

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

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[FR Doc. 2010-28119 Filed 11-5-10; 8:45 am]

BILLING CODE 7710-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2007-1119; FRL-9221-4]

Approval and Promulgation of Implementation Plans; Albuquerque/Bernalillo County, NM; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving a revision to the Albuquerque/Bernalillo County, New Mexico State Implementation Plan (SIP) to address the “good neighbor” provisions of the Clean Air Act (CAA) section 110(a)(2)(D)(i), for the 1997 ozone and the 1997 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standards (NAAQS) as it applies to Albuquerque/Bernalillo County. The revision addresses one element of CAA section 110(a)(2)(D)(i), which pertains to prohibiting air pollutant emissions from within a state to significantly contribute to nonattainment of the ozone and PM_{2.5} NAAQS in any state. The Albuquerque/Bernalillo Air Quality Control Board (AQCB) is responsible for the portion of the New Mexico SIP that applies in Bernalillo County, which encompasses the City of Albuquerque. This rulemaking action is being taken under section 110 of the CAA.

DATES: This final rule will be effective December 8, 2010.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-2007-1119. All documents in the docket are listed at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Air Planning Section (6PD-L),

Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at 214-665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Emad Shahin, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6717; fax number (214) 665-7263; e-mail address shahin.emad@epa.gov.

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

Outline:

- I. What action is EPA taking?
- II. What is the background for this action?
- III. Statutory and Executive Order Reviews

I. What action is EPA taking?

We are approving a revision to the New Mexico State Implementation Plan (SIP) to address the “good neighbor” provisions of the Clean Air Act (CAA) section 110(a)(2)(D)(i), for the 1997 ozone and the 1997 PM_{2.5} standards for Albuquerque/Bernalillo County, demonstrating that one of the required elements of the CAA section 110(a)(2)(D)(i) has been met. The SIP revision demonstrates in part that air pollutant emissions from sources within Albuquerque/Bernalillo County do not significantly contribute to nonattainment of the relevant NAAQS in any other state. Therefore, we have determined that emissions from sources in Albuquerque/Bernalillo County do not significantly contribute to nonattainment of the 1997 ozone standards or of the 1997 PM_{2.5} standards in any other state. In a separate action, EPA approved this revision for the remainder of the State of New Mexico (75 FR 33174, June 11, 2010).

At a later date we will act on addressing the remaining three elements of section 110(a)(2)(D)(i) which are: (1) Interference with the maintenance of the NAAQS in any other state; (2)

interference with measures required to prevent significant deterioration of air quality in any other state; and (3) interference with measures required to protect visibility in any other state.

II. What is the background for this action?

On July 29, 2010, we published a proposal to approve the portion of a SIP revision adopted by AQCB that addressed one element of the CAA section 110(a)(2)(D)(i) (75 FR 44731). EPA’s analyses for approving the SIP revision are described in detail in that proposal and in the supporting documentation available in the electronic docket for this action at www.regulations.gov (Docket Identification No. EPA-R06-OAR-2007-1119). The comment period on the proposal ended on August 30, 2010, and we did not receive any comments.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive 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 (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 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 7, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by

reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 27, 2010.

Al Armendariz,

Regional Administrator, Region 6.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart GG—New Mexico

■ 2. The second table in § 52.1620(e) entitled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP” is amended by adding an entry to the end to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(e) * * *

EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/effective date	EPA approval date	Explanation
* Interstate transport for the 1997 ozone and PM _{2.5} NAAQS.	* Bernalillo County	* 07/30/07	* 11/08/10 [insert FR page number where the document begins].	* 11/08/10 Approval for revisions to prohibit significant contribution to nonattainment in any other state.

[FR Doc. 2010–28003 Filed 11–5–10; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 86, 1033, 1039, 1042, 1045, 1054, and 1065

[EPA–HQ–OAR–2010–0142; FRL–9220–6]

RIN 2060–AO69

Revisions to In-Use Testing for Heavy-Duty Diesel Engines and Vehicles; Emissions Measurement and Instrumentation; Not-to-Exceed Emission Standards; and Technical Amendments for Off-Highway Engines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on several revisions to EPA’s mobile source emission programs standards and test procedures. EPA believes that each of these is minor and non-controversial in nature. Most of the changes arise from the results of the collaborative test program and related technical work we conducted for the highway heavy-duty diesel in-use testing program. Most noteworthy here is the adoption of a particulate matter measurement allowance for use with portable emission measurement systems. Related to this are two provisions to align the in-use program timing requirements with completion of the program as required in current regulations and the incorporation of revisions to a few technical requirements in the testing regulations based on information learned in this and one other test program. Finally, the

DFR modifies a few transitional flexibilities for locomotive, recreational marine, and Tier 4 nonroad engines and incorporates a handful of minor corrections.

DATES: This is effective on January 7, 2011 without further notice, unless EPA receives adverse comment by December 8, 2010 *on any amendment, paragraph, or section of this rule*. If EPA receives adverse comment on this rule or any discrete amendment, paragraph, or section of this rule, we will publish a timely withdrawal of the Direct Final Rule, or the amendment, paragraph, or section of the direct final rule that received adverse comment, in the **Federal Register** informing the public that the rule, or that amendment, paragraph, or section of the rule, will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–