Pennsylvania’s Clean Vehicles Program; and to specify a transition mechanism to the California LEV provisions. Pennsylvania has adopted California’s LEV II program by incorporating by reference portions of the California LEV II regulations (i.e., Title 13 California Code of Regulations, Division 3, Chapters 1 and 2) into the Pennsylvania Code.

Pennsylvania submitted a SIP revision to EPA requesting that EPA approve Pennsylvania’s Clean Vehicle Program regulations as part of the Pennsylvania SIP. EPA’s approval would make the program Federally enforceable through the SIP.

II. Proposed EPA Action

EPA is proposing to approve the Pennsylvania Clean Vehicle Program SIP revision, which was submitted on May 31, 2007. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

III. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR section 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 proposed 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 CAA; 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 proposed rule to approve the Pennsylvania Clean Vehicle Program as part of the Pennsylvania SIP 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


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

Dated: October 25, 2011.

W.C. Early
Acting Regional Administrator, Region III.

[FR Doc. 2011–28653 Filed 11–3–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Approval and Promulgation of Implementation Plans; New Mexico; Albuquerque/Bernalillo County; Fees for Permits and Administrative Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing an approval of revisions which repeal and replace existing rules, and revisions to the applicable State Implementation Plan (SIP) for New Mexico Albuquerque/Bernalillo County, which relate to fee requirement regulations. The repeal and replace and SIP revisions proposed today would address section 110(a)(2) Clean Air Act (the Act or CAA) requirements related to fees for, in part, reviewing and acting on specific permit applications received by the City of Albuquerque/Bernalillo County Environmental Health Department (EHD or Department); fees to partially offset the administrative cost of permit-related administrative hearings; funding for small business stationary sources; and fees to cover administrative expenses incurred by the Department in implementing the New Mexico Air Quality Control Act, the joint Air Quality Control Board (AQCB) ordinance, and the Albuquerque/ Bernalillo County AQCB regulations of the New Mexico Statutes Annotated (NMSA) 1978. EPA finds that these rules and revisions comply with applicable provisions of the CAA and is proposing to approve them into the SIP. This action is being proposed under section 110 of the Act.

DATES: Comments must be received on or before December 5, 2011.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2007–0154 by one of the following methods:

- U.S. EPA Region 6 “Contact Us” Web site: http://epa.gov/region6/r6comment.htm. Please click on “R6” (Multimedia) and select “Air” before submitting comments.
- Email: Ms. Ashley Mohr at mohr.ashley@epa.gov.
- Fax: Ms. Ashley Mohr, Air Permits Section (6PD–R), at fax number (214) 665–6762.
- Mail: Ms. Ashley Mohr, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.
- Hand or Courier Delivery: Ashley Mohr, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays except for legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R06–OAR–2007–0154. 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.

[FR Doc. 2011–28653 Filed 11–3–11; 8:45 am]
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 that 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. 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.

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 Permits Section (6PD–R), 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 New Mexico submittals are also available for public inspection at the County Air Agency listed below during official business hours by appointment: Air Quality Division, Environmental Health Department, 3rd Floor, Suite 2032, One Civic Plaza NW., Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Mohr. Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7289; fax number (214) 665–6762; email address mohr.ashley@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document the following terms have the meanings described below:
• “We”, “us” and “our” refer to EPA.
• “Act” and “CAA” mean the Clean Air Act.
• “SIP” means the State Implementation Plan established under section 110 of the Act.
• “NSR” means new source review.
• “TSD” means the Technical Support Document for this action.
• “NAAQS” means any national ambient air quality standard established under 40 CFR part 50.

Table of Contents
I. The State’s Submittals
A. What action is EPA proposing?
B. Which rules did the state submit?
1. May 24, 2011 Submittal of the 2001 Repeal and Replace Revisions
2. September 7, 2004 SIP Revision Submittal
3. February 2, 2007 SIP Revision Submittal
4. December 15, 2010 SIP Revision Submittal
II. EPA’s Evaluation
A. What are the requirements for EPA’s review of a fees SIP submittal?
B. Do the submitted repeal and replace revisions and subsequent SIP revisions meet the CAA requirements?
III. Proposed Action
IV. Statutory and Executive Order Reviews
I. The State’s Submittals
A. What action is EPA proposing?
This notice provides a summary of our evaluation of the Governor of New Mexico’s submissions regarding Part 2 fees for the Albuquerque/Bernalillo County, New Mexico State Implementation Plan (SIP). The Albuquerque/Bernalillo County AQCB is the federally delegated air quality authority for Albuquerque and Bernalillo County. The Albuquerque/Bernalillo County AQCB is authorized to administer and enforce the CAA and the New Mexico Air Quality Control Act, and to require local air pollution sources to comply with air quality standards. The Albuquerque/Bernalillo County AQCB is responsible for the portion of the New Mexico SIP that applies in Bernalillo County, which encompasses the City of Albuquerque.

We provide the reasoning comprising our evaluation in general terms in this proposed rulemaking but provide a more detailed evaluation and analysis in the Technical Support Document (TSD) that has been prepared for this proposed rulemaking. We are proposing to approve the repeal and replace rule submitted on May 24, 2011, and SIP revisions submitted by the Governor of New Mexico to EPA on September 4, 2004, February 2, 2007, and December 10, 2010. We have evaluated these SIP submissions for consistency with applicable provisions of section 110(a)(2) of the CAA relating to fees. We have also reviewed the submitted rules and revisions for legal sufficiency pursuant to section 110(l) of the CAA.

In the course of this review, we identified that on April 10, 1980, EPA approved revisions to Section 21, Fees into the Albuquerque/Bernalillo County, New Mexico SIP (45 FR 44550). Since EPA’s approval, the Governor of New Mexico had not previously submitted any revisions to this Section for EPA review and approval, although the Section was eventually repealed and replaced by the Albuquerque/Bernalillo County AQCB effective July 1, 2001. The repeal and replace rule was submitted to EPA on May 24, 2011 (hereafter referred to as “2001 repeal and replace”) as a historical rule amendment and repeal and replaces the corresponding previously approved April 10, 1980 SIP for fees.

The 2001 repeal and replace was recodified and adopted into Albuquerque/Bernalillo County rules three times: first to Chapter 74, Article 10, 2010. We have evaluated these SIP submissions for consistency with applicable provisions of section 110(a)(2) of the CAA relating to fees. We have also reviewed the submitted rules and revisions for legal sufficiency pursuant to section 110(l) of the CAA.

We identify the New Mexico submittal of April 10, 1980, SIP revision to Section 21, Fees in the Albuquerque/Bernalillo County AQCB rulemaking, which recodified the 2001 repeal and replace as a historical rule (hereafter referred to as “2011 repeal and replace”) as a historical rule implementation plan established under section 110 of the Act.
Albuquerque/Bernalillo County, New Mexico SIP is impractical, and the technical review of the May 24, 2011 submittal of the 2001 repeal and replace will be used as the baseline SIP for evaluation of the September 7, 2004, February 2, 2007, and December 15, 2010 revisions.

A technical analysis of the May 24, 2011 submittal of the 2001 repeal and replace, and the September 7, 2004, February 2, 2007, December 15, 2010 SIP rule revisions has found that the baseline repeal and replace rule, and the revisions to this rule are consistent with applicable provisions of section 110(a)(2) of the CAA. Therefore, EPA is proposing an approval of the fees SIP rules submitted on May 24, 2011, September 7, 2004, February 2, 2007, and December 15, 2010.

B. Which rules did the state submit?

1. May 24, 2011 Submittal of the 2001 Repeal and Replace Revisions

The Governor of New Mexico submitted on May 24, 2011 a 2001 repeal and replace of all previous versions of Section 21 and part 2 fees, including the prior 1980 EPA approved Albuquerque/Bernalillo County AQCB regulations. This submittal includes the following changes:

- **Repeal and replace of the following sections:**
  - 20.11.2 NMAC, Issuing Agency
  - 20.11.2.2 NMAC, Scope
  - 20.11.2.3 NMAC, Statutory Authority
  - 20.11.2.4 NMAC, Duration
  - 20.11.2.5 NMAC, Effective Date
  - 20.11.2.6 NMAC, Objective
  - 20.11.2.7 NMAC, Definitions
  - 20.11.2.8 NMAC, Savings Clause
  - 20.11.2.9 NMAC, Severability
  - 20.11.2.10 NMAC, Documents
  - 20.11.2.11 NMAC, General Provisions
  - 20.11.2.12 NMAC Authority-to-Construct Permit Fees, Fee Calculations and Procedures
  - 20.11.2.13 NMAC, Annual Emission Fees, Fee Calculations and Procedures
  - 20.11.2.15 NMAC, Filing and Inspection Fees for Surface Disturbance Permits
  - 20.11.2.16 NMAC, Fee Errors, Corrections and Refunds
  - 20.11.2.17 NMAC, Failure to Pay
  - 20.11.2.18 NMAC, Fee Schedule

2. September 7, 2004 SIP Revision Submittal

The Governor of New Mexico submitted a revision on September 7, 2004 to 20.11.2 NMAC, Fees under the Albuquerque/Bernalillo County AQCB regulations. This submittal includes the following changes:

- **Revisions to the following sections:**
  - 20.11.2.2 NMAC, Scope
  - 20.11.2.3 NMAC, Statutory Authority
  - 20.11.2.6 NMAC, Objective
  - 20.11.2.7 NMAC, Definitions
  - 20.11.2.9 NMAC, Severability
  - 20.11.2.10 NMAC, Documents
  - 20.11.2.12 NMAC Authority-to-Construct Permit Fees, Fee Calculations and Procedures
  - 20.11.2.13 NMAC, Annual Emission Fees, Fee Calculations and Procedures
  - 20.11.2.15 NMAC, Filing and Inspection Fees for Surface Disturbance Permits

3. February 2, 2007 SIP Revision Submittal

The Governor of New Mexico submitted a revision on February 2, 2007 under the Albuquerque/Bernalillo County AQCB regulations. This submittal includes the following changes:

- **Revisions to the following sections:**
  - 20.11.2.6 NMAC, Objective
  - 20.11.2.18 NMAC, Fee Schedule

4. December 15, 2010 SIP Revision Submittal

The Governor of New Mexico submitted to EPA revisions on December 15, 2010 to sections of Part 2 Fees under the Albuquerque/Bernalillo County AQCB regulations. This submittal includes the following changes:

- **Additions of the following sections:**
  - 20.11.2.19 NMAC, Application Review Fees for Modification of Existing Permits
  - 20.11.2.20 NMAC, Administrative and Technical Revision Application Fees, Portable Stationary Source Relocation Fees
  - 20.11.2.21 NMAC, Annual Emission Fees and Rates for Stationary Sources
  - 20.11.2.22 NMAC, Miscellaneous Fees

- **Revisions to the following sections:**
  - 20.11.2.1 NMAC, Issuing Agency
  - 20.11.2.2 NMAC, Scope
  - 20.11.2.3 NMAC, Statutory Authority
  - 20.11.2.4 NMAC, Duration
  - 20.11.2.5 NMAC, Effective Date
  - 20.11.2.6 NMAC, Objective
  - 20.11.2.7 NMAC, Definitions
  - 20.11.2.8 NMAC, Savings Clause
  - 20.11.2.9 NMAC, Severability
  - 20.11.2.10 NMAC, Documents
  - 20.11.2.11 NMAC, General Provisions
  - 20.11.2.12 NMAC Authority-to-Construct Permit Fees, Fee Calculations and Procedures
  - 20.11.2.13 NMAC, Annual Emission Fees, Fee Calculations and Procedures
  - 20.11.2.15 NMAC, Filing and Inspection Fees for Surface Disturbance Permits

**Table 1—Summary of Each SIP Submittal That is Affected by This Action**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Proposed action</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.11.2 NMAC</td>
<td>Fees</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20.11.2.1 NMAC</td>
<td>Issuing Agency</td>
<td>5/24/2011</td>
<td>Repeal and replace: Contact information for issuing agency.</td>
<td>Approval.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12/15/2010</td>
<td>Revised section to update contact information for issuing agency.</td>
<td>Approval.</td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
<td>Submittal dates</td>
<td>Description of change</td>
<td>Proposed action</td>
</tr>
<tr>
<td>------------------</td>
<td>----------------------</td>
<td>-----------------</td>
<td>---------------------------------------------------------------------------------------</td>
<td>---------------------------------------</td>
</tr>
<tr>
<td>20.11.2.2 NMAC</td>
<td>Scope</td>
<td>5/24/2011</td>
<td>Repeal and replace: Scope of rule applicability, exemption, and variance.</td>
<td>Approval; No Action on references to Operating Permits (20.11.42 NMAC) in subsection (A).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9/7/2004</td>
<td>Revised applicability to persons consistent with specific fee updates.</td>
<td>Approval; No Action on references to Operating Permits (20.11.42 NMAC) in subsection (A).</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12/15/2010</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20.11.2.3 NMAC</td>
<td>Statutory Authority</td>
<td>5/14/2011</td>
<td>Repeal and replace: Fees provisions adopted pursuant to state statutory authority.</td>
<td>Approval.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9/7/2004</td>
<td>Revised section to include recodification and additional references to statutory authority.</td>
<td>Approval.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12/15/2010</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20.11.2.4 NMAC</td>
<td>Duration</td>
<td>5/24/2011</td>
<td>Repeal and replace: Rules to be of permanent duration.</td>
<td>Approval.</td>
</tr>
<tr>
<td>20.11.2.5 NMAC</td>
<td>Effective Date</td>
<td>5/24/2011</td>
<td>Repeal and replace: Rules to be effective July 1, 2001.</td>
<td>Approval.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9/7/2004</td>
<td>Revises section to remove and add objectives consistent with specific fee updates.</td>
<td>Approval.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2/2/2007</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>12/15/2010</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
<td>Submittal dates</td>
<td>Description of change</td>
<td>Proposed action</td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>-----------------</td>
<td>-----------------------</td>
<td>----------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12/15/2010</td>
<td>Section revised to update definitions, correct references, and remove definitions no longer needed. Definitions added: &quot;Administrative Revision&quot;, &quot;Consumer price index all urban consumers&quot; or &quot;CPI–U&quot;, &quot;Proposed Allowable Emission Rate&quot;, &quot;Technical Permit Revision&quot;, &quot;Submittal&quot;.</td>
<td>Approval.</td>
</tr>
</tbody>
</table>

**Savings Clause**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Proposed action</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.11.2.8 NMAC</td>
<td>Savings Clause</td>
<td>5/24/2011</td>
<td>Repeal and replace: Any amendment to fees rules shall not affect actions pending for a violation.</td>
<td>Approval.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12/15/2010</td>
<td>Section revised non-substantively.</td>
<td>Approval.</td>
</tr>
</tbody>
</table>

**Severability**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Proposed action</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.11.2.9 NMAC</td>
<td>Severability</td>
<td>5/24/2011</td>
<td>Repeal and replace: Unconstitutional and invalidated portions of the fees rules will not invalidate remaining provisions.</td>
<td>Approval.</td>
</tr>
</tbody>
</table>

**Documents**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Proposed action</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.11.2.10 NMAC</td>
<td>Documents</td>
<td>5/24/2011</td>
<td>Repeal and replace: Documents cited and incorporated may be viewed at physical location.</td>
<td>Approval.</td>
</tr>
</tbody>
</table>

**General Provisions**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Proposed action</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>9/7/2004</td>
<td>Section revised non-substantively.</td>
<td>Approval.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>12/15/2010</td>
<td>Section revised non-substantively.</td>
<td>Approval; No Action on references to Operating Permits (20.11.42 NMAC) in subsection (B).</td>
</tr>
</tbody>
</table>

**Authority-To-Construct Permit Fees; Fee Calculations and Procedures**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Proposed action</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.11.2.12 NMAC</td>
<td>Authority-to-Construct Permit Fees; Fee Calculations and Procedures.</td>
<td>5/24/2011</td>
<td>Repeal and replace: Fee provisions, calculations, and procedures for minor and area source permits, pre-construction permits, permit modifications.</td>
<td>Approval; No Action on references to Operating Permits (20.11.42 NMAC) in subsection (B).</td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
<td>Submittal dates</td>
<td>Description of change</td>
<td>Proposed action</td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>-----------------</td>
<td>-----------------------</td>
<td>----------------</td>
</tr>
<tr>
<td>9/7/2004</td>
<td>Section revised non-substantively.</td>
<td></td>
<td>Approval; No Action on references to Operating Permits (20.11.42 NMAC) in subsection (B).</td>
<td></td>
</tr>
<tr>
<td>12/15/2010</td>
<td>Section revised to add reference to source registration in addition to permits, and to base fee amounts on allowable emission rates instead of PTE. Other revisions to update section consistent with updates to other subsections of the rule.</td>
<td></td>
<td>Approval; No Action on references to Operating Permits (20.11.42 NMAC) in subsection (B).</td>
<td></td>
</tr>
<tr>
<td>20.11.2.13 NMAC</td>
<td>Annual Emission Fees; Fee Calculations and Procedures</td>
<td>5/24/2011</td>
<td>Repeal and replace: Annual emission fees, calculations, and procedures for sources, including permit modifications.</td>
<td>Approval.</td>
</tr>
<tr>
<td>20.11.2.13 NMAC</td>
<td>Annual Emission Fees; Fee Calculations and Procedures</td>
<td>9/7/2004</td>
<td>Section revised non-substantively.</td>
<td>Approval.</td>
</tr>
<tr>
<td>20.11.2.13 NMAC</td>
<td>Annual Emission Fees; Fee Calculations and Procedures</td>
<td>12/15/2010</td>
<td>Section revised regarding owner/operator challenge or correction request of annual fee amounts, addition of methodology for fugitive dust control permits, revised annual emission fees to be based on allowable emission rate rather than PTE, and revised to require annual emission rate be updated each year based on the consumer price index.</td>
<td>Approval; No Action on references to Operating Permits (20.11.42 NMAC) in subsections (A) and (B).</td>
</tr>
<tr>
<td>20.11.2.15 NMAC</td>
<td>Filing and inspection Fees for Surface Disturbance Permits; Fee Calculations and Procedures</td>
<td>5/24/2011</td>
<td>Repeal and replace: Filing and inspection fee requirements for fugitive dust control permits.</td>
<td>Approval.</td>
</tr>
<tr>
<td>20.11.2.15 NMAC</td>
<td>Filing and inspection Fees for Surface Disturbance Permits; Fee Calculations and Procedures</td>
<td>9/7/2004</td>
<td>Section revised to add specific filing and review fee amounts, change flat fee to tiered fee schedule based on acreage, add and update calculation methodology used to calculate non-programmatic dust control permit inspection fees, require fugitive dust rates be updated yearly based on the consumer price index, and require fugitive dust control construction permit fees for certain demolition activities.</td>
<td>Approval.</td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
<td>Submittal dates</td>
<td>Description of change</td>
<td>Proposed action</td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>-----------------</td>
<td>-----------------------</td>
<td>-----------------</td>
</tr>
<tr>
<td>9/7/2004</td>
<td>Revised section to exclude section’s applicability to fugitive dust control permits.</td>
<td>Approval.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/15/2010</td>
<td>Revises section for review of correction request and various procedure aspects, makes fee for fugitive dust control construct permit application non-refundable.</td>
<td>Approval.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Failure To Pay**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Proposed action</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.11.2.17 NMAC</td>
<td>Failure to Pay</td>
<td>5/24/2011</td>
<td>Repeal and replace: Violation and penalty for failure to pay fees, and stating invoice incorrect not a defense.</td>
<td>Approval.</td>
</tr>
<tr>
<td>9/7/2004</td>
<td>Section revised non-substantively.</td>
<td>Approval.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/15/2010</td>
<td>Section revised to include reference to appeal procedures for incorrect-fee challenges.</td>
<td>Approval.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Fee Schedule**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Proposed action</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.11.2.18 NMAC</td>
<td>Fee Schedule</td>
<td>5/24/2011</td>
<td>Repeal and replace: Fee schedule for annual emission fees, review fees, permit modification fees, and administrative fees.</td>
<td>Approval.</td>
</tr>
<tr>
<td>9/7/2004</td>
<td>Section revised to delete fees other than review fees consistent with updates in other sections of the rule, include a general review fee, require application review fee rates be updated each year based on the consumer price index, increase fees for each tier in fee schedule, and change emission rates basis from PTE to allowable emission rates.</td>
<td>Approval.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12/15/2010</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Application Review Fees for Modification of Existing Permits**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Proposed action</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.11.2.19 NMAC</td>
<td>Application Review Fees for Modification of Existing Permits.</td>
<td>12/15/2010</td>
<td>New section specifying application review fees for modifications to an existing stationary source.</td>
<td>Approval.</td>
</tr>
</tbody>
</table>

**Administrative and Technical Revision Application Fees; Portable Stationary Source Relocation Fees**

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Proposed action</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.11.2.20 NMAC</td>
<td>Administrative and Technical Revision Application Fees; Portable Stationary Source Relocation Fees.</td>
<td>12/15/2010</td>
<td>New section specifying administrative and technical revision fees for modifications to an existing permit, and specifies portables stationary source relocation fees for modifications to an existing permit.</td>
<td>Approval.</td>
</tr>
</tbody>
</table>
II. EPA’s Evaluation

A. What are the requirements for EPA’s review of a fees SIP submittal?

The Albuquerque/Bernalillo County AQCB adopted and the Governor of New Mexico submitted the 2001 repeal and replace and the September 7, 2004, February 2, 2007, and December 15, 2010, SIP revisions pursuant to the applicable provisions of section 110(a)(2) of the CAA related to fees. These federal requirements include permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit. In addition to the applicable fee related requirements of section 110(a)(2), EPA’s evaluation must consider section 110(l) of the CAA. Section 110(l) of the CAA states that EPA shall not approve a revision of the SIP if it would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the Act.

B. Do the submitted repeal and replace revisions and subsequent SIP revisions meet the CAA requirements?

Based on EPA’s evaluation of the 2001 repeal and replace and the September 7, 2004, February 2, 2007, and December 15, 2010 revisions, we propose to find these submitted rules and revisions meet the applicable fee related requirements of section 110(a)(2) of the CAA. These rules and revisions are summarized in Table 1 of this proposed rulemaking, and are analyzed with more detail in the TSD. The rules and revisions contained within the Governor of New Mexico’s submittals demonstrate compliance with section 110(a)(2) of the Act. For example, the Albuquerque/Bernalillo County EHD assesses fees when an owner or operator applies for an air permit, air permit renewal, or air permit amendment. Additionally, annual fees are assessed for sources with existing source registrations or permits. These fees are used to cover the permit review and permit issuance costs. The Department also assesses fees to partially offset the administrative cost of variance procedures and permit-related administrative hearings before the board; assesses fees to implement the requirements of Section 507 of the Clean Air Act by establishing adequate funding for small business stationary source technical and environmental compliance assistance program; and assesses fees to cover administrative expenses incurred by the Department in implementing and enforcing the provisions of the NMAC, the joint air quality control board ordinances, and the Albuquerque/Bernalillo County AQCB regulations. The fees assessed by the Department under 20.11.2 NMAC are also necessary to adequately implement the Parts 20, 41, 60, and 61 permitting programs for fugitive dust control and new construction and modifications to NSR/PSD in attainment and non-attainment areas. Furthermore, the revision to subpart 20.11.2.18 NMAC, specifically paragraph K. of the 20.11.2.18 NMAC, establishes a $1,000 fee for filing fees for hearings with a lower flat fee of $125, including an option for the Department to lower that fee due to economic burden on the petitioner. Reduction of this kind of fee encourages more public involvement, meeting federal requirements for hearing processes. These examples, and the fee rules and revisions further described and evaluated in this proposal and TSD, evince a basis for EPA’s proposed approval that the submittals meet the requirements of 110(a)(2).

The fee assessment provisions in 20.11.2 NMAC and submitted to EPA are a portion of the regulatory scheme regulating the Albuquerque/Bernalillo County New Source Review Permitting Program, and provide for permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit under the Permitting Program. EPA has previously reviewed the Albuquerque/Bernalillo County AQCB regulations for the Nonattainment New Source Review Program, Prevention of Significant Deterioration Permitting, and Minor NSR program, and has approved these programs as being consistent with the federal requirements. EPA approved revisions to the Nonattainment New Source Review Program and to the Prevention of Significant Deterioration Program on April 26, 2007 (72 FR 20728). EPA approved substantive revisions to the Minor NSR program on March 16, 1994 (59 FR 12172). Based on our evaluation of these fee assessment rules and revisions both described in this notice and TSD, EPA finds they meet the fee related requirements of section 110(a)(2) to in part cover costs for these
Previously approved programs, and proposes to approve the rules and revisions as explained in Table 1.

Our evaluation of the 2001 repeal and replace and the September 7, 2004, February 2, 2007, and December 15, 2010 revisions also demonstrates compliance with section 110(l) of the CAA, and further provides basis for proposal of approval of these rules and revisions. Pursuant to section 110(l) of the CAA, the 2001 repeal and replace provides for a broader breadth, application, and stringency of requirements related to fees than the previously approved April 10, 1980 SIP. Based on EPA’s evaluation of these fee assessment provisions submitted, EPA proposes to find the submitted repeal and replace of, and revisions to, 20.11.2 NMAC establishing fee requirements for permits is consistent with section 110(a)(2) of the CAA.

III. Proposed Action

EPA is proposing an approval of the 2001 repeal and replace SIP revisions submitted by New Mexico on May 24, 2011, and SIP revisions submitted on September 7, 2004, February 2, 2007, and December 15, 2010 pursuant to section 110(a)(2) requirements of the CAA relating to fees. EPA is proposing these actions in accordance with section 110 of the Act.

IV. 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 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:

• 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: October 27, 2011.

Al Armendariz,
Regional Administrator, Region 6.

[FR Doc. 2011–28635 Filed 11–3–11; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

94310–1337–0000–D2]

RIN 1018–AX51

Endangered and Threatened Wildlife and Plants; Termination of the Southern Sea Otter Translocation Program; Revised Draft Supplemental Environmental Impact Statement on the Translocation of Southern Sea Otters

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of availability and reopening of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), published a proposed rule and notice of availability of a revised draft supplemental environmental impact statement on the translocation of southern sea otters (revised draft SEIS) in the Federal Register on August 26, 2011. The U.S. Environmental Protection Agency concurrently published a notice of availability of the revised draft SEIS. The 60-day comment period for our notice ended on October 24, 2011. This notice announces a 15-day reopening of the comment period.

DATES: We will consider comments on the proposed rule, associated revised draft SEIS (which includes a revised draft translocation program evaluation as Appendix C), and initial regulatory flexibility analysis (IRFA) that are received on or before November 21, 2011.

ADDRESSES: Submitting Comments: You may submit written comments on the proposed rule, the revised draft SEIS, and the IRFA by one of the following methods:

• Electronically: Go to the Federal eRulemaking Portal: http://www.regulations.gov. In the Enter Keyword or ID box, enter FWS–R8–FHC–2011–0046, which is the docket number for this rulemaking. Then click on the Search button. On the resultant screen, you may submit a comment by clicking on “Submit a Comment.”

• By hard copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–FHC–2011–0046; Division of Policy and Directives Management, U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will not accept email or faxes. We will post all information received on