

## PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart A—General Provisions

■ 2. Section 52.21 is amended by revising paragraphs (w)(2) and (3) to read as follows:

#### § 52.21 Prevention of significant deterioration of air quality.

\* \* \* \* \*

(w) \* \* \*

(2) Any owner or operator of a stationary source or modification who holds a permit for the source or modification may request that the Administrator rescind the permit or a particular portion of the permit if the permit for the source or modification was issued:

(i) Under § 52.21 as in effect on July 30, 1987 or any earlier version of this section;

(ii) Under § 52.21 between July 1, 2011 and July 6, 2015 to a source that was classified as a major stationary source under paragraph (b)(1) of this section solely on the basis of potential emissions of greenhouse gases, which were defined as a regulated NSR pollutant through the application of paragraph (b)(49)(v)(a) of this section as in effect during this time period; or

(iii) Under § 52.21 between July 1, 2011 and July 6, 2015 for a modification that was classified as a major modification under paragraph (b)(2) solely on the basis of an increase in emissions of greenhouse gases, which were defined as a regulated NSR pollutant through the application of paragraph (b)(49)(v)(b) of this section as in effect during this time period.

(3) The Administrator shall grant an application for rescission if the application shows that this section would not apply to the source or modification. As a result of a decision of the United States Supreme Court, this section does not apply to sources or modifications that meet only the applicability criteria in paragraph (b)(49)(v) of this section.

\* \* \* \* \*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2008-0636; FRL-9927-24-Region 6]

#### Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County; Revisions to Emissions Inventory Requirements, and General Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving under the Federal Clean Air Act (CAA) revisions to the Albuquerque/Bernalillo County, New Mexico State Implementation Plan (SIP). These revisions add definitions and clarifying changes to the general provisions and add a new emissions inventory regulation that establishes reporting requirements for stationary sources in Albuquerque/Bernalillo County.

**DATES:** This rule is effective on June 8, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2008-0636. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

**FOR FURTHER INFORMATION CONTACT:** Mr. John Walser (6PD-L), Air Planning Section, telephone (214) 665-7128, email: [walser.john@epa.gov](mailto:walser.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” means EPA.

### I. Background

The background for today’s action is discussed in detail in our February 2, 2015 direct final rule and proposal (80 FR 5471). The rule and proposal stated that if any relevant adverse comments were received by the end of the public comment period on March 4, 2015, the direct final rule would be withdrawn

and we would respond to the comments in a subsequent final action. A relevant adverse comment was received during the comment period, and the direct final rule was withdrawn on March 26, 2015 (80 FR 15901). Our February 2, 2015 proposal provides the basis for today’s final action. The SIP revisions proposed for approval add definitions and clarifying changes to the general provisions and add a new emissions inventory regulation that establishes reporting requirements for stationary sources in Albuquerque/Bernalillo County.

### II. Response to Comments

We received one comment letter dated February 20, 2015, from the Sierra Club, regarding our direct final rule.

Comment: “Acting regional administrator Sam Coleman cannot sign approvals, disapprovals, or any combination of approvals or disapproval, in whole or in part, due to the fact that agency actions on state implementation plans are required to be signed by the regional administrator, Ron Curry, not the current deputy regional administrator as stated in the agency’s delegations manual. The manual specifically states that SIP actions can’t be redelegated from the regional administrator.”

Response: As the Acting Regional Administrator, Deputy Regional Administrator Sam Coleman had authority to sign the proposal and direct final action on this State Implementation Plan. On January 15, 2015, the day that the proposal and direct final action were signed, Sam Coleman was acting in the capacity of the Regional Administrator for Ron Curry, who was absent from Region 6 at the time. The following language is listed in the Region 6 Deputy Regional Administrator’s position description “In the absence of the Regional Administrator, the Deputy Regional Administrator will perform the duties of the Regional Administrator.” A copy of the Deputy Regional Administrator’s position description is included in the docket for this rulemaking. Further, EPA Region 6 Order 1110.11 establishes a line of succession to perform the duties of the Regional Administrator should the Regional Administrator be absent from the office. The Deputy Regional Administrator is the first person listed on that line of succession. A copy of EPA Region 6 Order 1110.11 is included in the docket for this rulemaking.

The heads of administrative agencies are statutorily vested with the authority to delegate authorities to subordinate officials, 5 U.S.C. 302. Federal Courts have held that rules, including internal

delegations and appointments of authority are effective regardless of publication in the **Federal Register** or the Code of Federal Regulations. The EPA Delegations Manual, more specifically Chapter 1–21, provides that the EPA Regional Administrators are delegated the authority, in relevant part, to sign and submit proposed State Implementation Plans, including revisions and compliance schedules. Chapter 1–21 of the EPA Delegations Manual specifically allows the redelegation of these authorities to the Deputies of the Regional Administrators. A copy of Chapter 1–21 of the EPA Delegations Manual is included in the docket for this rulemaking.

The comment only challenged the Deputy Regional Administrator's authority to sign the Direct Final Action. EPA received no other comments or challenges as to the substance of the proposal or direct final. Therefore, we are finalizing our action to approve this SIP amendment.

### III. Final Action

Pursuant to section 110 of the Act, EPA is approving five revisions to the New Mexico SIP that were submitted on May 6, 2008, November 6, 2009,<sup>1</sup> December 15, 2010 and October 18, 2012. We evaluated the state's submittals and determined that they meet the applicable requirements of the CAA section 110 and applicable EPA guidance. In accordance with CAA section 110(l), these revisions will not interfere with attainment of the NAAQS, reasonable further progress, or any other applicable requirement of the CAA.

### IV. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.4, we are finalizing the incorporation by reference of the revisions to the Albuquerque/Bernalillo County regulations as described in the Final Action of this rule. We have made, and will continue to make, these documents generally available electronically through [www.regulation.gov](http://www.regulation.gov) and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

<sup>1</sup> There are two SIP submittals that were submitted on the same date, November 6, 2009—one revising 20.11.1 NMAC and one revising 20.11.47 NMAC.

### 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have

tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 6, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 27, 2015.

**Ron Curry,**

*Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

### Subpart GG—New Mexico

- 2. In § 52.162(c), the second table titled “EPA Approved Albuquerque/Bernalillo County, NM Regulations” is

amended by revising the entry for Part 1 (20.11.1 NMAC) and adding in sequential order an entry for Part 47 (20.11.47 NMAC) to read as follows:

**§ 52.1620 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NM REGULATIONS**

State citation	Title/subject	State approval/submital date	EPA approval date	Explanation
<b>New Mexico Administrative Code (NMAC) Title 20—Environmental Protection Chapter 11—Albuquerque/Bernalillo County Air Quality Control Board</b>				
Part 1 (20.11.1 NMAC) .....	General Provisions .....	12/15/2010	5/7/2015	[Insert Federal Register citation].
* * *	* * *	* * *	* * *	* * *
Part 47 (20.11.47 NMAC) .....	Emissions Inventory Requirements.	10/18/2012	5/7/2015	[Insert Federal Register citation].
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

[EPA–HQ–OAR–2014–0905; FRL 9927–16–OAR]

RIN 2060–AS58

**Approval of Alabama’s Request To Relax the Federal Reid Vapor Pressure Gasoline Volatility Standard for Birmingham, Alabama**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a request from the state of Alabama for the EPA to relax the Reid Vapor Pressure (RVP) standard applicable to gasoline introduced into commerce from June 1 to September 15 of each year for Jefferson and Shelby counties (“the Birmingham area”). Specifically, the EPA is approving amendments to the regulations to change the RVP standard for the Birmingham area from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline. The EPA has determined that this change to the federal RVP regulation is consistent with the applicable provisions of the Clean Air Act (CAA). This action is being taken without prior proposal because the EPA believes that this rulemaking is noncontroversial for the reasons set forth in this preamble, and due to the limited scope of this action.

**DATES:** This rule is effective on July 6, 2015 without further notice unless the EPA receives adverse comment by June 8, 2015. If the EPA receives such comments, the EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2014–0905, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email:* a-and-r-Docket@epa.gov.
- *Mail:* Air Docket, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave. NW., Washington, DC, 20460, Attention Docket ID No. EPA–HQ–OAR–2014–0905. Please include a total of two copies.
- *Hand Delivery:* Air and Radiation Docket, EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW., Washington, DC 20004. Attention Docket ID No. EPA–HQ–OAR–2014–0905. Please include two copies. Such deliveries are accepted only during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA–HQ–OAR–2014–0905. The EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business 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 *www.regulations.gov* or email. The *www.regulations.gov* Web site is an “anonymous access” system, which means that the 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 the EPA without going through *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, the 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. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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. For additional information about the 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 *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 *www.regulations.gov* or in hard copy at