that the State finalize the revocation of ASARCO’s permit. The EPA subsequently approved the requested SIP revision after the revocation of ASARCO’s permit and after modeling showed a Pb concentration for the NAA of 0.14  $\mu\text{g}/\text{m}^3$ . This modeled concentration is an order of magnitude lower than the applicable 1978 Pb NAAQS (1.5  $\mu\text{g}/\text{m}^3$ ). See 83 FR 13196. Due to the closure of ASARCO, and based on recent modeling for the NAA, the EPA considers the Pb emission reductions in the NAA to be permanent and enforceable.

*Criteria (5)—Does the area have a fully approved maintenance plan pursuant to Section 175A of the CAA?*

For redesignating a nonattainment area to attainment, the CAA requires the EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. See CAA section 107(d)(3)(E)(iv). In conjunction with its request to redesignate the East Helena Pb NAA to attainment for the 1978 Pb NAAQS, MDEQ submitted a SIP revision to provide for maintenance of the 1978 Pb NAAQS for at least 10 years after the

effective date of redesignation to attainment. The EPA believes that this maintenance plan meets the requirements for approval under section 175A of the CAA.

#### Maintenance Plan Requirements

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures as the EPA deems necessary to assure prompt correction of any future 1978 lead violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: the attainment emissions inventory; maintenance demonstration; monitoring; verification of continued attainment; and a contingency plan. As is discussed more fully below, the EPA has preliminarily determined that Montana's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Montana SIP.

#### Attainment Emission Inventory

The State of Montana submitted to the EPA emissions inventories for the East Helena NAA as part of their attainment plan that identified a level of emissions in the NAA that would be sufficient to attain the 1978 Pb NAAQS. As noted above, the EPA approved the attainment plan and determined that the area had attained the 1978 Pb NAAQS on June 18, 2001 (66 FR 32760). The controlled emissions inventory for ASARCO and American Chemet were 64.7 tons per year (tpy) and 0.0615 tpy, respectively.

#### Maintenance Demonstration

A state may generally demonstrate maintenance of the 1.5  $\mu\text{g}/\text{m}^3$  standard by either showing that future Pb emissions will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emission rates will not cause a violation of the 1978 Pb NAAQS. The demonstration should be for a period of ten years following the redesignation, *e.g.*, until 2028 for the

maintenance plan update. The state demonstrates attainment of the standard using the attainment inventory since it is based on maximum permitted allowable emissions and Pb emissions are not expected to increase over the maintenance period. As a result of the closure of the major source of Pb emissions in the NAA, current Pb emissions in the Montana Maintenance Plan emission inventory represent less than 1 percent of the 1995 control plan stationary source emissions.

Further, on March 28, 2018, the EPA approved revisions to the East Helena Pb portion of the Montana SIP, submitted on September 13, 2013, which relied on dispersion modeling. Dispersion modeling is a more sophisticated means of demonstrating maintenance because it incorporates meteorology, topography, and source characteristics in addition to permitted allowable emissions rates. The EPA reviewed the supplied modeling analysis and agreed that the methodology was done in accordance with 40 CFR part 51, Appendix W and the EPA's "Guideline on Air Quality Models." The AERMOD modeling analysis, conducted in accordance with Appendix W and the Guideline on Air Quality Models, used the emission limits in the SIP, located in Condition II.A.4.b of the 1995 Board Order, of 0.007 lb/hr and the results show a concentration of 0.14  $\mu\text{g}/\text{m}^3$  (which includes background concentrations). Therefore, East Helena is below the Pb NAAQS threshold for the applicable 1978 Pb NAAQS of 1.5  $\mu\text{g}/\text{m}^3$ . The submitted modeling analysis used background concentrations of lead based off lead monitoring results that were performed during the three quarters immediately after the ASARCO facility ceased operations in April of 2001 (See 83 FR 1602). No significant changes in modeling inputs have occurred since the September 11, 2013 submittal and none are anticipated through the maintenance period. Therefore, the EPA finds that Montana has demonstrated maintenance of the 1978 Pb NAAQS.

#### Monitoring Network and Verification of Continued Attainment

Following the EPA's June 18, 2001 determination of attainment for the 1978 Pb NAAQS for the East Helena NAA, and the permanent removal of Pb emission in the area due to ASARCO's closure, MDEQ discontinued the operation of all Pb monitors in the NAA. MDEQ has confirmed that the State commits to resume monitoring before any major source of Pb commences to operate. If a new major source of Pb

locates within the East Helena NAA and the source modeling indicates that the Pb impacts are greater than 75 percent of the current NAAQS including background, the source will be required to install appropriate Pb monitoring for a period of no less than three years to assure that the current NAAQS are adequately protected within the NAA. Moreover, Montana's PSD program requires that permit applicants conduct preconstruction monitoring to identify baseline concentrations. Notably, the applicable NAAQS that a major Pb source be evaluated against, would be for the more stringent and current 2008 Pb NAAQS of 0.15  $\mu\text{g}/\text{m}^3$  as opposed to the 1978 NAAQS of 1.5  $\mu\text{g}/\text{m}^3$ .

#### Contingency Provisions

The East Helena NAA Pb Maintenance Plan includes the State's commitment to continue to implement and enforce measures necessary to maintain the Pb NAAQS. MDEQ's current operating permit program places limits on Pb emissions from existing sources. Should an existing facility (such as Chemet) want to upgrade or increase Pb emissions, the facility would be subject to the PSD program. Should a new facility be constructed in the East Helena maintenance area, the facility would also be subject to PSD as required in the Calcagni Memo. If these measures prove insufficient to protect against exceedances of the NAAQS, the State of Montana has also committed to adopt, submit as a SIP revision, and implement expeditiously any and all measures needed to ensure maintenance of the NAAQS.

The Calcagni Memo emphasizes the importance of specific contingency measures, schedules for adoption, and action levels to trigger implementation of the contingency plan. Since there are no major sources of Pb emissions remaining in the NAA from the original 1995 East Helena Pb Attainment SIP, ambient Pb monitoring was discontinued in 2001 when ASARCO shut down and the State's contingency plan will focus on new sources or modifications of existing permitted sources, we conclude that the State's commitment satisfactorily addresses the CAA provisions.

Since there are neither significant Pb sources nor ambient Pb monitoring in the East Helena maintenance area, we agree with the State that any new source planning to locate within the maintenance area or existing source proposing a significant increase in Pb emissions would be subject to Montana's SIP-approved major NSR and

minor source permitting programs.<sup>2</sup> Thus, we find that MDEQ's permitting program is sufficient to track future air quality trends and to assure that the East Helena maintenance area will not violate the NAAQS. If the State identifies the potential for a NAAQS violation through the permitting process, the State would ascertain what measures would be needed to avoid the violation.

Has the State met transportation and general conformity requirements?

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that the EPA promulgated pursuant to its authority under the CAA. In light of the elimination of lead additives in gasoline, transportation conformity does not apply to the lead NAAQS. See 73 FR 66964 (November 12, 2008).

#### IV. Proposed Action

After review and analysis of Montana's submittal, the EPA is proposing to take the following actions pursuant to section 110 of the CAA: Redesignate the East Helena, Montana Pb nonattainment area to attainment for the 1978 Pb NAAQS; and approve Montana's October 28, 2018 SIP revision for continued maintenance and attainment of the 1978 Pb NAAQS in East Helena, Montana.

#### V. 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 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted 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 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 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 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, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

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

Dated: July 11, 2019.

**Gregory Sopkin,**

*Regional Administrator, EPA Region 8.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 80

[EPA-HQ-OAR-2019-0136; FRL-9996-54-OAR]

RIN 2060-AU42

### Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, Response to the Remand of the 2016 Standards, and Other Changes

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

**ACTION:** Announcement of public hearing.

**SUMMARY:** The EPA is announcing a public hearing to be held in Ypsilanti, MI on July 31, 2019 for the proposed rule "Renewable Fuel Standard Program: Standards for 2020 and Biomass-Based Diesel Volume for 2021, Response to the Remand of the 2016 Standards, and Other Changes." This proposed rule will be published separately in the **Federal Register**. The pre-publication version of this proposal can be found at <https://www.epa.gov/renewable-fuel-standard-program/regulations-and-volume-standards-under-renewable-fuel-standard>. In the separate notice of proposed rulemaking, EPA has proposed amendments to the renewable fuel standard program regulations that would establish annual percentage standards for cellulosic biofuel, biomass-based diesel, advanced biofuel, and renewable fuels that would apply to all gasoline and diesel produced in the U.S. or imported in the year 2020. In addition, the separate proposal includes a proposed biomass-based diesel applicable volume for 2020, a response to the remand of the 2016 standard-setting rulemaking, and several regulatory changes to the Renewable Fuel Standard (RFS) program including new pathways, flexibilities for regulated parties, and clarifications of existing regulations.

**DATES:** The public hearing will be held on July 31, 2019 at the location noted below under **ADDRESSES**. The hearing will begin at 9:00 a.m. and end when all parties present who wish to speak have had an opportunity to do so. Parties wishing to testify at the hearing should

<sup>2</sup> ARM Title 17, Chapter 8, Subchapters 7, 8, 9, and 10.