

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R06-OAR-2011-0033; FRL-9921-79-Region 6]

**Approval and Promulgation of Implementation Plans; State of New Mexico; Revisions to the State Implementation Plan; General Definitions****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking a direct final action to approve revisions to the New Mexico State Implementation Plan (SIP) related to the General Definitions section of the New Mexico SIP that were submitted by the State of New Mexico on June 11, 2009. EPA has evaluated the SIP revisions for New Mexico and determined these revisions are consistent with the requirements of the Clean Air Act (Act or CAA). EPA is approving this action under section 110 of the Act.

**DATES:** This direct final rule is effective on March 27, 2015 without further notice, unless EPA receives significant adverse comment by February 25, 2015. 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-2011-0033, by one of the following methods:

(1) *www.regulations.gov*: Follow the on-line instructions.

(2) *Email*: Ms. Tracie Donaldson at [donaldson.tracie@epa.gov](mailto:donaldson.tracie@epa.gov).

(3) *Mail or Delivery*: Ms. Tracie Donaldson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

**Instructions:** Direct your comments to Docket ID No. EPA-R06-OAR-2011-0033. 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:** The index to the docket for this action is available electronically at [www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

**FOR FURTHER INFORMATION CONTACT:** Ms. Tracie Donaldson, (214) 665-6633, [donaldson.tracie@epa.gov](mailto:donaldson.tracie@epa.gov). To inspect the hard copy materials, please schedule an appointment with Ms. Donaldson or Mr. Bill Deese at 214-665-7253.

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

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**I. Background***A. CAA and SIPs*

Section 110 of the CAA requires states to develop and submit to EPA a SIP to ensure that state air quality meets National Ambient Air Quality Standards (NAAQS). The NAAQS currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur

dioxide. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. EPA-approved SIP provisions and control strategies are federally enforceable. States revise the SIP as needed and submit revisions to EPA for approval.

*B. SIP Revision Submitted on June 11, 2009*

On August 31, 2009, the New Mexico Environmental Improvement Board (EIB) adopted amendments to the New Mexico Administrative Code (NMAC) at Title 20, Chapter 2, Parts 2, 74 and 79. Governor Richardson submitted these amendments as a revision to the New Mexico SIP in a letter dated June 11, 2009.

As part of this action, EPA is addressing only the revisions to the NMAC at Title 20, Chapter 2, Part 2, Definitions that were contained in the revisions adopted on August 31, 2009. This includes the addition of two definitions: "PM<sub>2.5</sub>" and "PM<sub>2.5</sub> emissions." EPA is not addressing the revisions to Parts 74 and 79, which were previously addressed in a separate action. See 75 FR 72688.

EPA is also taking this opportunity to recodify the General Definitions of the NMAC as part of this action. The New Mexico EIB adopted the recodification of Title 20, Chapter 2, Part 2 in 2002.

**II. EPA's Evaluation**

As detailed in the Technical Support Document (TSD) accompanying this action, the definitions of "PM<sub>2.5</sub>" and "PM<sub>2.5</sub> emissions" that were submitted as additions to the New Mexico SIP have been reviewed and were found to be consistent with EPA's federal regulations. The 2002 recodification of Title 20, Chapter 2, Part 2 is administrative in nature, does not contain substantive changes, and is approvable.

**III. Final Action**

For the reasons stated above and in the TSD, EPA is taking direct final action to approve revisions to the New Mexico SIP pertaining to the General Definitions section at NMAC, Title 20, Chapter 2, Part 2, Definitions, as adopted on August 31, 2009, and submitted as SIP revisions on June 11, 2009. EPA is also approving the recodification of Title 20, Chapter 2, Part 2 adopted in 2002 as part of this action.

We are approving the revisions to the New Mexico SIP under section 110 of the Act. We are publishing this rule without prior proposal because we view

this as a noncontroversial amendment and anticipate no significant adverse comments. 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 significant adverse comments are received. This rule will be effective on March 27, 2015 without further notice unless we receive significant adverse comment by February 25, 2015. If we receive significant 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.

**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, 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 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 March 27, 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 dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 6, 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 § 52.1620(c), the table titled "EPA Approved New Mexico Regulations" is amended by revising the entry for Part 2 under "New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality". The revision reads as follows:

**§ 52.1620 Identification of plan.**

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

**EPA APPROVED NEW MEXICO REGULATIONS**

| State citation  | Title/subject | State approval/effective date | EPA approval date | Comments |
|---|---------------|-------------------------------|-------------------|----------|
| New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality |               |                               |                   |          |

EPA APPROVED NEW MEXICO REGULATIONS—Continued

| State citation    | Title/subject        | State approval/effective date | EPA approval date  | Comments   |
|-------------------|----------------------|-------------------------------|--|--|
| *<br>Part 2 ..... | *<br>Definitions ... | *<br>8/31/2009                | *<br>1/26/2015 .....<br>[Insert FR page number where document begins]. | *<br>The following definitions are state specific and are not being approved into the SIP:<br>G. "Carbon dioxide"<br>M. "Greenhouse gas"<br>O. "Hydrofluorocarbons"<br>S. "Methane"<br>V. "Nitrous oxide"<br>AA. "Perfluorocarbons"<br>AN. "Sulfur hexafluoride" |
| *<br>.....        | *<br>.....           | *<br>.....                    | *<br>.....   | *<br>.....   |

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 82**

[EPA-HQ-OAR-2014-0621; FRL-9921-52-OAR]

RIN 2060-AS38

**Protection of Stratospheric Ozone: Extension of the Laboratory and Analytical Use Exemption for Essential Class I Ozone-Depleting Substances**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** This rule extends the laboratory and analytical use exemption for the production and import of class I ozone-depleting substances through December 31, 2021. The Environmental Protection Agency (EPA) is taking this action under the Clean Air Act, consistent with a recent decision of the Parties to the *Montreal Protocol on Substances that Deplete the Ozone Layer*. The exemption allows the production and import of controlled substances in the United States for laboratory and analytical uses that have not been already identified by EPA as nonessential.

**DATES:** This rule is effective January 26, 2015.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2014-0621. 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 is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and is 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 the Air and Radiation Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC 20004. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

**FOR FURTHER INFORMATION CONTACT:** Jeremy Arling by regular mail: U.S. Environmental Protection Agency, Stratospheric Protection Division (6205T), 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone: (202) 343-9055; or by email: [arling.jeremy@epa.gov](mailto:arling.jeremy@epa.gov). You may also visit the EPA's Ozone Protection Web site at [www.epa.gov/ozone/strathome.html](http://www.epa.gov/ozone/strathome.html) for further information about EPA's Stratospheric Ozone Protection regulations, the science of ozone layer depletion, and other related topics.

**SUPPLEMENTARY INFORMATION:** Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. EPA is issuing this final rule under section 307(d)(1) of the Clean Air Act, which states: "The provisions of section 553 through 557 . . . of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies." Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the policies underlying APA section 553(d) in

making this rule effective on January 26, 2015. APA section 553(d) allows an effective date less than 30 days after publication for a rule that "that grants or recognizes an exemption or relieves a restriction." 5 U.S.C. 553(d)(1). Since today's action grants an exemption for limited laboratory and analytical uses from the general prohibition on production or import of Class I ozone depleting substances after their phaseout dates, EPA is making this action effective immediately upon publication.

**I. General Information**

*A. Does this action apply to me?*

Entities potentially regulated by this action include: (1) Pharmaceutical preparations manufacturing businesses (NAICS code 325412); (2) medical and diagnostic laboratories (NAICS code 621511); (3) research and development in the physical, engineering, and life sciences (NAICS code 54171); and (4) environmental consulting services (NAICS code 541620). This list is not intended to be exhaustive, but rather to provide a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility, company, business, or organization could be regulated by this action, you should carefully examine the regulations promulgated at 40 CFR part 82, subpart A. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section.

**II. Extension of the Laboratory and Analytical Use Exemption**

The *Montreal Protocol on Substances that Deplete the Ozone Layer* (Montreal Protocol, or Protocol) is the international agreement to reduce and eventually eliminate the global