

governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and tribal governments, or on the private sector.

#### *Paperwork Reduction Act*

This proposed rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–21).

#### *Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.102, Compensation for Service-Connected Deaths for Veterans' Dependents; 64.105, Pension to Veterans, Surviving Spouses, and Children; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

#### *Signing Authority*

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Jose D. Riojas, Chief of Staff, Department of Veterans Affairs, approved this document on November 21, 2014, for publication.

#### **List of Subjects in 38 CFR Part 3**

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Dated: November 26, 2014.

**William F. Russo,**

*Acting Director, Office of Regulation Policy & Management, Office of the General Counsel, U.S. Department of Veterans Affairs.*

For the reasons set out in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 3 as follows:

### **PART 3—ADJUDICATION**

#### **Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation**

■ 1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend § 3.57 by:

- a. In paragraph (a)(1) introductory text, removing the phrase “paragraphs (a)(2) and (3)” and adding in its place “paragraphs (a)(2) through (4)”;
- b. Adding paragraph (a)(4).
- c. Adding an authority citation immediately following paragraph (a)(4).
- d. Revising the Cross References at the end of the section.

The revisions and additions read as follows:

#### **§ 3.57 Child.**

(a) \* \* \*

(4) For purposes of any benefits provided under 38 U.S.C. 1115, Additional compensation for dependents, the term child does not include a child of a veteran who is adopted out of the family of the veteran. This limitation does not apply to any benefit administered by the Secretary that is payable directly to a child in the child's own right, such as dependency and indemnity compensation under 38 CFR 3.5.

(Authority: 38 U.S.C. 101(4), 501, 1115)

\* \* \* \* \*

**CROSS REFERENCES:** Improved pension rates. See § 3.23. Improved pension rates; surviving children. See § 3.24. Child adopted out of family. See § 3.58. Child's relationship. See § 3.210. Helplessness. See § 3.403(a)(1). Helplessness. See § 3.503(a)(3). Veteran's benefits not apportionable. See § 3.458. School attendance. See § 3.667. Helpless children—Spanish-American and prior wars. See § 3.950.

■ 3. Revise § 3.58 to read as follows:

#### **§ 3.58 Child adopted out of family.**

(a) Except as provided in paragraph (b) of this section, a child of a veteran adopted out of the family of the veteran either prior or subsequent to the veteran's death is nevertheless a *child* within the meaning of that term as defined by § 3.57 and is eligible for benefits payable under all laws administered by the Department of Veterans Affairs.

(b) A child of a veteran adopted out of the family of the veteran is not a child within the meaning of § 3.57 for purposes of any benefits provided under 38 U.S.C. 1115, Additional compensation for dependents.

(Authority: 38 U.S.C. 101(4)(A), 1115)

**CROSS REFERENCES:** Child. See § 3.57. Veteran's benefits not apportionable. See § 3.458.

■ 4. Amend § 3.458 by:

- (a) In paragraph (d) removing the phrase “, except the additional compensation payable for the child”.
- (b) Adding Cross References at the end of the section.

The addition reads as follows:

#### **§ 3.458 Veterans benefits not apportionable.**

\* \* \* \* \*

**CROSS REFERENCES:** Child. See § 3.57. Child adopted out of family. See § 3.58.

[FR Doc. 2014–28374 Filed 12–1–14; 8:45 am]

**BILLING CODE 8320–01–P**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[EPA–R08–OAR–2012–0352; FRL–9919–97–OAR]**

#### **Approval and Promulgation of Air Quality Implementation Plans; State of Montana Second 10-Year Carbon Monoxide Maintenance Plan for Billings**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Montana. On July 13, 2011, the Governor of Montana's designee submitted to EPA a second 10-year maintenance plan for the Billings area for the carbon monoxide (CO) National Ambient Air Quality Standard (NAAQS). This maintenance plan addresses maintenance of the CO NAAQS for a second 10-year period beyond the original redesignation. EPA is also proposing approval of an alternative monitoring strategy for the Billings CO maintenance area, which was submitted by the Governor's designee on June 22, 2012.

**DATES:** Comments must be received on or before January 2, 2015.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R08–OAR–2012–0352, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Email: [clark.adam@epa.gov](mailto:clark.adam@epa.gov)
- Fax: (303) 312–6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- Mail: Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mail Code 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.

- Hand Delivery: Director, Air Program, EPA, Region 8, Mail Code 8P–AR, 1595 Wynkoop, Denver, Colorado

80202–1129. Such deliveries are only accepted Monday through Friday, 8:00 a.m. to 4:30 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA–R08–OAR–2012–0352. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or email. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA, without going through <http://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the <http://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 <http://www.regulations.gov> or in hard copy at the Air Program, EPA, Region 8,

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

#### **SUPPLEMENTARY INFORMATION:**

##### **Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The initials *ADT* mean or refer to Average Daily Traffic.
- (iii) The initials *CO* mean or refer to carbon monoxide.
- (iv) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (v) The initials *LMP* mean or refer to Limited Maintenance Plan.
- (vi) The initials *MDEQ* mean or refer to Montana Department of Environmental Quality.
- (vii) The initials *MVEB* mean or refer to Motor Vehicle Emissions Budget.
- (viii) The initials *NAAQS* mean or refer to the National Ambient Air Quality Standards.
- (ix) The initials *ppm* mean or refer to parts per million.
- (x) The initials *RTP* mean or refer to Regional Transportation Plan.
- (xi) The initials *SIP* mean or refer to State Implementation Plan.
- (xii) The initials *TIP* mean or refer to Transportation Improvement Plan.
- (xiii) The words *Montana* and *State* mean or refer to the State of Montana.

##### **I. General Information**

*What should I consider as I prepare my comments for EPA?*

1. **Submitting Confidential Business Information (CBI).** Do not submit CBI to EPA through <http://www.regulations.gov> or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific

information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for preparing your comments.** When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register**, date, and page number);
- Follow directions and organize your comments;
- Explain why you agree or disagree;
- Suggest alternatives and substitute language for your requested changes;
- Describe any assumptions and provide any technical information and/or data that you used;
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced;
- Provide specific examples to illustrate your concerns and suggest alternatives;
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats; and
- Make sure to submit your comments by the comment period deadline identified.

##### **II. Background**

###### **A. Billings CO Maintenance Plan**

Under the Clean Air Act (CAA) Amendments of 1990, the Billings area was designated as nonattainment and classified as a “not classified” CO area. This was because the area had been designated as nonattainment before November 15, 1990, but had not violated the CO NAAQS in 1988 and 1989 (56 FR 56694, November 6, 1991). On February 9, 2001, the Governor of Montana submitted to us a request to redesignate the Billings CO nonattainment area to attainment for the CO NAAQS. Along with this request, the Governor submitted a CAA section 175A(a) maintenance plan which demonstrated that the area would maintain the CO NAAQS for the first 10 years following our approval of the redesignation request. We approved the State’s redesignation request and 10-year maintenance plan on February 21, 2002 (67 FR 7966).

Eight years after an area is redesignated to attainment, CAA section 175A(b) requires the state to submit a subsequent maintenance plan to EPA, covering a second 10-year period.<sup>1</sup> This second 10-year maintenance plan must demonstrate continued compliance with the NAAQS during this second 10-year period. To fulfill this requirement of the CAA, the Governor of Montana's designee submitted the second 10-year update of the Billings CO maintenance plan (hereafter: "revised Billings Maintenance Plan") to us on July 13, 2011. With this action, we are proposing approval of the revised Billings Maintenance Plan.

The 8-hour CO NAAQS—9.0 parts per million (ppm)—is attained when such value is not exceeded more than once a year. 40 CFR 50.8(a)(1). The Billings area has attained the 8-hour CO NAAQS from 1988 to the present. In October 1995, EPA issued guidance that provided nonclassifiable CO nonattainment areas the option of using a less rigorous "limited maintenance plan" (LMP) option to demonstrate continued attainment and maintenance of the CO NAAQS.<sup>2</sup> According to this guidance, areas that can demonstrate design values (2nd highest max) at or below 7.65 ppm (85% of exceedance levels of the 8-hour CO NAAQS) for eight consecutive quarters qualify to use an LMP. The area qualified for and used EPA's LMP option for the first 10-year Billings CO maintenance plan (67 FR 7966, February 21, 2002). For the revised Billings Maintenance Plan the State again used the LMP option to demonstrate continued maintenance of the CO NAAQS in the Billings area. We have determined that the Billings area continues to qualify for the LMP option because the maximum design value for the most recent eight consecutive quarters with certified data at the time the State adopted the plan (years 2008 and 2009) was 2 ppm.<sup>3</sup>

#### B. Alternative CO Monitoring Strategy

Along with the revised Billings Maintenance Plan, the State submitted a CO maintenance plan for the Great Falls, Montana maintenance area, and

an alternative strategy for monitoring continued attainment of the CO NAAQS in all of the State's CO maintenance areas on July 13, 2011.<sup>4</sup> The State submitted the alternative monitoring strategy to conserve resources by discontinuing the gaseous CO ambient monitors in both the Billings and Great Falls CO maintenance areas. In place of the gaseous ambient monitors, the State's alternative method relies on rolling 3-year Average Daily Traffic (ADT) vehicle counts collected from permanent automatic traffic recorders in each maintenance area. We commented on the State's "Alternative Monitoring Strategy," and the State submitted to us a revised version of the strategy which incorporated our comments on June 22, 2012. The State's June 22, 2012 Alternative Monitoring Strategy replaced the version submitted on July 13, 2011.

#### III. EPA's Evaluation of Montana's Alternative Monitoring Strategy in Billings

Since 2002, no Billings CO monitor has registered a design value greater than 4.4 ppm, which is roughly half of the NAAQS. Further, since 2006, no Billings monitor has registered a design value greater than 2.2 ppm, roughly 25% of the NAAQS.<sup>5</sup> Citing these consistently low monitor values, and expressing a desire to conserve monitoring resources, the State has requested to discontinue CO monitoring in Billings and instead use an alternative strategy for monitoring maintenance of the CO NAAQS.

The State's Alternative Monitoring Strategy utilizes ADT vehicle counts collected from permanent automatic traffic recorders in the Billings CO maintenance area to determine average monthly traffic during the traditional high CO concentration season of November through February. The State will compare the latest rolling 3-years of monthly ADT volumes to the 2008–2010 baseline ADT volumes (see Table 1) that correlate to the low CO monitored values during that period (see Table 2). Because mobile sources are the biggest driver of CO pollution, the Montana Department of Environmental Quality (MDEQ) reasoned that any significant increase in CO emissions would have to be accompanied by a significant

increase in ADT.<sup>6</sup> EPA agrees with the State's reasoning.

TABLE 1—TRAFFIC VOLUMES FOR BILLINGS, MONTANA

Rolling 2008–2010 ADT: November to February	
Month-Year	Billings (#A–050)
January 2008 .....	32,778
February 2008 .....	35,463
November 2008 .....	35,832
December 2008 .....	32,042
January 2009 .....	33,256
February 2009 .....	35,695
November 2009 .....	37,121
December 2009 .....	33,905
January 2010 .....	32,340
February 2010 .....	34,317
November 2010 .....	33,885
December 2010 .....	34,317
Average .....	34,246

TABLE 2—8-HOUR CO DESIGN VALUES FOR BILLINGS, MONTANA

Design Value (ppm) <sup>7</sup>	Year
4.3 .....	2002
4.4 .....	2003
3.7 .....	2004
3.5 .....	2005
2 .....	2006
2.2 .....	2007
2 .....	2008
1.8 .....	2009
1.9 .....	2010
1.3 .....	2011

If the rolling 3-year ADT value is 25% higher than the average value from the 2008–2010 baseline period of 34,246, the State will reestablish CO ambient monitoring in Billings the following high season (November–February). If the CO design value in that season has not increased from the baseline mean by an equal or greater rate at which ADT has increased, and the monitor values remain at or below 50% of the CO NAAQS (2nd max concentration  $\leq 4.5$  ppm), the monitor may again be removed and the ADT counts will continue to be relied upon to determine compliance with the NAAQS. This process will be repeated each time the rolling 3-year ADT increases by a factor of 25% (e.g. 50%, 75%) above the baseline 2008–2010 period, and the same analysis will be conducted to determine if the monitors can again be removed.

<sup>1</sup> In this case, the initial maintenance period extended through 2012. Thus, the second 10-year period extends through 2022.

<sup>2</sup> Memorandum "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph W. Paisie, Group Leader, EPA Integrated Policy and Strategies Group, to Air Branch Chiefs, October 6, 1995.

<sup>3</sup> See Table 2 below. Additionally, according to the LMP guidance, an area using the LMP option must continue to have a design value "at or below 7.65 ppm until the time of final EPA action on the redesignation." Table 2, below, demonstrates that the area meets this requirement.

<sup>4</sup> In addition to Billings and Great Falls, the Missoula, MT CO maintenance area was included in the July 13, 2011 Alternative Monitoring Strategy.

<sup>5</sup> See Table 2 below. Design values were derived from the EPA AirData (<http://www.epa.gov/airdata/>) Web site.

<sup>6</sup> See "Review of National Ambient Air Quality Standards for Carbon Monoxide," 76 FR 54294, August 31, 2011.

<sup>7</sup> Design values were derived from the EPA AirData (<http://www.epa.gov/airdata/>) Web site.

40 CFR 58.14(c) allows approval of requests to discontinue ambient monitors “on a case-by-case basis if discontinuance does not compromise data collection needed for implementation of a NAAQS and if the requirements of appendix D to 40 CFR part 58, if any, continue to be met.” EPA finds that the Alternative Monitoring Strategy meets the criteria of 40 CFR 58.14(c) for the Billings CO maintenance area. Given the long history of low CO concentrations in the Billings area, and the adequacy of the Alternative Monitoring Strategy at ensuring continued attainment of the CO NAAQS, EPA finds it appropriate to approve the State’s request to discontinue the Billings monitor and use the Alternative Monitoring Strategy in its place.

#### **IV. EPA’s Evaluation of the Billings Second 10-Year CO Maintenance Plan**

The following are the key elements of a LMP for CO: Emission Inventory, Maintenance Demonstration, Monitoring Network/Verification of Continued Attainment, Contingency Plan, and Conformity Determinations. Below, we describe our evaluation of each of these elements as it pertains to the revised Billings Maintenance Plan.

##### *A. Emission Inventory*

The revised Billings Maintenance Plan contains an emissions inventory for the base year 2009. The emission inventory is a list, by source, of the air contaminants directly emitted into the Billings CO maintenance area on a typical winter day in 2009.<sup>8</sup> The mobile sources data in the emission inventory in the July 13, 2011 submittal were developed using emissions modeling methods that EPA did not consider up-to-date. After consultation with EPA, the State then provided EPA with technical information to clarify and supplement the emissions inventory from the July 13, 2011 submittal.<sup>9</sup> This supplemental technical information utilized EPA recommended mobile sources emissions modeling methods (MOVES2010b).<sup>10</sup> The Billings LMP and supplementary technical information contain detailed emission inventory information that was prepared

in accordance with EPA guidance and is acceptable to EPA.<sup>11</sup>

##### *B. Maintenance Demonstration*

We consider the maintenance demonstration requirement to be satisfied for areas that qualify for and use the LMP option. As mentioned above, a maintenance area is qualified to use the LMP option if that area’s maximum 8-hour CO design value for eight consecutive quarters does not exceed 7.65 ppm (85% of the CO NAAQS). EPA maintains that if an area begins the maintenance period with a design value no greater than 7.65 ppm, the applicability of prevention of significant deterioration requirements, the control measures already in the SIP, and federal measures should provide adequate assurance of maintenance over the 10-year maintenance period. Therefore, EPA does not require areas using the LMP option to project emissions over the maintenance period. Because CO design values in the Billings area are consistently well below the LMP threshold (See Table 2), the State has adequately demonstrated that the Billings area will maintain the CO NAAQS into the future.

##### *C. Monitoring Network/Verification of Continued Attainment*

In the revised Billings Maintenance Plan, the State commits to “continue to monitor CO using an instrumental method or a functionally equivalent monitoring methodology as approved by EPA.” As noted, EPA is proposing to approve the State’s Alternative Monitoring Strategy for the Billings CO maintenance area as part of this action. Based on final approval of the Alternative Monitoring Strategy, we will have concluded that the strategy is adequate to verify continued attainment of the CO NAAQS in Billings.

##### *D. Contingency Plan*

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions to promptly correct any violation of the NAAQS that occurs after redesignation of an area. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures.

The Billings Maintenance Plan stated in section 56.12.7.4 that the State will use an exceedance of the CO NAAQS as the trigger for adopting specific contingency measures for the Billings

area. As noted, the Alternative Monitoring Strategy requires reinstitution of a CO monitor in Billings if traffic levels increase from the 2008–2010 baseline by a factor of 25%. Therefore, EPA finds that CO emissions in Billings are very unlikely to increase to the point of an exceedance without that exceedance being observed by a gaseous monitor.

The State indicates that notification of an exceedance to EPA and other affected governments will occur within 60 days. Upon notification of a CO NAAQS exceedance, MDEQ and Riverstone Health will convene to recommend an appropriate contingency measure or measures that would be necessary to avoid a violation of the CO NAAQS. The necessary contingency measure(s) will then be proposed for local adoption. Finalization of the necessary contingency measures for local adoption will be completed within three months of the exceedance notification. Full implementation of the locally adopted contingency measure(s) will be achieved within one year after the recording of a CO NAAQS violation.

The potential contingency measures, identified in section 56.12.7.4.C of the Billings Maintenance Plan, include implementation of a mandatory oxygenated fuels program with local regulations in the Billings or Yellowstone County area for the winter months of November, December, and January, and establishing an episodic woodburning curtailment program. A more complete description of the triggering mechanism and these contingency measures can be found in section 56.12.7.4 of the Billings Maintenance Plan.

We find that the contingency measures provided in the State’s maintenance plan for Billings are sufficient and meet the requirements of section 175A(d) of the CAA.

##### *E. Transportation Conformity*

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA’s conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether or not they conform. To effectuate its purpose, the conformity rule requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement

<sup>8</sup> Violations of the CO NAAQS are most likely to occur on winter weekdays.

<sup>9</sup> The supplemental technical information was sent to EPA on July 23, 2014, and is available in the docket for this action.

<sup>10</sup> Motor Vehicle Emissions Simulator (MOVES) model; version 2010b.

<sup>11</sup> “Procedures for Processing Requests to Redesignate Areas to Attainment,” from John Calcagni, September 4, 1992.

Program (TIP) are consistent with the motor vehicle emission budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). A MVEB is defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain compliance with the NAAQS in the nonattainment or maintenance area.<sup>12</sup>

Under the LMP policy, emissions budgets are treated as essentially not constraining for the length of the maintenance period. While EPA's LMP guidance does not exempt an area from the need to affirm conformity, it explains that the area may demonstrate conformity without submitting a MVEB. This is because it is unreasonable to expect that an LMP area will experience so much growth in that period that a violation of the CO NAAQS would result.<sup>13</sup> Therefore, for the Billings CO maintenance area, all actions that require conformity determinations for CO under our conformity rule provisions are considered to have already satisfied the regional emissions analysis and "budget test" requirements in 40 CFR 93.118.

Since LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs and projects. Specifically, for such determinations, RTPs, TIPs and projects must still demonstrate that they are fiscally constrained (40 CFR 93.108) and meet the criteria for consultation and Transportation Control Measure implementation in the conformity rule provisions (40 CFR 93.112 and 40 CFR 93.113, respectively). In addition, projects in LMP areas still will be required to meet the applicable criteria for CO hot spot analyses to satisfy "project level" conformity determinations (40 CFR 93.116 and 40 CFR 93.123), which must also incorporate the latest planning assumptions and models available (40 CFR 93.110 and 40 CFR 93.111, respectively).

In view of the CO LMP policy, the effect of this proposed approval will be to affirm our adequacy finding such that no regional emissions analyses for future transportation CO conformity determinations are required for the CO LMP period and beyond (as per EPA's CO LMP policy and 40 CFR 93.109(e)).

<sup>12</sup> Further information concerning EPA's interpretations regarding MVEBs can be found in the preamble to EPA's November 24, 1993, transportation conformity rule (see 58 FR 62193—62196).

<sup>13</sup> Limited Maintenance Plan Guidance at 4, October 6, 1995.

## V. Proposed Action

EPA is proposing to approve the revised Billings Maintenance Plan submitted on July 13, 2011. This maintenance plan meets the applicable CAA requirements and EPA has determined it is sufficient to provide for maintenance of the CO NAAQS over the course of the second 10-year maintenance period out to 2022.

EPA is also proposing to approve the State's Alternative Monitoring Strategy for the Billings CO maintenance area. We do not propose to approve application of the Alternative Monitoring Strategy in other areas of Montana with this action, as the Alternative Monitoring Strategy must be considered on a case-by-case basis specific to the circumstances of each particular CO maintenance area rather than broadly.

## VI. Statutory and Executive Orders Review

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, 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);
- 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 (Public Law 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 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: November 10, 2014.

**Shaun L. McGrath,**

*Regional Administrator, Region 8.*

[FR Doc. 2014-28390 Filed 12-1-14; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R8-ES-2013-0011; 4500030114]

**RIN 1018-AZ44**

#### **Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Western Distinct Population Segment of the Yellow-Billed Cuckoo (*Coccyzus americanus*)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; notice of public hearing.

**SUMMARY:** On August 15, 2014, we, the U.S. Fish and Wildlife Service (Service), announced a proposal to designate critical habitat for the western distinct population segment of the yellow-billed cuckoo (western yellow-billed cuckoo) under the Endangered Species Act of 1973, as amended (Act). On November 12, 2014, the public comment period