NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.1004(c), would no longer exist and these Areas would thereafter have to address the pertinent requirements.

This action does not constitute a redesignation of these Areas to attainment for the 24-hour 2006 PM$_{2.5}$ NAAQS under section 107(d)(3) of the Clean Air Act (CAA). Further, this action does not involve approving maintenance plans for these Areas as required under section 175A of the CAA, nor does it find that the Areas have met all other requirements for redesignation. Even after these determinations of attainment by EPA, the designation status of these Areas is nonattainment for the 24-hour 2006 PM$_{2.5}$ NAAQS until such time as EPA determines that the Areas meet the CAA requirements for redesignation to attainment and takes action to redesignate these Areas.

III. Statutory and Executive Order Reviews

A. General Requirements

This action makes determinations of attainment based on air quality, and will result in the suspension of certain Federal requirements, and will not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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 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.

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 29, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

These clean data determinations for the 24-hour 2006 PM$_{2.5}$ NAAQS for the Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown, and Lancaster nonattainment areas may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.


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

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 NN—Pennsylvania

2. In §52.2059, paragraph (e) is added to read as follows:

§52.2059 Control strategy: Particulate matter.

• * * * * *

(e) Determination of Clean Data. EPA has determined, as of March 29, 2012, that based on 2006 to 2010 ambient air quality data, the Harrisburg-Lebanon-Carlisle-York, Allentown, Johnstown, and Lancaster nonattainment areas have attained the 24-hour 2006 PM$_{2.5}$ NAAQS. These determinations, in accordance with 40 CFR 51.1004(c), suspend the requirements for these areas to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as these areas continue to meet the 24-hour 2006 PM$_{2.5}$ NAAQS.

[FR Doc. 2012–7563 Filed 3–28–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Approval and Promulgation of Implementation Plans; New Mexico; Construction Permit Fees

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking a direct final action to approve revisions which repeal and replace existing rules, and revisions to the applicable State Implementation Plan (SIP) for New Mexico submitted by the State of New Mexico on April 11, 2002, and April 25, 2005, which relate to construction permit fee requirement regulations. The repeal and replace and SIP revisions
included in this action would address section 110(a)(2) Clean Air Act (the Act or CAA) requirements related to fees for reviewing and acting on specific air quality construction permit applications received by the New Mexico Environment Department (NMED or Department) and for implementing and enforcing the terms and conditions of the construction permit, excluding any court costs or other costs associated with an enforcement action. EPA has determined that these SIP revisions comply with the Clean Air Act and EPA regulations and are consistent with EPA policies. This action is being taken under section 110 of the Act.

DATES: This direct final rule is effective on May 29, 2012 without further notice, unless EPA receives relevant adverse comment by April 30, 2012. If EPA receives such comment, EPA will publish a timely withdrawal in the Federal Register informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–OAR–2005–NM–0006, by one of the following methods:

(1) www.regulations.gov: Follow the on-line instructions for submitting comments.

(2) Email: Ms. Ashley Mohr at mohr.ashley@epa.gov.

(3) Fax: Ms. Ashley Mohr, Air Permits Section (6PD–R), at fax number 214–665–6762.

(4) Mail: Ms. Ashley Mohr, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202–2733.

(5) Hand or Courier Delivery: Ms. Ashley Mohr, Air Permits Section (6PD–R), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Such deliveries are accepted only between the hours of 8:30 a.m. and 4:30 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–2005–NM–0006. 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 (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through http://www.regulations.gov or email if you believe that it is CBI or otherwise protected from disclosure.

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 along with any disk or CD-ROM submitted. If 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 and any form of encryption and should be free of any defects or viruses. For additional information about EPA’s public docket, visit the EPA Docket Center homepage at http://www.epa.gov/epahome/dockets.htm.

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 the disclosure of which 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. A 15 cent per page fee will be charged for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area on the seventh floor at 1445 Ross Avenue, Suite 700, Dallas, Texas.

The State submittal related to this SIP revision, and which is part of the EPA docket, is also available for public inspection at the State Air Agency listed below during official business hours by appointment:

New Mexico Environment Department, Air Quality Bureau, 1190 St. Francis Drive, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: If you have questions concerning today’s direct final action, please contact Ms. Ashley Mohr (6PD–R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD–R), Suite 1200, 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. What action is EPA taking?

II. What did New Mexico submit?

A. April 11, 2002 Repeal and Replace SIP Revision Submittal

B. April 25, 2005 SIP Revision Submittal

III. 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?

IV. Final Action

V. Statutory and Executive Order Reviews

I. What action is EPA taking?

We are taking direct final action to approve revisions to the applicable State Implementation Plan (SIP) for New Mexico submitted by the State of New Mexico on April 11, 2002, and April 25, 2005, which relate to construction permit fee requirement regulations. The April 11, 2002, SIP submittal repealed the existing construction permit fee regulations and adopted replacement construction permit fees (hereafter referred to as “repeal and replace”), codified in 20.2.75 of the New Mexico Administrative Code (NMAC). The April 25, 2005, SIP submittal amended four sections of the repeal and replace: 20.2.75.5 NMAC, 20.2.75.7 NMAC, 20.2.75.10 NMAC, and 20.2.75.11 NMAC.

We provide the reasoning comprising our evaluation in general terms in this rulemaking but provide a more detailed
evaluation and analysis in the Technical Support Document (TSD) that has been prepared for this rulemaking. The repeal and replace submitted on April 11, 2002, has been determined to be significantly different from the existing version of 20.2.75 NMAC, Construction Permit Fees, which was approved into the New Mexico SIP by EPA on September 26, 1997 (62 FR 50518). Therefore, a direct comparison to the approved New Mexico SIP is impractical, and the technical review of the repeal and replace will be evaluated for approval in this action and used as the baseline SIP for evaluation of the April 25, 2005, revisions.

Our technical analysis of the April 11, 2002, repeal and replace and the April 25, 2005, SIP rule revisions has found that the repeal and replace as a baseline rule, and the subsequent revisions to this rule are consistent with applicable provisions of section 110(a)(2) of the CAA. Therefore, EPA is taking direct final action to approve the fees SIP rules submitted on April 11, 2002, and April 25, 2005. We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. As explained in our technical support document (TSD), we are finding this action noncontroversial because the construction permit fees program is an established permit fees program that New Mexico developed with input from members of the regulated community and public interest groups via a public participation process that was initiated simultaneous to initial rule review and development. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on May 29, 2012 without further notice unless we receive relevant adverse comment by April 30, 2012. If we receive relevant adverse comments, we will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

II. WHAT DID NEW MEXICO SUBMIT?

II. WHAT DID NEW MEXICO SUBMIT?

B. APRIL 25, 2005 SIP REVISION SUBMITTAL

The Governor of New Mexico submitted on April 25, 2005, a revision to 20.2.75 NMAC, Construction Permit Fees. This submittal includes the following changes:

- Revisions to the following sections: 20.2.75.5 NMAC, Effective Date; 20.2.75.7 NMAC, Definitions; 20.2.75.10 NMAC, Filing Fee; and 20.2.75.11 NMAC, Permit Fee.

Table 1 summarizes the changes that are in the repeal and replace submitted April 11, 2002, and the additional SIP revisions submitted April 25, 2005. A summary of EPA’s evaluation of each section and the basis for this action is discussed in section III of this preamble. The Technical Support Document (TSD) includes a detailed evaluation of the referenced SIP submittals.

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Submittal dates</th>
<th>Description of change</th>
<th>Final action</th>
</tr>
</thead>
<tbody>
<tr>
<td>20.2.75 NMAC—Construction Permit Fees</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Scope</td>
<td>20.2.75.2 NMAC ..........</td>
<td>Scope ..........................</td>
<td>4/11/2002</td>
<td>Repeal and replace: Scope of rule applicability and annual fee payment requirements. Approval.</td>
</tr>
<tr>
<td>Duration</td>
<td>20.2.75.4 NMAC ..........</td>
<td>Duration ........................</td>
<td>4/11/2002</td>
<td>Repeal and replace: Rules to be of permanent duration. Approval.</td>
</tr>
<tr>
<td>Section</td>
<td>Title</td>
<td>Submittal dates</td>
<td>Description of change</td>
<td>Final action</td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>----------------</td>
<td>-----------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>20.2.75.6</td>
<td>NMAC</td>
<td>4/11/2002</td>
<td>Repeal and replace: Establishes objective for fees rules</td>
<td>Approval.</td>
</tr>
<tr>
<td>20.2.75.7</td>
<td>NMAC</td>
<td>4/11/2002</td>
<td>Repeal and Replace: Provides definitions for the following as used in the fees rules: “Air toxics review”, “Applicable regulations”, “Fee unit”, “Fugitive Emissions Fee Unit”, “Revision”, “Small business”, “Technical review of an existing permit”.</td>
<td>Approval.</td>
</tr>
<tr>
<td>20.2.75.8</td>
<td>NMAC</td>
<td>4/11/2002</td>
<td>Repeal and replace: Amendment and supersession of AQCR 700 with Part 75.</td>
<td>Approval.</td>
</tr>
<tr>
<td>20.2.75.9</td>
<td>NMAC</td>
<td>4/11/2002</td>
<td>Repeal and replace: Documents cited may be viewed at physical location.</td>
<td>Approval.</td>
</tr>
<tr>
<td>20.2.75.10</td>
<td>NMAC</td>
<td>4/11/2002</td>
<td>Repeal and replace: Filing fees established for construction permit applications.</td>
<td>Approval.</td>
</tr>
<tr>
<td>20.2.75.11</td>
<td>NMAC</td>
<td>4/11/2002</td>
<td>Repeal and replace: Complexity point-based permit fee schedule and annual fees established for construction permit applicants.</td>
<td>Approval.</td>
</tr>
<tr>
<td>20.2.75.12</td>
<td>NMAC</td>
<td>4/11/2002</td>
<td>Repeal and replace: Construction permit fee payment requirements for filing fees, permits fees, and annual fees.</td>
<td>Approval.</td>
</tr>
</tbody>
</table>

1 The scope provisions submitted on April 11, 2002 as part of the repeal and replace references Operating Permits (20.2.70 NMAC) and Operating Permit Emission Fees (20.2.71 NMAC) related to the Title V program. The Title V program is subject to statutory and regulatory evaluation beyond the statutory scope of this rulemaking. CAA Section 110(a)(2) falls under Title I of the CAA. Any evaluation of the Title V program and related fees must be done pursuant to CAA section 502 through 507 and 40 CFR part 70. Therefore, we are approving the reference to Operating Permits and Operating Permit Emission Fees as part of the permit fee schedule for the purpose of compliance with the fee related requirements of section 110(a)(2), but we are not evaluating or approving into the SIP the underlying and related regulations found in 20.2.70 NMAC and 20.2.71 NMAC through this rulemaking.

2 “Air toxics review” under the repeal and replace submitted April 11, 2002 references Air Toxics Review (20.2.72.400 NMAC–20.2.72.499 NMAC), which is a permitting program and regulation separate from the fees rules governed by 20.2.75 NMAC. The State Air Toxics program is subject to statutory and regulatory evaluation beyond the statutory scope of this rulemaking. This action is limited to determining whether the New Mexico fee SIP submittals meet the fee related requirements of section 110(a)(2). Therefore, we are approving the reference to Air Toxics Review as part of the permit fee schedule for the purpose of compliance with the fee related requirements of section 110(a)(2), but we are not evaluating or approving into the SIP the underlying and related regulations for Air Toxics Review through this rulemaking.
s the underlying and related regulations for Air Toxics Review, NSPS, and NESHAP/MACT programs through this rulemaking.

5.

6.

III. EPA’s Evaluation

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

The New Mexico EIB adopted and the Governor of New Mexico submitted the April 11, 2002, and April 25, 2005, 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 April 11, 2002, and April 25, 2005, SIP submittals, we find these submitted rules and revisions meet the applicable federal requirements of section 110(a)(2) of the CAA. These rules and revisions are summarized in Table 1 of this 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 NMED assesses fees when an owner or operator applies for a notice of intent, a permit to construct or modify a source, or a revision to a construction permit. Additionally, annual fees are assessed for sources that have been issued a permit under 20.2.72 NMAC. Construction permit fees are used to cover the costs of NMED’s construction permit program, including permit review, issuance, and implementation costs. New Mexico indicated in the April 11, 2002, and April 25, 2005, SIP submittals, we are not evaluating or approving into the SIP the underlying and related regulations including in 20.2.X NMAC through this rulemaking.

The complexity point-based permit fee schedule submitted on April 11, 2002 as part of the rules and revisions includes permit fee requirements in 20.2.75 NMAC for permit applications filed under the Accelerated Review permit processing program (20.2.72.221 NMAC). New Mexico has withdrawn the provisions contained in 20.2.75.10(B) NMAC from the April 11, 2002 submittal since the underlying Accelerated Review permit processing program is not part of the New Mexico SIP.

The complexity point-based permit fee schedule submitted on April 11, 2002 as part of the rules and revisions includes permit fee requirements in 20.2.75 NMAC for permit applications filed under the Accelerated Review permit processing program (20.2.72.221 NMAC). New Mexico has withdrawn the provisions contained in 20.2.75.11(D) NMAC from the April 11, 2002 submittal since the underlying Accelerated Review permit processing program is not part of the New Mexico SIP.

The complexity point-based permit fee schedule submitted on April 11, 2002 as part of the rules and revisions includes all allotment of points to Air Toxics Review (20.2.72.400 NMAC–20.7.72.499 NMAC), NSPS, and NESHAP/MACT programs for the purpose of calculating a permit fee. Air Toxics Review, NSPS, and NESHAP/MACT programs are subject to statutory and regulatory evaluation beyond the statutory scope of this rulemaking. This action is limited to determining whether the New Mexico fee SIP submittals meet the fee related requirements of section 110(a)(2). Therefore, we are approving the references to Air Toxics Review, NSPS, and NESHAP/MACT programs as part of the fee schedule required by the applicable requirements of section 110(a)(2). However, though we are approving these fee rules and the related references for the purpose of compliance with the fee related requirements of section 110(a)(2), we are not evaluating or approving into the SIP the underlying permitting program or regulations for Exemptions through this rulemaking. New Mexico has submitted these exemptions in a separate SIP submittal, and we will act upon that submittal in a separate future rulemaking.

The filing fee provisions submitted on April 11, 2002 as part of the rules and replace includes filing fee requirements in 20.2.75.10(B) NMAC for permit applications filed under the Accelerated Review permit processing program (20.2.72.221 NMAC). New Mexico has withdrawn the provisions contained in 20.2.75.10(B) NMAC from the April 11, 2002 submittal since the underlying Accelerated Review permit processing program is not part of the New Mexico SIP.
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, the Prevention of Significant Deterioration Program, and the Minor NSR program on September 5, 2007 (72 FR 50518) respectively. 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 thus approves the rules and revisions as explained in Table 1.

Our evaluation of the April 11, 2002, and April 25, 2005, SIP submittals also demonstrates compliance with section 110(l) of the CAA, and further provides basis for approval of these rules and revisions. Pursuant to section 110(l) of the CAA, the repeal and replace included in the April 11, 2002, SIP submittal provides for a broader breadth, application, and stringency of requirements related to fees than the construction permit fees contained in the previously approved SIP, which was approved by EPA on September 26, 1997. Based on EPA’s evaluation of these fee assessment provisions submitted, EPA finds the submitted repeal and replace of, and subsequent revisions to, 20.2.75 NMAC establishing fee requirements for permits is consistent section 110(a)(2) of the CAA.

IV. Final Action

EPA is taking direct final action to approve revisions to the New Mexico SIP submitted on April 11, 2002, and April 25, 2005. Specifically, EPA is approving the repeal and replacement of 20.2.75 NMAC submitted on April 11, 2002, and subsequent revisions to sections 20.2.75.5 NMAC, 20.2.75.7 NMAC, 20.2.75.10 NMAC, and 20.2.75.11 NMAC, submitted on April 25, 2005, establishing a revised permit fee schedule to cover the reasonable costs of the New Mexico construction permit program.

EPA is not acting on other severable portions of the April 11, 2002, and April 25, 2005, SIP submittals.11 Specifically, EPA is not taking action on the revisions submitted on April 11, 2002, to 20.2.72 NMAC, Construction Permits; 20.2.73 NMAC, Notice of Intent and Emissions Inventory Requirements; and 20.2.79 NMAC, Permits—Nonattainment Areas. EPA is also not taking action on the revisions submitted on April 25, 2005, to 20.2.66 NMAC, Cotton Gins; 20.2.72 NMAC, Construction Permits; and 20.2.73 NMAC, Notice of Intent and Emissions Inventory Requirements. These revisions have been or will be addressed by EPA in separate SIP revision reviews and rule actions.

V. Statutory and Executive Order Reviews

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

• Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
• Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
• Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12298 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 29, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 16, 2012.
Al Armendariz,
Regional Administrator, EPA Region 6.

40 CFR part 52 is amended as follows:
PART 52—[AMENDED]

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

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

Subpart GG—New Mexico

2. The first table in § 52.1620(c) entitled “EPA Approved New Mexico Regulations” is amended by revising the entry for Part 75 to read as follows:

EPA APPROVED NEW MEXICO REGULATIONS

<table>
<thead>
<tr>
<th>State citation</th>
<th>Title/subject</th>
<th>State approval/effective date</th>
<th>EPA approval date</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part 75</td>
<td>Construction Permit Fees.</td>
<td>12/1/2003</td>
<td>3/29/2012 [Insert FR page number where document begins]</td>
<td>NOT in SIP: subsection (B) of 20.2.75.10 and subsection (D) of 20.2.75.11, References to 20.2.70, 20.2.71, 20.2.72.400–20.2.72.499, 20.2.77, 20.2.78, 20.2.82, and 20.2.X are approved for Part 75 only; underlying and related regulations for referred Parts NOT in SIP.</td>
</tr>
</tbody>
</table>

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 2, 24, 30, 70, 90, 91, and 188


Seagoing Barges

AGENCY: Coast Guard, DHS.

ACTION: Direct final rule; correction.

SUMMARY: The United States Coast Guard published a direct final rule in the Federal Register on December 14, 2011 (76 FR 77712) revising regulations for the inspection and certification of seagoing barges to align with the language of the applicable statutes. That document inadvertently transposed the titles of two tables in our amendatory instructions. Additionally, the Coast Guard is republishing the vessel inspection tables that rule amends in their entirety, so that the format of the tables conforms to current Federal Register requirements. This correcting amendment makes no substantive changes to the tables. Additionally, this correcting amendment corrects the amendatory instructions of the direct final rule wherein the titles of tables “24.05–1(a)” and “30.01–5(d)” were mistakenly transposed as “24.01–5(a)” and “30.05–1(d)” respectively.

List of Subjects

46 CFR Part 2
Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 24
Marine safety.

46 CFR Part 30
Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 70
Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 90
Cargo vessels, Marine safety.

46 CFR Part 188
Marine safety, Oceanographic research vessels.

Accordingly, 46 CFR parts 2, 24, 30, 70, 90, and 188 are corrected by making the following correcting amendments:

PART 2—VESSEL INSPECTIONS

1. The authority citation for part 2 continues to read as follows:


2. Revise Table 2.01–7(a) in § 2.01–7(a) to read as follows:

§ 2.01–7 Classes of vessels (including motorboats) examined or inspected and certificated.

(a) * * *