

Dated: April 25, 2005.

**Steven D. Vaughn,**

*Director, Office of New Animal Drug Evaluation.*

[FR Doc. 05-14329 Filed 7-20-05; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 124

RIN 1076-AE74

#### Deposit of Proceeds From Lands Withdrawn for Native Selection; Correction

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains a correction to a final rule that was published Thursday, July 14, 2005 (70 FR 40660). The regulation relates to Deposit of Proceeds from Lands Withdrawn for Native Selection.

**EFFECTIVE DATE:** July 14, 2005.

**FOR FURTHER INFORMATION CONTACT:**

Assistant Director, Office of Trust Regulations, Policies and Procedures, by telephone at (505) 816-1086, or by facsimile transmission at (505) 816-1377.

**SUPPLEMENTARY INFORMATION:** This rule is published by the authority of the Secretary, granted under 43 U.S.C. 1601 *et seq.* and 25 U.S.C. 4001 *et seq.*, and delegated to the Assistant Secretary—Indian Affairs 209 DM 8.1.

#### Background

The final rule provides contact information to be used by all Departments and Agencies, the State of Alaska, and any other interested parties for deposit of proceeds from lands withdrawn for native selection. This rule was published by the Assistant Secretary—Indian Affairs in consultation with the Special Trustee for American Indians under the provisions of the American Indian Trust Fund Management Reform Act of 1994.

#### Need for Correction

As published, the final rule was introduced by words of issuance that do not satisfy Office of the Federal Register standards. The language must be corrected to allow for correct codification of the revised regulation.

#### Correction of Publication

Accordingly, the publication on July 14, 2005, of the final rule that was the

subject of FR Doc. 05-13891, is corrected as follows:

On page 40660, in the second column, immediately following the name and title of the document's signer, in the words of issuance, the word "amended" is corrected read "revised."

Dated: July 15, 2005.

**James E. Cason,**

*Associate Deputy Secretary of the Interior.*

[FR Doc. 05-14437 Filed 7-20-05; 8:45 am]

BILLING CODE 4310-2W-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Docket # ID-03-003; FRL-7941-7]

#### Approval and Promulgation of Air Quality Implementation Plan; Idaho; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects the preamble to a final rule published in the **Federal Register** of July 11, 2005 (70 FR 39658) regarding revisions to the open burning regulations in Idaho's State Implementation Plan. This notice clarifies that, under section 307(b)(1) of the Clean Air Act, any petition for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from the date notice of approval appeared in the **Federal Register**, and not 30 days, as erroneously stated in July 11, 2005 action.

**FOR FURTHER INFORMATION CONTACT:** Donna Deneen, (206) 553-6706.

**SUPPLEMENTARY INFORMATION:**

#### Correction

In the final rule, beginning on page 39658 in the issue of July 11, 2005, make the following correction, in the **SUPPLEMENTARY INFORMATION** section. On page 39661 in the 3rd column, remove "August 10, 2005" in the first paragraph and replace it with "September 9, 2005".

Dated: July 14, 2005.

**Michelle Pirzadeh,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 05-14399 Filed 7-20-05; 8:45 am]

BILLING CODE 6560-50-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R06-OAR-2005-NM-0001; FRL-7942-5]

#### Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County

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

**ACTION:** Final rule.

**SUMMARY:** This action finalizes our approval of the State Implementation Plan (SIP) revisions submitted by the Governor of New Mexico on September 7, 2004. The submittal revises the second ten-year carbon monoxide (CO) maintenance plan for the Albuquerque/Bernalillo County, New Mexico area. The submittal also revises the relevant parts of the New Mexico Administrative Code (NMAC) including revisions to the General Provisions, Inspection and Maintenance (I&M) Program, and the contingency measures. We are finalizing approval of these revisions in accordance with the requirements of the Federal Clean Air Act (the Act).

**DATES:** This rule is effective on August 22, 2005.

**ADDRESSES:** The EPA has established a docket for this action under Regional Material in EDocket (RME) Docket ID No. R06-OAR-2005-NM-0001. All documents in the docket are listed in the RME index at <http://docket.epa.gov/rmepub/>, once in the system, select "quick search," then key in the appropriate RME Docket identification number. Although listed in the index, some information is not publicly available, *i.e.*, CBI 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 in RME 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 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 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.

The State submittal is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

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

The City of Albuquerque, Environmental Health Department, One Civic Plaza, Albuquerque, NM 87102.

**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar of the Air Planning Section (6PD-L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733 at (214) 665-6691, [shar.alan@epa.gov](mailto:shar.alan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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In this document “we,” “us,” and “our” refer to EPA.

**I. Background Information**

*1. What Actions Are We Taking in This Document?*

On April 14, 2005 (70 FR 19723) we proposed approval of revisions to the New Mexico SIP pertaining to the second ten-year CO maintenance plan for the Albuquerque/Bernalillo County, New Mexico area and its relevant parts of the NMAC including revisions to the General Provisions, I&M Program, the Oxygenated Fuels Program, and the contingency measures. In the April 14, 2005 **Federal Register** (70 FR 19723), we stated that written comment must be received by May 16, 2005. We received written adverse comments during the public comment period.

On June 8, 2005 (70 FR 33363) we published the withdrawal of the direct final rule 70 FR 19702 due to the adverse comments received. A detailed rationale for our action is set forth in the direct final rule. See 70 FR 19702, and the Technical Support Document for further information. In the June 8, 2005, **Federal Register** (70 FR 33363) as well as the April 14, 2005 direct final rule we stated that we will summarize and respond to written comments received, and take final rulemaking action on the requested New Mexico SIP revision. In the June 8, 2005, **Federal Register** (70

FR 33363), we cited two references as “71 FR 19723” and “71 FR 19702” by mistake. The correct citations for those two references should have read “70 FR 19723” and “70 FR 19702” instead. Today, we are correcting that error.

Today, we are also summarizing and responding to written comments received and taking final rulemaking action on the April 14, 2005 (70 FR 19723) proposal pertaining to the Albuquerque/Bernalillo County, New Mexico SIP revision. See sections 2 and 3 of this document for more information.

*2. Who Submitted Comments to Us?*

We received written comments on the April 14, 2005 (70 FR 19723), proposed New Mexico SIP revision. The comments were submitted by Chevron and ConocoPhillips (the Commenters) during the public comment period.

*3. What Is Our Response to the Submitted Written Comments?*

Our responses to the written comments concerning the April 14, 2005 (70 FR 19723) proposal, New Mexico SIP revision are as follows:  
*Comment #1:* Chevron and ConocoPhillips (the Commenters) expressed their opposition to maintaining the 2.7 percent oxygenated fuel content requirement, for the period from November 1st through the end of February (Winter season) as a part of the second ten-year CO limited maintenance plan, within the Albuquerque/Bernalillo County, New Mexico area. Chevron submitted a chart indicating the downward trend of calculated CO concentrations in the area for the recent years to substantiate its position.

*Response to Comment #1:* The Act assigns to the states initial and primary responsibility for formulating a plan to achieve the NAAQS. It is up to the state to prepare state implementation plans which contain specific pollution control measures. An examination of this SIP submittal reveals no record of the Commenters having provided input or submitted comments to the State or the Albuquerque Environmental Health Department (AEHD) during their rulemaking process. The EPA’s responsibilities under the Act are qualitatively different from those of the state agency. The EPA is charged with reviewing and approving or disapproving the enforceable implementation plans prepared by states and other political subdivisions identified in the statute. It is not EPA’s role to disapprove the State’s choice of control strategies if that strategy will result in attainment or continued

maintenance of the NAAQS, and meets all other applicable statutory requirements. See *Union Electric v. EPA*, 427 U.S. 246 (1976); *Train v. NRDC* 421 U.S. 60 (1975). The EPA’s role in reviewing SIP submittals is to approve state choices, provided that they meet the criteria of the Act. Federal inquiry into the reasonableness of state action is not allowed under the Act (see, *Union Electric Co. v. EPA*, 427 U.S. 246, 255-266 (1976); 42 U.S.C. 7410(a)(2)). Under section 116 of the Act, with certain exceptions not relevant here, a State retains the right to adopt and enforce any requirement respecting control or abatement of air pollution, including more stringent emissions standards and limitations. The State has submitted information indicating that the administrative requirements of New Mexico law have been met. We can agree with the Commenters’ statement that all CO emissions in the Albuquerque/Bernalillo County are not from mobile sources. However, the CO emissions inventory Table I of the April 14, 2005 (70 FR 19702) direct final rule indicates that more than 84% (398.14/473.34) of the CO emissions in the area are mobile source related. We can agree with the Commenters that the overall trend as shown in the chart, provided by the Commenters, indicates a downward trend for the calculated CO concentrations in the Albuquerque/Bernalillo County area for recent years. However, we consider this downward trend to be attributable to the success of control measures and implementation of enforceable air quality plans adopted by Albuquerque/Bernalillo County. Thus, removing the oxygenated fuel content requirement as requested by the Commenters (even if EPA had such authority which, as explained previously, it does not) could potentially cause CO concentrations in the area to increase. We believe that the measures adopted by the Albuquerque/Bernalillo County are adequate, and reflect a coherent way air planning and transportation have come together to address air quality issues in the area. For all of these stated reasons, we disagree with the Commenters’s opposition to the existing program.

*Comment #2:* Chevron states that on multiple occasions this past season the railroad was unable to deliver ethanol tank cars into their terminal when they were needed. Chevron also stated they experienced similar problems in their Phoenix and Las Vegas terminals, as well. In those instances, Chevron claims that they had to arrange to purchase and truck ethanol into their terminals to

ensure a continuous and reliable supply to the customers.

*Response to Comment #2:* This comment is not relevant to today's rulemaking action. Various forms of the Oxygenated Fuels Program have been in place since 1988 in the area, and EPA approved the Program utilizing ethanol in 1993. Today's rulemaking only approves minor grammatical and typographical changes to the existing program; it does not change the substance of the program EPA approved in 1993. Chevron's concern about ethanol supply to meet the existing program, therefore, is not relevant to today's action.

As noted previously, the State has the authority to include these measures under section 116 of the Act in its SIP. Again, comments concerning ethanol supply issues should have also been directed to the State. Therefore, we can not delete these measures from the SIP, if the State has adopted or wants to include them in its SIP.

As far as Chevron's Albuquerque terminal operation is concerned, we believe that the delivery and on-time availability of ethanol scenarios described above are largely business strategy related matters rather than a CO maintenance issue. Such matters are best addressed through merchandise inventory preparations, factoring storage tank design/capacity estimates, advance scheduling/planning, and forecasting considerations.

This concludes our responses to the written comments we received during public comment period concerning the April 14, 2005 (70 FR 19723), New Mexico proposed SIP revision.

#### 4. What Areas in New Mexico Will These Rule Revisions Affect?

These rule revisions affect all sources of air emissions operating within the Albuquerque/Bernalillo County, New Mexico area.

## II. Final Action

Today, we are finalizing approval of the CO limited maintenance plan and its relevant parts of the NMAC including revisions to the General Provisions ("Resolutions," "Definitions," and "Interpretation"), I&M Program, the Oxygenated Fuels Program, and the contingency measures. We published the proposal for this approval on April 14, 2005 (70 FR 19723).

## III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the

Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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 Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of

the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 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 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 September 19, 2005. 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, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: July 14, 2005.

**Richard E. Greene,**

*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. Section 52.1620 is amended as follows:

■ a. In paragraph (c), in the second table entitled "EPA Approved Albuquerque/"

Bernalillo County, NM Regulations,” by revising the entries for parts 1, 100, and 102.  
 ■ b. In paragraph (e), in the second table entitled “EPA Approved Nonregulatory

Provisions and Quasi-Regulatory Measures in the New Mexico SIP” by adding one new entry to the end of the table. The revisions read as follows:

§ 52.1620 Identification of plan.  
 \* \* \* \* \*  
 (c) \* \* \*

EPA APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NM REGULATIONS

State citation	Title/subject	State approval/effective date	EPA approval date	Explanation
<b>Albuquerque/Bernalillo County, Air Quality Control Regulations</b>				
* * * * *				
<b>New Mexico Administrative Code (NMAC) Title 20—Environment Protection, Chapter 11—Albuquerque/Bernalillo County Air Quality Control Board</b>				
Part 1 (20.11.1 NMAC) .....	General Provisions .....	09/07/04	7/21/05 [Insert FR page where document begins]	
Part 100 (20.11.100 NMAC) .....	Motor Vehicle Inspection—Decentralized ....	09/07/04	7/21/05 [Insert FR page where document begins]	
Part 102 (20.11.102 NMAC) .....	Oxygenated Fuels .....	09/07/04	7/21/05 [Insert FR page where document begins]	
* * * * *				

\* \* \* \* \* (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 date/effective date	EPA approval date	Explanation
Second 10-year maintenance plan (limited maintenance plan) for Albuquerque/Bernalillo County.	Bernalillo County .....	09/07/04	7/21/05 [Insert FR page where document begins]	
* * * * *				

■ 3. Section 52.1627 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

**§ 52.1627 Control strategy and regulations: Carbon monoxide.**

\* \* \* \* \*

(b) Approval—The Albuquerque/Bernalillo County carbon monoxide limited maintenance plan revision dated September 7, 2004, meets the requirements of section 172 of the Clean Air Act, and is therefore approved.

[FR Doc. 05–14388 Filed 7–20–05; 8:45 am]

BILLING CODE 6560–50–P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 1**

[MD Docket Nos. 05–59 and 04–73; FCC 05–137]

**Assessment and Collection of Regulatory Fees for Fiscal Year 2005; Assessment and Collection of Regulatory Fees for Fiscal Year 2004**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, we conclude a proceeding to collect \$280,098,000 in regulatory fees for Fiscal Year (FY) 2005. These fees are mandated by Congress and are collected to recover the regulatory costs

associated with the Commission's enforcement, policy and rulemaking, user information, and international activities. We also deny the petition for reconsideration filed by Cingular Wireless LLC of the Commission's *FY 2004 Report and Order*.

**DATES:** Effective August 22, 2005.

**FOR FURTHER INFORMATION CONTACT:** Roland Helvajian, Office of Managing Director at (202) 418–0444 or Rob Fream, Office of Managing Director at (202) 418–0408.

**SUPPLEMENTARY INFORMATION:**

*Adopted:* July 1, 2005.

*Released:* July 7, 2005.

*By the Commission:* Commissioner Copps concurring and issuing a statement; Commissioner Adelstein approving in part, concurring in part, and issuing a statement.

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