

TABLE 2 (33 CFR 165.171)—Continued

	<ul style="list-style-type: none"> <li>• Date: September 28, 2012. In 33 CFR 165.171, this event is listed as occurring during the fourth weekend in September.</li> <li>• Time: 8:00 p.m. to 10:30 p.m.</li> <li>• Location: In the vicinity of Eliot Town Boat Launch, Eliot, Maine in approximate position: 43°08'56" N, 070°49'52" W (NAD 83).</li> </ul>
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This notice is issued under authority of 33 CFR 100.120, 33 CFR 165.171, and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners and marine information broadcasts. If the COTP determines that the regulated area need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: May 3, 2012.

**B.S. Gilda,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Sector Northern New England.*

[FR Doc. 2012-12562 Filed 5-23-12; 8:45 a.m.]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2007-0154; FRL-9672-7]

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

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving 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 approved today will address 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) ordinances, 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 approving them into the SIP. This action is being taken under section 110 of the Act.

**DATES:** This final rule is effective on June 25, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2007-0154. 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 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 Freedom of Information Act 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 or Mr. Bill Deese at 214-665-7253 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 3023, 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](mailto:mohr.ashley@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

- I. What is the background for this action?
- II. What final action is EPA taking?
- III. Statutory and Executive Order Reviews

#### I. What is the background for this action?

The background for today's action is discussed in detail in our November 4, 2011, proposal (76 FR 68385). In that notice, we proposed to approve four submittals from the State of New Mexico that apply in Bernalillo County, pursuant to the CAA, that address the fee requirements specified in the CAA section 110(a)(2). Specifically, the SIP revisions 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) ordinances, and the Albuquerque/Bernalillo County AQCB regulations of the New Mexico Statutes Annotated (NMSA) 1978. New Mexico's SIP submittals are dated May 24, 2011, September 7, 2004, February 2, 2007, and December 15, 2010.

Our November 4, 2011, proposal provides a detailed description of the submittals and the rationale for EPA's proposed actions, together with a discussion of the opportunity to comment. The public comment period for these actions closed on December 5,

2011, and we did not receive any comments.

**II. What final action is EPA taking?**

We are fully approving the New Mexico SIP revisions submitted on May 24, 2011, September 7, 2004, February 2, 2007, and December 15, 2010, relating to permitting fees to cover the cost of reviewing, approving, implementing, and enforcing a permit. This action is being taken under section 110 of the CAA.

**III. 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 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 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 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.

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 July 23, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposed 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: May 3, 2012.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart GG—New Mexico**

- 1. The second table in § 52.1620(c) entitled "EPA Approved Albuquerque/Bernalillo County, NM Regulations" is amended as follows:
  - a. Removing the heading "Albuquerque/Bernalillo County, Air Quality Control Regulations" and removing the entry for Section 21, Permit Fees; and
  - b. Adding a new entry for Part 2 (20.11.2 NMAC) in numerical order by part number to read as follows:

**§ 52.1620 Identification of plan.**

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

**EPA Approved Albuquerque/Bernalillo County, NM Regulations**

State citation	Title/subject	State approval/ effective date	EPA approval date	Explanation
* Part 2 (20.11.2 NMAC) ....	* Fees .....	* 1/10/2011	* 5/24/2012 [Insert FR page number where document begins].	* NOT in SIP: references to Operating Permits (20.11.42 NMAC) in subsection (A) of 20.11.2.2, subsection (B) of 20.11.2.11, subsection (B) of 20.11.2.12, subsections (A) and (B) of 20.11.2.13, and subsection (B) of 20.11.2.21.
* .....	* .....	* .....	* .....	* .....

[FR Doc. 2012-12497 Filed 5-23-12; 8:45 a.m.]

**BILLING CODE P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R10-OAR-2012-0112; FRL-9674-2]

**Partial Approval and Promulgation of Implementation Plans; Washington: Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standard**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is partially approving the State Implementation Plan (SIP) submittal from the State of Washington to demonstrate that the SIP meets the requirements of section 110(a)(1) and (2) of the Clean Air Act (CAA) for the National Ambient Air Quality Standard (NAAQS) promulgated for ozone on July 18, 1997. EPA finds that the current Washington SIP meets the following 110(a)(2) infrastructure elements for the 1997 8-hour ozone NAAQS: (A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M), except for portions related to the major source Prevention of Significant Deterioration (PSD) permitting program which is implemented under a Federal Implementation Plan.

**DATES:** This action is effective on June 25, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2012-0112. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information may not be publicly available, i.e., 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 [www.regulations.gov](http://www.regulations.gov) or in hard copy at EPA Region 10, Office of Air, Waste and Toxics (AWT-107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt at telephone number: (206) 553-

0256, email address: [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov), or the above EPA, Region 10 address.

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever "we", "us" or "our" are used, we mean EPA. Information is organized as follows:

**Table of Contents**

- I. Background
- II. Scope of Action
- III. Final Action
- IV. Statutory and Executive Order Reviews

**I. Background**

On July 18, 1997, EPA promulgated a new NAAQS for ozone. EPA revised the ozone NAAQS to provide an 8-hour averaging period which replaced the previous 1-hour averaging period, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm (62 FR 38856). The CAA requires SIPs meeting the requirements of sections 110(a)(1) and (2) be submitted by states within 3 years after promulgation of a new or revised standard. Sections 110(a)(1) and (2) require states to address basic SIP requirements, including emissions inventories, monitoring, and modeling to assure attainment and maintenance of the standards, so-called "infrastructure" requirements. To help states meet this statutory requirement for the 1997 8-hour ozone NAAQS, EPA issued guidance to address infrastructure SIP elements under section 110(a)(1) and (2).<sup>1</sup> In the case of the 1997 8-hour ozone NAAQS, states typically have met the basic program elements required in section 110(a)(2) through earlier SIP submissions in connection with previous ozone standards. The State of Washington submitted a certification to EPA on January 24, 2012, certifying that Washington's SIP meets the infrastructure obligations for the 1997 8-hour ozone NAAQS. The certification included an analysis of Washington's SIP as it relates to each section of the infrastructure requirements with regard to the 1997 8-hour ozone NAAQS. On March 6, 2012, EPA published a notice of proposed rulemaking (NPR) for the State of Washington (77 FR 13238) to partially approve the state's infrastructure SIP for the 1997 ozone NAAQS. Specifically in the NPR, EPA proposed approval of Washington's SIP as meeting the requirements for the following 110(a)(2) infrastructure

<sup>1</sup> William T. Harnett, Director, Air Quality Policy Division, Office of Air Quality Planning and Standards. "Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards." Memorandum to EPA Air Division Directors, Regions I-X, October 2, 2007.

elements for the 1997 8-hour ozone NAAQS: (A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M), except for portions related to the major source Prevention of Significant Deterioration (PSD) permitting program which is implemented under a Federal Implementation Plan codified at 40 CFR 52.2497. Also, as discussed in the NPR, this action does not address 110(a)(2)(D)(i) and 110(a)(2)(I). The public comment period for EPA's NPR closed on April 5, 2012. EPA received no comments on the proposed action. Accordingly, EPA is taking final action to approve the provisions as discussed in the NPR.

**II. Scope of Action**

This partial SIP approval does not extend to sources or activities located in "Indian Country" as defined in 18 U.S.C. 1151.<sup>2</sup> Consistent with previous Federal program approvals or delegations, EPA will continue to implement the Act in Indian Country because Washington did not adequately demonstrate authority over sources and activities located within the exterior boundaries of Indian reservations and other areas of Indian Country. The one exception is within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the Puyallup Tribe of Indians Settlement Act of 1989, 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area. Therefore, EPA's proposed SIP approval applies to sources and activities on nontrust lands within the 1873 Survey Area.

**III. Final Action**

EPA is approving the January 24, 2012, SIP submittal from the State of Washington to demonstrate that the SIP meets the requirements of section 110(a)(1) and (2) of the CAA for the NAAQS promulgated for ozone on July 18, 1997. EPA is approving the following section 110(a)(2) infrastructure elements for Washington

<sup>2</sup> "Indian country" is defined under 18 U.S.C. 1151 as: (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation. (2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation.