



Photo: Bryan Parras, Sierra Club Healthy Communities Organizer

How Startup, Shutdown, and Malfunction Loopholes Give Free Passes to Polluters

EPA must protect fenceline communities by ending free passes to pollute and closing all Startup, Shutdown, and Malfunction (SSM) loopholes

EPA allows many fossil fuel power plants, refineries, incinerators, chemical plants, and other industrial facilities throughout the country to release deadly air pollution spikes into fenceline communities during start ups, shutdowns, and malfunctions (SSM). This serious environmental justice problem is especially pronounced along the Gulf Coast because of the high concentration of polluters along corridors like [Cancer Alley](#) and the Houston Ship channel—where many communities face air pollution and health risks the EPA recognizes as unacceptable. [Studies in Texas](#) have shown these events are “frequent, large in magnitude, last from a few hours to several days (or even weeks) and can exceed a facility’s routine annual emissions;” accounting for 42 additional elderly deaths per year, and costing up to \$241 million in damages every year. SSM events occur throughout the

year, but are common during disasters, like hurricanes in the Gulf, and could get even worse as climate-fueled storms become more intense.



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SSM Loopholes Endanger Communities Around the Country

What are SSM loopholes?

- These loopholes allow industrial polluters to release huge amounts of harmful pollution over hours, days, and weeks into the air fenceline communities breathe, without any incentive to prevent the problem and without consequences, even when pollution spikes occur over and over again.
- Sometimes, industrial polluters release more harmful air pollution during a single spike than they're legally allowed in an entire year—and they don't have to report it or inform fenceline communities. SSM "events" are harmful to public health and can release huge amounts of deadly criteria pollution like soot and ozone and highly toxic air pollution like ethylene oxide, 1,3-butadiene, benzene, hydrogen cyanide, hydrofluoric acid, chloroprene, sulfuric acid, and other carcinogens and neurotoxicants.

That sounds illegal and is opposite of the Clean Air Act's intent!

- It is! In fact, the D.C. Circuit Court has repeatedly [held this type of loophole unlawful](#), and people continue to suffer and die from [exposure to toxic air pollution](#).
- Yet SSM loopholes are found throughout regulations that implement the Clean Air Act.

Why do these loopholes still exist and what is EPA doing about them?

- Some bad actors in the industry claim SSM events and the resulting bursts of pollution are unavoidable, yet companies who care about their neighboring communities have shown that industry can do better.
- The EPA has taken positive steps to close several SSM loopholes and protect fenceline communities, but hundreds of loopholes remain a pervasive problem that demand comprehensive, swift action.

What the EPA Must Do

The Trump Administration sided with industry and undid some of the progress that had been made by the EPA.

- The Trump Administration reversed the Obama Administration's SSM policy for state implementation plans and allowed illegal SSM loopholes in multiple

state Clean Air Act plans, including Texas, which has one of the worst SSM problems in the country.

- Because of litigation from the Sierra Club and its partners, the SSM loopholes in many state plans are currently being fixed.
- The EPA also [issued a proposal](#) to eliminate the loopholes from Title V air permits during the Obama Administration, but the [Trump Administration revoked the proposal](#).

But almost 100 SSM loopholes still exist.

- Despite some progress, almost 100 loopholes still exist in EPA regulations for new and modified industrial facilities (section 111) and toxic air pollutants (section 112) under the Clean Air Act.
- These loopholes must be removed quickly and without delay. Communities should not have to continue to wait for clean air.

Now, President Biden's EPA has an opportunity to end these free passes once and for all.

- In 2021, President Biden's EPA [recommitted to the Obama-era SSM rule](#) and guidance and began taking action to eliminate the loopholes in the state plans and Title V air permits.
- But over the years, loopholes have been inserted into many of our clean air rules, and eliminating loopholes in state plans and Title V permits isn't enough. The EPA must act swiftly to protect public health by removing all unlawful SSM loopholes from **all** of the agency's clean air rules.

What You Can Do

- [Watch and share our video](#) featuring frontline community members impacted by these SSM loopholes.
- Show EPA you side with fenceline communities by [submitting a public comment to EPA now!](#)

Scan here to submit a public comment



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