

be available for public inspection and copying.

A public hearing has been scheduled for October 7, 2011 beginning at 10:00 a.m. in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. All visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit written or electronic comments and an outline of the topics to be discussed and the time to be devoted to each topic by October 4, 2011. A period of 10 minutes will be allocated to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

#### Drafting Information

The principal author of these regulations is Emily M. Lesniak, Office of the Associate Chief Counsel (Procedure and Administration).

#### List of Subjects in 26 CFR Part 300

Reporting and recordkeeping requirements, User fees.

#### Proposed Amendments to the Regulations

Accordingly, 26 CFR part 300 is proposed to be amended as follows:

#### Part 300—USER FEES

**Paragraph 1.** The authority citation for part 300 continues to read in part as follows:

**Authority:** 31 U.S.C. 9701.

**Par. 2.** Section 300.0 is amended by:

1. Redesignating paragraph (b)(12) as paragraph (b)(13).
2. Adding new paragraph (b)(12).
3. Adding paragraph (b)(14).

The additions and revisions read as follows:

#### § 300.0 User fees; in general.

\* \* \* \* \*

(b) \* \* \*

(12) Taking the registered tax return preparer examination.

\* \* \*

(14) Fingerprinting to apply for, or participate, in the preparer tax identification number, authorized e-file provider, or acceptance agent programs.

#### § 300.12 [Redesignated as § 300.13]

**Par. 3.** Redesignate § 300.12 as § 300.13.

**Par. 4.** Add new § 300.12 to read as follows:

#### § 300.12 Registered tax return preparer competency examination fee.

(a) *Applicability.* This section applies to the competency examination to become a registered tax return preparer pursuant to 31 CFR 10.4(c).

(b) *Fee.* The fee for taking the registered tax return preparer competency examination is \$27, which is the government cost for overseeing the examination and does not include any fees charged by the administrator of the examination.

(c) *Person liable for the fee.* The person liable for the competency examination fee is the applicant taking the examination.

(d) *Effective/applicability date.* This section is applicable on the date the final regulations are published in the **Federal Register**.

**Par. 5.** Section 300.14 is added to read as follows:

#### § 300.14 Fingerprinting fee to participate in the preparer tax identification number, acceptance agent, or authorized e-file provider programs.

(a) *Applicability.* This section applies to applicants and participants in the preparer tax identification number, acceptance agent, and authorized e-file provider programs who are required to be fingerprinted as prescribed by forms, instructions, or other appropriate guidance. This section does not apply, however, to individuals who reside and are employed outside of the United States.

(b) *Fee.* The fee to be fingerprinted is \$33, which is the cost to the government for processing the fingerprints and does not include any fees charged by the vendor.

(c) *Person liable for the fee.* The person liable for the fingerprinting fee is the person being fingerprinted.

(d) *Effective/applicability date.* This section is applicable on the date the final regulations are published in the **Federal Register**.

**Steven T. Miller,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 2011-24771 Filed 9-22-11; 11:15 am]

**BILLING CODE 4830-01-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2011-0032; FRL-9471-5]

#### Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County; Prevention of Significant Deterioration; Greenhouse Gas Tailoring Rule Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve a revision to the Albuquerque/Bernalillo County, New Mexico State Implementation Plan (SIP) that was submitted by the Governor of New Mexico to EPA on December 15, 2010. The proposed SIP revision modifies Albuquerque/Bernalillo County's Prevention of Significant Deterioration (PSD) program to establish appropriate emission thresholds for determining which new stationary sources and modification projects become subject to Albuquerque/Bernalillo County's PSD permitting requirements for their greenhouse gas (GHG) emissions. Due to the SIP Narrowing Rule, 75 FR 82536, starting on January 2, 2011, the approved Albuquerque/Bernalillo County SIP's PSD requirements for GHG apply at the thresholds specified in the Tailoring Rule, not at the 100 or 250 tons per year (tpy) levels otherwise provided under the Clean Air Act (CAA or Act), which would overwhelm Albuquerque/Bernalillo County's permitting resources. This rule clarifies the applicable thresholds in the Albuquerque/Bernalillo County SIP, addresses the flaw discussed in the SIP Narrowing Rule, and incorporates state rule changes adopted at the state level into the federally-approved SIP. EPA is proposing approval of the Albuquerque/Bernalillo County, New Mexico December 15, 2010 PSD SIP revision because the Agency has made the preliminary determination that this PSD SIP revision is in accordance with section 110 and part C of the Federal Clean Air Act and EPA regulations regarding PSD permitting for GHGs.

**DATES:** Comments must be received on or before October 26, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R06-OAR-2011-0032, by one of the following methods:

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

(2) *E-mail*: Mr. Jeff Robinson at [robinson.jeffrey@epa.gov](mailto:robinson.jeffrey@epa.gov). Please also cc the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below.

(3) *U. S. EPA Region 6 "Contact Us" Web site*: <http://epa.gov/region6/r6coment.htm>. Please click on "6PD" (Multimedia) and select "Air" before submitting comments.

(4) *Fax*: Mr. Jeff Robinson, Chief, Air Permits Section (6PD-R), at fax number 214-665-6762.

(5) *Mail*: Mr. Jeff Robinson, Chief, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

(6) *Hand or Courier Delivery*: Mr. Jeff Robinson, Chief, 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 8:30 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-2011-0032. 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 e-mail, 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 e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail 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 submittals related to this SIP revision, and which are part of the EPA docket, are also available for public inspection at the Local Air Agency listed below during official business hours by appointment:

Albuquerque Environmental Health Department, Suite 3023, 3rd floor, One Civic Plaza, 400 Marquette Av. NW, Albuquerque, New Mexico, 87102.

**FOR FURTHER INFORMATION CONTACT**: Mr. Mike Miller (6PD-R), Air Permits Section, Environmental Protection Agency, Region 6, 1445 Ross Avenue (6PD-R), Suite 1200, Dallas, TX 75202-2733. The telephone number is (214) 665-7550. Mr. Miller can also be reached via electronic mail at [miller.michael@epa.gov](mailto:miller.michael@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What should I consider as I prepare my comments for EPA?
- II. Summary of Albuquerque/Bernalillo County's Submittal
- III. What is the background for today's proposed action?
- IV. What is EPA's analysis of Albuquerque/Bernalillo County's SIP revision?
- V. What action is EPA taking?
- VI. Statutory and Executive Order Reviews

**I. What should I consider as I prepare my comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, Federal Register date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

**II. Summary of Albuquerque/Bernalillo County's Submittal**

On December 15, 2010, the State of New Mexico submitted a SIP revision request to EPA to establish appropriate emission thresholds for determining which new or modified stationary sources become subject to Albuquerque/Bernalillo County's PSD permitting requirements for GHG emissions. The submitted revisions to the SIP are enacted at 20.11.61.7 New Mexico Air Code (NMAC). Final approval of this SIP revision request will put in place the GHG emission thresholds for PSD applicability set forth in EPA's Tailoring Rule, ensuring that smaller GHG sources emitting less than these thresholds are not subject to permitting requirements. Pursuant to section 110 of the CAA, EPA is proposing to approve this revision into the Albuquerque/Bernalillo County SIP. New Mexico also submitted revisions to the remainder of the Albuquerque/Bernalillo County PSD program at 20.11.61.6, 20.11.61.11, 20.11.61.12, 20.11.61.20 and 20.11.61.27 NMAC that correctly update internal cross-references to the PSD definitions. EPA is also proposing approval of these revisions pursuant to section 110 of the CAA.

Also on December 15, 2010, New Mexico submitted revisions to the New Mexico General Provisions for

Albuquerque/Bernalillo County at 20.11.1 NMAC, and to the New Mexico Title V Operating Permits Program for Albuquerque/Bernalillo County at 20.11.42 NMAC. EPA will address these revisions at a later date and in a separate action on the General Provisions and the Title V Program.

### III. What is the background for today's proposed action?

This section briefly summarizes EPA's recent GHG-related actions that provide the background for today's proposed action. More detailed discussion of the background is found in the preambles for those actions. In particular, the background is contained in what we call the GHG PSD SIP Narrowing Rule,<sup>1</sup> and in the preambles to the actions cited therein.

#### A. GHG-Related Actions

EPA has recently undertaken a series of actions pertaining to the regulation of GHGs that, although for the most part distinct from one another, establish the overall framework for today's final action on the New Mexico SIP. Four of these actions include, as they are commonly called, the "Endangerment Finding" and "Cause or Contribute Finding," which EPA issued in a single final action,<sup>2</sup> the "Johnson Memo Reconsideration,"<sup>3</sup> the "Light-Duty Vehicle Rule,"<sup>4</sup> and the "Tailoring Rule."<sup>5</sup> Taken together and in conjunction with the CAA, these actions established regulatory requirements for GHGs emitted from new motor vehicles and new motor vehicle engines; determined that such regulations, when they took effect on January 2, 2011, subjected GHGs emitted from stationary sources to PSD requirements; and limited the applicability of PSD requirements to GHG sources on a phased-in basis. EPA took this last action in the Tailoring Rule, which, more specifically, established appropriate GHG emission thresholds

for determining the applicability of PSD requirements to GHG-emitting sources.

PSD is implemented through the SIP system, and so in December 2010, EPA promulgated several rules to implement the new GHG PSD SIP program. Recognizing that some states had approved SIP PSD programs that did not apply PSD to GHGs, EPA issued a SIP call and, for some of these states, a FIP.<sup>6</sup> Recognizing that other states had approved SIP PSD programs that do apply PSD to GHGs, but that do so for sources that emit as little as 100 or 250 tpy of GHG, and that do not limit PSD applicability to GHGs to the higher thresholds in the Tailoring Rule, EPA issued the GHG PSD SIP Narrowing Rule. Under that rule, EPA withdrew its approval of the affected SIPs to the extent those SIPs covered GHG-emitting sources below the Tailoring Rule thresholds. EPA based its action primarily on the "error correction" provisions of CAA section 110(k)(6).

#### B. Albuquerque/Bernalillo County's Actions

On July 16, 2010, the City of Albuquerque's Environmental Health Department (AEHD) provided a letter to EPA, in accordance with a request to all States from EPA in the Tailoring Rule, with confirmation that their local air board has the authority to regulate GHG in its PSD program. The letter confirmed that Albuquerque/Bernalillo County's current rules require regulating GHGs at the existing 100/250 tpy threshold, rather than at the higher thresholds set in the Tailoring Rule because Albuquerque/Bernalillo County's rules and could not be interpreted to apply the meaning of the term "subject to regulation" established in the Tailoring

Rule. The City's AEHD also submitted a letter on September 17, 2010, in response to the proposed GHG SIP Call again confirming that EPA correctly classified Albuquerque/Bernalillo County's SIP to apply PSD requirements to GHGs and that they were pursuing revisions to their SIP to match federal requirements. See the docket for this proposed rulemaking for copies of AEHD's July 16, 2010, and September 17, 2010, letters.

In the PSD SIP Narrowing Rule, published on December 30, 2010, EPA withdrew its approval of Albuquerque/Bernalillo County's SIP—among other SIPs—to the extent that SIP applies PSD permitting requirements to GHG emissions from sources emitting at levels below those set in the Tailoring Rule.<sup>7</sup> As a result, the Albuquerque/Bernalillo County's current approved SIP provides the local permitting authority with authority to regulate GHGs, but only at and above the Tailoring Rule thresholds; and federally requires new and modified sources to receive a PSD permit based on GHG emissions only if they emit at or above the Tailoring Rule thresholds.

Albuquerque/Bernalillo County has amended its local regulations to incorporate the Tailoring Rule thresholds for sources within Albuquerque/Bernalillo County, and has submitted the adopted regulations as revisions to their SIP. EPA's proposed approval of Albuquerque/Bernalillo County's revisions will clarify the applicable thresholds in the Albuquerque/Bernalillo County SIP.

The basis for this SIP revision is that limiting PSD applicability to GHG sources to the higher thresholds in the Tailoring Rule is consistent with the SIP provisions that provide required assurances of adequate resources, and thereby addresses the flaw in the SIP that led to the PSD SIP Narrowing Rule. Specifically, CAA section 110(a)(2)(E) includes as a requirement for SIP approval that States provide "necessary assurances that the State \* \* \* will have adequate personnel [and] funding \* \* \* to carry out such [SIP]." In the Tailoring Rule, EPA established higher thresholds for PSD applicability to GHG-emitting sources on grounds that the states generally did not have adequate resources to apply PSD to GHG-emitting sources below the Tailoring Rule thresholds,<sup>8</sup> and no State, including Albuquerque/Bernalillo

<sup>1</sup> "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule." 75 FR 82536 (December 30, 2010).

<sup>2</sup> "Endangerment and Cause or Contribute Findings for Greenhouse Gases Under Section 202(a) of the Clean Air Act." 74 FR 66496 (December 15, 2009).

<sup>3</sup> "Interpretation of Regulations that Determine Pollutants Covered by Clean Air Act Permitting Programs." 75 FR 17004 (April 2, 2010).

<sup>4</sup> "Light-Duty Vehicle Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards; Final Rule." 75 FR 25324 (May 7, 2010).

<sup>5</sup> "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule; Final Rule." 75 FR 31514 (June 3, 2010).

<sup>6</sup> Specifically, by notice dated December 13, 2010, EPA finalized a "SIP Call" that would require those states with SIPs that have approved PSD programs but do not authorize PSD permitting for GHGs to submit a SIP revision providing such authority. "Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call." 75 FR 77698 (Dec. 13, 2010). EPA has been making findings of failure to submit for states unable to submit the required SIP revision by their deadline, and finalizing FIPs for such states. See, e.g., "Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Finding of Failure To Submit State Implementation Plan Revisions Required for Greenhouse Gases." 75 FR 81874 (December 29, 2010); "Action To Ensure Authority To Issue Permits Under the Prevention of Significant Deterioration Program to Sources of Greenhouse Gas Emissions: Federal Implementation Plan." 75 FR 82246 (December 30, 2010). Because New Mexico's SIP already authorizes Albuquerque/Bernalillo County to regulate GHGs once GHGs become subject to PSD requirements on January 2, 2011, Albuquerque/Bernalillo County is not subject to the proposed SIP Call or FIP.

<sup>7</sup> "Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule." 75 FR 82536 (December 30, 2010).

<sup>8</sup> Tailoring Rule, 75 FR 31,517/1.

County, asserted that it did have adequate resources to do so.<sup>9</sup> In the PSD SIP Narrowing Rule, EPA found that the affected states, including New Mexico and Albuquerque/Bernalillo County, had a flaw in their SIP at the time they submitted their PSD programs, which was that the applicability of the PSD programs was potentially broader than the resources available to them under their SIP.<sup>10</sup> Accordingly, for each affected state, including New Mexico and Albuquerque/Bernalillo County, EPA concluded that EPA's action in approving the SIP was in error, under CAA section 110(k)(6), and EPA rescinded its approval to the extent the PSD program applies to GHG-emitting sources below the Tailoring Rule thresholds.<sup>11</sup> EPA recommended that States adopt a SIP revision to incorporate the Tailoring Rule thresholds, thereby (i) assuring that under State law, only sources at or above the Tailoring Rule thresholds would be subject to PSD; and (ii) avoiding confusion under the federally-approved SIP by clarifying that the SIP applies to only sources at or above the Tailoring Rule thresholds.<sup>12</sup>

#### IV. What is EPA's analysis of Albuquerque/Bernalillo County's SIP revision?

The regulatory revisions that Albuquerque/Bernalillo County's AEHD submitted on December 15, 2010, establish thresholds for determining which stationary sources and modification projects become subject to permitting requirements for GHG emissions under its PSD program. Specifically, the submittal includes changes to Albuquerque/Bernalillo County's PSD regulations at 20.11.61.6, 20.11.61.7, 20.11.61.11, 20.11.61.12, 20.11.61.20, and 20.11.61.27 NMAC.<sup>13</sup>

Albuquerque/Bernalillo County has a SIP-approved PSD program, and has incorporated EPA's 2002 New Source Review (NSR) reform revisions for PSD into its SIP.<sup>14</sup> In letters provided to EPA on June 24, 2010, and September 14, 2010, Albuquerque/Bernalillo County notified EPA of its interpretation that

the City and County have the authority to regulate GHGs under its PSD regulations. Prior to the passage of the submitted revisions, the City and County's regulations (adopted prior to the promulgation of EPA's Tailoring Rule) applied to major stationary sources having the potential to emit at least 100 tpy or 250 tpy or more of a regulated NSR pollutant, depending on the type of source, or major modifications constructing in areas designated attainment or unclassifiable with respect to the National Ambient Air Quality Standards.

The changes to Albuquerque/Bernalillo County's PSD program regulations submitted for approval here are substantively the same as the amendments to the Federal PSD regulatory provisions in EPA's Tailoring Rule. As part of its review of this submittal, EPA performed a line-by-line review of Albuquerque/Bernalillo County's revisions and has determined that they are consistent with the Tailoring Rule. EPA's Technical Support Document detailing our analysis of the revisions to the New Mexico SIP is available in the docket for this action.

#### V. What action is EPA taking?

EPA is proposing to approve Albuquerque/Bernalillo County's December 15, 2010, SIP submittal, relating to PSD requirements for GHG-emitting sources in Albuquerque/Bernalillo County. Specifically, the December 15, 2010, proposed SIP revision establishes appropriate emissions thresholds for determining PSD applicability to new and modified GHG-emitting sources in accordance with EPA's Tailoring Rule. EPA has made the determination that this SIP submittal is approvable because it is in accordance with the CAA and EPA regulations regarding PSD permitting for GHGs.

If EPA finalizes our approval of Albuquerque/Bernalillo County's changes to its air quality regulations to incorporate the appropriate thresholds for GHG permitting applicability into its SIP, then paragraph (e) in Section 52.1634 of 40 CFR part 52, as included in EPA's SIP Narrowing Rule—which codifies EPA's limiting its approval of Albuquerque/Bernalillo County's PSD SIP to not cover the applicability of PSD to GHG-emitting sources below the Tailoring Rule thresholds—is no longer necessary. In today's proposed action, EPA is also proposing to amend Section 52.1634 of 40 CFR part 52 to remove this unnecessary regulatory language.

#### VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air 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:

- 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 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

<sup>9</sup> SIP Narrowing Rule, 75 FR 82,540/2.

<sup>10</sup> *Id.* at 82,542/3.

<sup>11</sup> *Id.* at 82,544/1.

<sup>12</sup> *Id.* at 82,540/2.

<sup>13</sup> On December 15, 2010, Governor Richardson also submitted revisions to the Albuquerque/Bernalillo County's Title V program and to the General Provisions portion of the SIP. EPA will take separate action on these revisions in a separate rulemaking.

<sup>14</sup> "Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County; Prevention of Significant Deterioration (PSD) and New Source Review" 72 FR 20728 (April 26, 2007).

costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, and Reporting and recordkeeping requirements.

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

Dated: September 13, 2011.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2011-24696 Filed 9-23-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2011-0100; FRL-9471-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana—Air Quality, Subchapter 7, Exclusion for *De Minimis* Changes

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to partially approve and partially disapprove State Implementation Plan (SIP) revisions submitted by the State of Montana on June 25, 2010 and May 28, 2003. The revisions contain new and amended rules in Subchapter 7 (Permit, Construction, and Operation of Air Contaminant Sources) that pertain to the issuance of Montana air quality permits, in addition to other minor administrative changes to the Administrative Rules of Montana. The intended effect of this action is to propose to approve the rules that are approvable and to propose to disapprove the rules that are inconsistent with the Clean Air Act (CAA.) This action is being taken under section 110 and 112 of the CAA.

**DATES:** Comments must be received on or before October 26, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2011-0100, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: [leone.kevin@epa.gov](mailto:leone.kevin@epa.gov).
- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- **Mail:** Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

- **Hand Delivery:** Carl Daly, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-R08-OAR-2011-0100. 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 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 e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through <http://www.regulations.gov>, your e-mail 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. 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, any form of encryption, and 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>. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

**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 Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kevin Leone, Air Program, Mailcode 8P-AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6227, or [leone.kevin@epa.gov](mailto:leone.kevin@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### Table of Contents

I. General Information  
 II. Background  
 III. What Authorities Apply to EPA's Proposed Action  
 IV. EPA's Analysis and Proposed Actions on SIP Revisions  
 V. Summary of Proposed Actions  
 VI. Statutory and Executive Order Reviews

#### Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (iii) The initials *SIP* mean or refer to State Implementation Plan.
- (iv) The words *State* or *Montana* mean the State of Montana, unless the context indicates otherwise.

**I. General Information**

**A. What should I consider as I prepare my comments for EPA?**

1. **Submitting CBI.** Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a

#### FOR FURTHER INFORMATION CONTACT:

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 Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kevin Leone, Air Program, Mailcode 8P-AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-6227, or [leone.kevin@epa.gov](mailto:leone.kevin@epa.gov).

#### Table of Contents

**SUPPLEMENTARY INFORMATION:**

#### Table of Contents

I. General Information  
 II. Background  
 III. What Authorities Apply to EPA's Proposed Action  
 IV. EPA's Analysis and Proposed Actions on SIP Revisions  
 V. Summary of Proposed Actions  
 VI. Statutory and Executive Order Reviews

**Definitions**

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (iii) The initials *SIP* mean or refer to State Implementation Plan.
- (iv) The words *State* or *Montana* mean the State of Montana, unless the context indicates otherwise.

#### I. General Information

**A. What should I consider as I prepare my comments for EPA?**

1. **Submitting CBI.** Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a