



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2015-0850; FRL-9975-60-Region 6]

**Approval and Promulgation of Air Quality Implementation Plans; New Mexico;
Infrastructure and Interstate Transport for the 2012 Fine Particulate Matter National
Ambient Air Quality Standard and Revised Statutes**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of New Mexico to address the requirements of section 110(a)(1) and (2) of the Clean Air Act (CAA or Act) for the 2012 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS). These requirements are designed to ensure that the structural components of each state's air quality program are adequate to meet the state's responsibility under the CAA (infrastructure SIP or i-SIP). EPA is also approving an update to the New Mexico statutes pertaining to conflicts of interest.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2015-0850. 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 EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Sherry Fuerst, (214) 665-6454, fuerst.sherry@epa.gov.

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

I. Background

The background for this action is discussed in detail in our December 26, 2017 proposal (82 FR 60933). In that document we proposed to approve the August 6, 2015 and December 8, 2015, i-SIP submittals from the New Mexico Environment Department and Albuquerque-Bernalillo County pertaining to the implementation, maintenance and enforcement of the 2012 PM_{2.5} NAAQS in New Mexico and all four of the interstate transport requirements. We also proposed to approve as part of the SIP the updates to the New Mexico statutes pertaining to conflicts of interest. We did not receive any comments regarding our proposal.

II. Final Action

We are approving the August 6, 2015 and December 8, 2015, i-SIP submittals pertaining to implementation, maintenance, and enforcement of the 2012 PM_{2.5} NAAQS, including all the transport sub-elements (CAA section 110(a)(2)(D)). We are also approving the portions of the updated statutes pertaining to conflicts of interest (CAA section 110(a)(2)(E)(ii)) in the New Mexico August 6, 2015 SIP submittal. The portions of the SIP submittal pertaining to the other Statute updates will be addressed at a later date.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the revisions to the New Mexico Statutes as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region 6 Office (please contact Sherry Fuerst in the “For Further Information Contact” section for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation (62 FR 27968, May 22, 1997).

IV. Statutory and Executive Order Reviews

Under the CAA, 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, the EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. 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);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 (Public Law 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, 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 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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 16, 2018.

Anne Idsal,
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 §52.1620 paragraph (e) is amended:

- a. In the first table titled “EPA Approved New Mexico Statutes in the Current New Mexico SIP” by revising the title to read “EPA Approved New Mexico Statutes”; revising the first centered heading to read “New Mexico Statutes”; adding a new centered heading for “Chapter 10 – Public Officers and Employees” followed by new entries for Sections 10-16-1 to 10-16-4, 10-16-6 to 10-16-9, 10-16-11, 10-16-13, and 10-16-14; adding a new centered heading for “Chapter 74 – Environmental Improvement”; revising the entries for Sections 74-1-4 and 74-2-4; and removing the entries for “Article 16, Sections 10-16-1 through 10-16-16” and “Article 16, Supplemental”;
- b. In the second table titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP” by adding an entry at the end for “Infrastructure and interstate transport for the 2012 PM_{2.5} NAAQS”.

The amendments read as follows:

§52.1620 Identification of plan.

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(e) * * *

EPA APPROVED NEW MEXICO STATUTES

State citation	Title/subject	State Approval/ effective date	EPA approval date	Comments
New Mexico Statutes				
Chapter 10 – Public Officers and Employees				
10-16-1	Short Title Governmental Conduct Act	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
10-16-2	Definitions	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
10-16-3	Ethical principles of public service; certain official acts prohibited; penalty	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
10-16-4	Official act for personal financial interest prohibited; disqualification from official act; providing a penalty	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

10-16-6	Confidential information	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
10-16-7	Contracts involving public officers or employees	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
10-16-8	Contracts involving former public officers or employees; representation of clients after government service	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
10-16-9	Contracts involving legislators; representation before state agencies	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
10-16-11	Codes of conduct	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Includes New Mexico Environmental Board Code of Conduct approved by the Governor on February 27, 1990 (64 FR 29235).

10-16-13	Prohibited bidding	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
10-16-14	Enforcement procedures	7/16/1990	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	
Chapter 74 – Environmental Improvement				
74-1-4	Environmental improvement board; creation; organization	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Approved for State Board Composition and Conflict of Interest Provisions
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74-2-4	Local authority	8/6/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	Approved for for State Board Composition and Conflict of Interest Provisions
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EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE MEXICO SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * *				
Infrastructure and interstate transport for the 2012 PM _{2.5} NAAQS	Statewide	8/6/2015, 12/8/2015	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	SIPs adopted by: NMED and City of Albuquerque

[FR Doc. 2018-05765 Filed: 3/21/2018 8:45 am; Publication Date: 3/22/2018]