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Interested persons are requested to send comments regarding the burden estimate or any other aspects of the information requirements, including suggestions for reducing the burden, to Robert J. Spar, Director, Office of Patent Legal Administration, United States Patent and Trademark Office, Washington, D.C. 20231, or to the Office of Information and Regulatory Affairs of OMB, New Executive Office Building, 725 17th Street, N.W., Room 10235, Washington, D.C. 20503, Attention: Desk Officer for the United States Patent and Trademark Office.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 is revised to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.21 is amended by revising paragraph (m) to read as follows:

§ 1.21 Miscellaneous fees and charges.

* * * * *

(m) For processing each payment refused (including a check returned "unpaid") or charged back by a financial institution—\$50.00.

* * * * *

3. Section 1.23 is revised to read as follows:

§ 1.23 Methods of payment.

(a) All payments of money required for United States Patent and Trademark Office fees, including fees for the processing of international applications (§ 1.445), shall be made in U.S. dollars and in the form of a cashier's or certified

check, Treasury note, national bank notes, or United States Postal Service money order. If sent in any other form, the Office may delay or cancel the credit until collection is made. Checks and money orders must be made payable to the Director of the United States Patent and Trademark Office. (Checks made payable to the Commissioner of Patents and Trademarks will continue to be accepted.) Payments from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required. Money sent to the Office by mail will be at the risk of the sender, and letters containing money should be registered with the United States Postal Service.

(b) Payments of money required for United States Patent and Trademark Office fees may also be made by credit card. Payment of a fee by credit card must specify the amount to be charged to the credit card and such other information as is necessary to process the charge, and is subject to collection of the fee. The Office will not accept a general authorization to charge fees to a credit card. If credit card information is provided on a form or document other than a form provided by the Office for the payment of fees by credit card, the Office will not be liable if the credit card number becomes public knowledge.

Dated: May 15, 2000.

Q. Todd Dickinson,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 00-12992 Filed 5-23-00; 8:45 am]

BILLING CODE 3510-16-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NM39-1-7462; FRL-6703-8]

Approval and Promulgation of Implementation Plans; State of New Mexico; Approval of Revised Maintenance Plan and Motor Vehicle Emissions Budgets; Albuquerque/Bernalillo County, New Mexico; Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving revisions to the Albuquerque/Bernalillo County carbon monoxide (CO) State Implementation Plan (SIP) under the Federal Clean Air Act as Amended in

1990 (the Act). On February 4, 1999, the Governor requested EPA approval of a revision to the CO maintenance plan and motor vehicle emissions budgets covering 1996 to 2006, and the establishment of a CO motor vehicle emissions budget for the year 2010. The EPA initiated the approval process in two rule makings, the first for revisions to the CO maintenance plan and motor vehicle emissions budgets covering 1996 to 2006, and the second action to establish a CO motor vehicle emissions budget for the year 2010. This action is a final approval of both actions; revisions to the CO maintenance plan, and the CO Motor Vehicle Emissions Budget for 1996, 1999, 2002, 2005, 2006, and 2010. These CO Motor Vehicle Emissions Budgets are for transportation conformity purposes.

EFFECTIVE DATE: This rule is effective on May 24, 2000.

ADDRESSES: Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Dallas, Texas 75202-2733.

Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Witosky of the EPA Region 6 Air Planning Section, at (214) 665-7214, or WITOSKY.MATTHEW@EPA.GOV.

SUPPLEMENTARY INFORMATION:

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

1. What Action Is EPA Taking?

The EPA is promulgating final approval of revisions to the Albuquerque CO maintenance plan. The original plan was approved in 1996 (61 *FR* 29970). In a document published December 20, 1999, the EPA published a direct final approval of revisions to the CO maintenance plan and related conformity budgets (64 *FR* 71027), with a companion proposed rule (64 *FR* 71086). The companion proposed rule was published in the event we received adverse comments, which we did. The direct final rule was withdrawn on February 14, 2000 (65 *FR* 7290). That document indicated that final action would be forthcoming.

The EPA also proposed approval of a Motor Vehicle Emissions Budget

(MVEB) for 2010 for the CO maintenance area. That notice was published on February 29, 2000, beginning a 30 day public comment period (65 FR 10437). No comments were received on this proposed action.

Today's action is final approval and promulgation of both actions.

inventory for the nonattainment area. The following table summarizes the emission inventory for Albuquerque.

2. What Is Being Approved?

First, we are approving revisions to the CO maintenance plan's emission

ALBUQUERQUE MAINTENANCE PLAN

[Carbon monoxide emissions in tons per day (tpd): revised maintenance plan]

Category	1996	1999	2002	2005	2006
Highway Mobile	266.99	229.09	209.01	205.67	205.86
Off-Road Mobile	50.90	52.68	54.46	56.25	56.84
Area	67.19	69.87	72.60	75.25	76.09
Stationary	3.92	27.40	27.54	27.68	27.72
Total	389.00	379.04	363.61	364.85	366.51

The EPA is also approving a series of MVEB's for the region, including a MVEB for the year 2010, which is beyond the current 10 year maintenance plan. These approved MVEB's are as follows:

TABLE 2.—ALBUQUERQUE CO MAINTENANCE PLAN
[Motor vehicle emissions budget (in tpd)]

Year	1996	1999	2002	2005	2006	2010
MVEB	266.99	229.09	209.01	205.67	205.86	222.46

3. How Will These MVEB's Be Used?

These MVEB's will be used for transportation conformity purposes, replacing the budgets in the original maintenance plan. The five year Transportation Improvement Program (TIP) and 20 year transportation plans for the Albuquerque region and corresponding emissions from on-road vehicles cannot surpass the above budgets.

4. When Is EPA's Approval Effective?

This action concerns only approval of the revised maintenance plan and MVEB's. Since December of 1999, the Albuquerque area has been in a conformity lapse, during which time certain transportation projects cannot be approved, accepted, or funded. The EPA is making this action effective upon publication to facilitate the conformity process.

The EPA reminds all parties that this document does not end the conformity lapse. The EPA, FHWA, State, and local planning agencies are working to complete the conformity process. The final conformity determination will be made by the FHWA.

Under the Administrative Procedures Act (APA), 5 U.S.C. 553(d)(3), agency rule makings may take effect before 30 days after the date of publication in the **Federal Register** if an agency has good cause to mandate an earlier effective date. It's the EPA's position that approving the necessary budgets as soon as possible, in the interest of facilitating

the end of the conformity lapse, is cause to support making this action taking effect on publication.

5. What Comments Did EPA Receive to the Direct Final Notice?

Comment 1

Several parties stated that the Albuquerque Environmental Health Department (AEHD) is inverting the conformity process by setting a MVEB budget to fit a transportation plan. One party stated that the AEHD elected to revise the maintenance plan budget when the transportation plans could not conform. The party further stated that there is no data to show that the increase in VMT being incorporated into the budget is due solely to the unexpected growth in population.

Response

The Clean Air Act as Amended in 1990, hereafter referred to as "the Act," does not prohibit that maintenance areas review and revise their maintenance plans. As long as areas demonstrate continued maintenance, areas may revise them at their discretion, in accordance with the requirements of the Act, EPA's rules, and applicable guidance. Many areas revise them to estimate, more accurately, emissions that have grown at a rate different than the rate assumed in the original maintenance plan. All maintenance plans are revised after eight years, extending them an additional ten years. The AEHD elected

to revise several elements of the inventory to make it more accurate. All of the emissions categories were revised as a result of this review.

Similarly, the Act allows areas to revise their Motor Vehicle Emissions Budget, so long as the area demonstrates they will maintain the standard. The revision submitted to the EPA shows total emissions in the area will remain at or below the emissions quantified in the attainment year. This constitutes an acceptable demonstration of continued attainment of the CO standard. (See the Act section 110, see also the preamble to the conformity rule at 58 FR 62196 on how to revise the budget and see 40 CFR 93.118).

Comment 2

The party alleged that the AEHD incorporated inappropriate assumptions used in the transportation model into the mobile modeling used to support the SIP revision. The party objected to straight-line interpolation of VMT levels as an inappropriate technique to estimate emissions.

Response

The EPA provided for interpolation as an acceptable method of estimating emissions for regulatory purposes in guidance documents for completing SIP's. Specifically, the EPA guided planning agencies to use interpolation to estimate emissions for projected inventories, where it would be too costly and time-consuming to generate

analyses for the interim years within a specified time period. The EPA issued this guidance for VMT growth factors (Procedures for Preparing Emissions Projections, 1991, page 29), and speeds (Procedures for Emission Inventory Preparation, 1992, page 31), and therefore, emissions.

In the case of Albuquerque, the MPO projected VMT for 1995, 2000, 2005, and 2010 using their transportation model, and per EPA guidance, calibrated the model using Highway Performance Measurement System (HPMS)-based factors. Since the maintenance plan was required to begin in 1996 and conclude in 2006, the AEHD used interpolation to determine the appropriate emissions for interim years. This is acceptable under EPA guidance.

The EPA reviewed the other Mobile5a inputs that represent assumptions about local conditions. It is EPA's position that these assumptions are reasonable and represent the best information currently available.

Comment 3

The party stated that the AEHD incorrectly estimated the impact of Big-I construction on vehicle speeds during construction, and VMT on alternative routes due to construction.

Response

The AEHD is not required to quantify and incorporate the impact of construction in their MVEB in the SIP, because the impact of such construction is considered temporary. Emission inventory guidance does not instruct areas to quantify mobile emissions at the level of discrete construction projects.

We would point out that we cannot make an exception for a violation of the standard that could be attributed to temporary traffic conditions related to construction. While the MVEB does not have to include these temporary emissions, we do support the efforts of the AEHD and other agencies to mitigate them during the construction phase to avoid possible violations.

Comment 4

The party alleged that the AEHD used the 2010 roadway network to calculate emissions for the 2006 projections.

Response

The proposed revision does not use the 2010 road network as the basis for determining VMT and then emissions in 2006. The projections for 2006 were based on interpolation between the two years for which the AEHD conducted VMT and emissions analysis using the

more direct method of estimation. This method used complete street inventories, as they are expected to be in 2005 and 2010. Interpolation between these years allocates growth in VMT and emissions to each year during the period being studied. This does not mean that the impact of all road improvements scheduled to take place between 2005 and 2010 are being used to calculate emissions in 2006. As mentioned in a previous response, this interpolation technique is acceptable under EPA guidance.

Comment 5

The party stated that the AEHD used travel demand management programs (TDM's) or transportation control measures (TCM's) to reduce VMT used to set the emissions budget, even though the TDM's and TCM's do not have designated sources of funding and are not in the federally approved SIP.

Response

The AEHD did not use any TCM's or TDM's to calculate the base emission inventory, project future inventories, or set the corresponding MVEB's. The AEHD used VMT projections provided to them by the Middle Rio Grand Council of Governments, the authorized MPO in the area. In a letter dated March 26, 1997, the AEHD specifically requested that the MPO not use any VMT reduction programs in the analysis they were to submit. The City's revision package submitted to the EPA included a summary of the VMT calculation methodology written by the MPO, dated September 11, 1997. That summary stated that the MPO did not use any VMT mitigation programs in the VMT estimates that they were providing. These estimates were then used in the inventory process.

The party referred to measures used to mitigate VMT growth in the effort to meet the MVEB. Those measures were not in the SIP revision, but were incorporated into the conformity analysis, as permitted under the transportation conformity rule. The conformity analysis is under review by the EPA. After review and comment by the EPA, FHWA issues its determination on conformity.

Comment 6

The party alleged that population was attributed to areas that will not have road access until after 2020.

Response

The EPA would remind the party that the action is for approval of the maintenance plan to 2006, and the MVEB to 2010. The EPA reviewed maps

available to the general public ("tiger" maps generated on April 28, 2000, from <http://www.census.gov>) at the U.S. Census Bureau web site of the referenced areas, and found road access to these areas.

Comment 7

The party stated that the road improvements from the Big I project would induce changes in trip patterns, traffic patterns, and speed that were not adequately captured in the modeling.

Response

The model used by the MPO is appropriate and able to represent these changes. It is EPA's position that the MPO followed appropriate guidance in using the model to project changes in VMT and speed that result from transportation system improvements, the kind of changes in VMT the model was designed to measure.

Comment 8

The party alleged that compliance with the Inspection and Maintenance (I/M) program and anti-tampering enforcement rates were too high. The party said that a 95 percent compliance rate was too high, and the AEHD should have used 90 percent compliance.

Response

The AEHD based their assumption on the national default rate, 96 percent, for approved I/M programs. The AEHD reduced the compliance rate from 96 to 95 percent to be slightly more conservative than the national compliance factor. The EPA receives and reviews periodic summary reports for the program, and finds the assumption reasonable.

Comment 9

The party stated that the AEHD used national default fleet mix and national default mileage accrual rates, when they should have developed their own fleet mix and mileage rates from the I/M program.

Response

Agencies using the Mobile model may use EPA's national default values for these model inputs (See Mobile 5 Users manual). Although the EPA acknowledges that data generated locally is likely to reflect local conditions more accurately, this is at the discretion of the planning agencies. EPA's default values are acceptable for areas that elect not to develop their own, until the EPA can update the model and related default values.

Comment 10

The party objected to setting urban and rural local road speeds to a constant 25 and 20 miles per hour.

Response

The modeling does reflect that the MPO set traffic speed on all urban local roads to an average of 25 miles per hour, and traffic on rural local roads to average 20 miles per hour. An assumption had to be made because the HPMS does not provide data on local roads. For all other road categories, the model employs actual field data to calibrate speeds. The assumption of 20 and 25 miles per hour on local roads was reasonable, and resulted in higher emission factors than such factors for any other road class. The proportion of all traffic on local roads was about ten percent. Local planning agencies are left to make reasonable judgments to estimate speed on these roads. In EPA's opinion, these are reasonable assumptions.

The EPA further analyzed this issue by comparing the VMT and speed data used in the SIP to the data used in the transportation plans now under conformity review. The MPO used the same projected VMT and speed estimates for this SIP, and the corresponding transportation plan and TIP. Since the MPO used identical numbers for both analyses, the impact of the traffic speed assumption vis-a-vis another assumption is minimal.

Comment 11

The party alleges that the AEHD modeled lower speeds and lower emissions by using a speed enforcement program, without documentation to support including such a program.

Response

The projected speeds used to compute the emissions in the SIP revision decreased slightly over time. The EPA reviewed the emission projections in detail and concluded that lower speeds are more a product of increased VMT. Speed estimates on such roadway segments are the product of the transportation model. As pointed out above, the Albuquerque MPO appropriately employed an endorsed model that, under an assumption of continued VMT growth, would induce lower speeds in future years.

Comment 12

The Party contends that the Albuquerque vehicle fleet is not as clean as the national average. The party also stated that the model runs did not differentiate the fleet mix by roadway class.

Response

Under EPA guidance, the AEHD can rely on national default values for vehicle fleet mix and vehicle mileage accrual rates. When the model uses defaults for the mix and mileage rates, the fleet mix by roadway class also becomes an implicit default variable. (Mobile 5 Users Guide, sec. 2.2.2, and 2.2.3).

Comment 13

The Party contends that the goal for decreasing reliance on the Single Occupant Vehicle (SOV) was relaxed from the 2015 plan to the 2020 plan.

Response

Beyond a demonstration of continued maintenance, the issue is not germane to this action. Local agencies have the discretion to elect how they will maintain the standard. The EPA encourages areas to take actions to reduce reliance on the SOV. However, AEHD's revision demonstrates continued attainment with credible analysis, which meets the requirements of the Act.

Comment 14

The Party contends that the 1.4 billion dollars needed to implement the 2020 Plan has not been secured, because the Regional Transit Authority was not granted taxing authority. The Party claims that a line item of \$100 million dollars in the 2000 to 2005 plan to purchase busses was deleted, but remained in the first five years of the 2020 plan.

Response

The comment is not germane to this SIP action, because transit improvements were not employed in generating the VMT projections used by the AEHD to project emissions for the inventory and MVEB. The issues of fiscal constraint are beyond the scope of this SIP approval action and should be addressed in the transportation conformity process.

Comment 15

The Party alleges that building additional road capacity produces more VMT, but that the model is inadequate to capture this. The party contends that the model predicts lower emissions as a result of road expansion, when the model should predict more emissions.

Response

The MPO used an endorsed transportation model, currently the best tool available to planning agencies. All areas that employ models must show that their model predicts, with

reasonable accuracy, the impact of transportation improvements. This process, called calibration and validation, was performed in order for the modeling results to be acceptable. The EPA encourages the party to bring their concerns into the conformity process through the established public participation process.

Comment 16

The Party states that they regularly commute by bicycle, and observes fewer bicycles on the road despite the increase in facilities. The party says this observation contradicts the assumption of the MPO that increased bicycle ridership will reduce VMT.

Response

The assumption of increased bicycle ridership was not used to estimate VMT, and therefore did not affect emissions in the SIP MVEB.

Comment 17

The Party asked if recent ozone readings presage nonattainment of ozone, that would result through a greater allowance for CO emissions.

Response

The AEHD is not required to demonstrate maintenance of the ozone standard in order to revise their CO maintenance plan in the CO SIP. The concept of conformity was created in the Act to insure that the growth of VMT and on-road emissions did not interfere with attainment and maintenance of national standards. Any actions that AEHD or EPA might take to continue ozone maintenance must be under the legal framework established for control of ozone precursors. Currently there is no monitoring data that indicate ozone violations. If evidence ever shows there are violations, the EPA can issue a SIP call for the area to submit an ozone SIP. An EPA SIP call and/or a designation to ozone nonattainment would, in fact, compel the area to perform conformity analysis for ozone precursors.

The EPA is acting on a revision to the CO SIP, which meets the requirements for such a revision.

Comment 18

The Party asked what would prevent the AEHD from asking for another revision to the MVEB, in three or four years?

Response

The AEHD could request another revision to the MVEB at a later date. The AEHD must extend the initial maintenance plan an additional ten

years before the initial maintenance plan expires in 2006. However, basin-wide emissions must remain below 389 tons per day as established in the maintenance plan.

Comment 19

The Party asks that the EPA issue a conditional approval, with the condition that the transportation model be improved. The Party also requested that approval be conditioned on a commitment from the MPO to a balanced transportation system.

Response

The EPA's review and approval is based on whether the Albuquerque area can maintain the CO standard and prevent violations of the CO standard with a revised MVEB (see section 110 of the Act). It's EPA's opinion that AEHD successfully demonstrated that Albuquerque will continue to maintain the CO standard with a revised MVEB.

6. What Comments Did EPA Receive to the February 28, 2000, Proposed Rule?

The EPA received no comments to that proposed rule.

7. Will Albuquerque have to Revise the Inventory and MVEB's Again?

Albuquerque must revise the maintenance plan again by 2004, to extend the maintenance plan an additional 10 years from the final year of the current plan, 2006. This will cover the years from 2006 to 2016. This may result in changes to the 2006, and 2010 budgets established today. Regardless, the area must remain below the total level of CO emissions established in the maintenance plan to demonstrate continued attainment of the standard.

II. Final Action

The EPA is approving revisions to the Albuquerque/ Bernalillo County carbon monoxide (CO) State Implementation Plan (SIP). This action is a final approval of revisions to each of the categories of the CO emissions inventory, the basin-wide total of CO emissions for the area, and the CO Motor Vehicle Emissions Budgets for 1996, 1999, 2002, 2005, 2006, and 2010. The CO Motor Vehicle Emissions Budgets must be used for transportation conformity purposes once this approval is effective.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866,

entitled "Regulatory Planning and Review."

B. Executive Order 13132

Executive Order 13132, entitled "Federalism" (64 *FR* 43255, August 10, 1999) revokes and replaces Executive Order 12612, "Federalism," and Executive Order 12875, "Enhancing the Intergovernmental Partnership." Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. The EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 *FR* 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an

environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This final rule is not subject to Executive Order 13045 because it approves a State program.

D. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rule making requirements unless the agency certifies that the rule will not have a significant

economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and

advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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. The EPA will submit a report containing this rule 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 can not 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). This rule will be effective May 24, 2000.

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by July 24, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Intergovernmental Relations, Carbon Monoxide.

Dated: May 12, 2000.

Gregg A. Cooke,
Regional Administrator, Region 6.

Part 52, chapter I, title 40 of the Code of Federal Regulations 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. In § 52.1620(e) the table at the end of the paragraph is amended by adding a new entry to the end of the table as follows:

§ 52.1620 Identification of plan.

* * * * *

(e) EPA approved nonregulatory provisions.

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EPA APPROVED NEW MEXICO STATUTES IN THE CURRENT NEW MEXICO SIP

State citation	Title/subject	State approval/effective date	EPA approval date	Comments
City of Albuquerque request for redesignation.	Carbon monoxide maintenance plan and motor vehicle emission budgets.	June 22, 1998.	[Insert date of publication and FR page number].	

[FR Doc. 00-12792 Filed 5-23-00; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 62**

[AD-FRL-6603-5]

RIN 2060-ZA03

Federal Plan Requirements for Large Municipal Waste Combustors Constructed On or Before September 20, 1994**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: The EPA is taking direct final action on the "Federal Plan Requirements for Large Municipal Waste Combustors Constructed on or Before September 20, 1994." The amendments in this document clarify the final compliance date, update the list of which large municipal waste combustor (MWC) units are affected by the Federal plan, and add a site-specific compliance schedule for one MWC unit.

On November 12, 1998, the EPA adopted the Federal plan to implement emission guidelines for large MWC units located in areas that are not covered by an approved and currently effective State plan. We are updating the MWC Federal plan to identify large MWC units for which a State plan was approved and became effective since adoption of the Federal plan (November 12, 1998). We are also amending certain regulations to reflect receipt of negative declarations from States that have certified that there are no large MWC units located in the State that would be subject to the Federal plan. We are also amending a table in the Federal plan to clarify that in all cases for all large MWC units, final compliance with all emission limits including the mercury (Hg) and dioxins/furans emission limits must be achieved by December 19, 2000. Finally, we are amending a table to add

the site-specific compliance schedule for one additional MWC unit. Today's action does not change the emission limits for large MWC units nor does it change the level of health protection that the Federal plan provides.

DATES: These amendments to part 62 are effective on July 24, 2000, without further notice unless we receive significant material adverse comments by June 23, 2000. If we receive such comments, we will publish, on or before this rule's effective date, a document in the **Federal Register** withdrawing this direct final rule and informing the public that this direct final rule will not take effect.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (MC-6102), Attn: Docket No. A-97-45/Category V-D, U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Comments may also be submitted electronically. For information on submitting comments electronically, see the **SUPPLEMENTARY INFORMATION** section. Address all comments and data for this action, whether on paper or in electronic form, such as through e-mail or disk, to Docket No. A-97-45/Category V-D.

FOR FURTHER INFORMATION CONTACT: For procedural and implementation information regarding these amendments, contact Ms. Julie Andresen McClintock at (919) 541-5339, Program Implementation and Review Group, Information Transfer and Program Integration Division (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711. For State-specific information regarding the implementation of this Federal plan, contact the appropriate Regional Office (table 1) as shown in **SUPPLEMENTARY INFORMATION:**

Docket. Docket No. A-97-45 contains information considered by EPA in developing the MWC Federal plan and this action. You can inspect the docket and copy materials from 8 a.m. to 5:30 p.m., Monday through Friday, excluding

legal holidays. The docket is located at the EPA's Air and Radiation Docket and Information Center, Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW., Washington, DC 20460; telephone (202) 260-7548 or fax (202) 260-4400. A reasonable fee may be charged for copying.

SUPPLEMENTARY INFORMATION: We are publishing these amendments without prior proposal because we view these amendments as noncontroversial and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to these amendments if adverse comments are filed. These amendments will be effective on July 24, 2000, without further notice unless we receive adverse comment on the parallel proposal by June 23, 2000. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** informing the public that these amendments will not take effect. We will address all public comments in a subsequent final amendment package based on the proposed amendments. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no comments are received, the public is advised that these amendments will be effective on July 24, 2000, and no further action will be taken on these amendments.

Regulated Entities

Entities regulated by this action are existing MWC units with the capacity to combust greater than 250 tons per day of municipal solid waste (MSW) (large MWC units) unless the unit is subject to a section 111(d)/129 State plan that has been approved by EPA and is currently in effect. Regulated categories and entities include the following North American Industrial Classification System (NAICS) codes and Standard Industrial Classification System (SIC) codes.

Category	NAICS codes	SIC codes	Examples of regulated entities
Industry and local government agencies.	562213 92411	4953 9511	Waste-to-energy plants that generate electricity or steam from the combustion of garbage by feeding municipal waste into large furnaces. Incinerators that combust trash but do not recover energy from the waste.

The foregoing table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by the MWC Federal plan. For specific applicability

criteria, see 40 CFR 62.14100 and 62.14102.

Electronic Submittal of Comments

Comments may be submitted electronically. Send electronic submittals to: "A-and-R-Docket@epamail.epa.gov". Submit