

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R06-OAR-2007-1119; FRL-9181-7]

Approval and Promulgation of Implementation Plans; Albuquerque/Bernalillo County, NM; Interstate Transport of Pollution**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) to address the “good neighbor” provisions of the Clean Air Act (CAA) section 110(a)(2)(D)(i), for the 1997 ozone standards and the 1997 PM_{2.5} standards as it applies to Albuquerque/Bernalillo county. The revision addresses one element of CAA section 110(a)(2)(D)(i), which pertains to prohibiting air pollutant emissions from within a state to significantly contribute to nonattainment of the ozone and PM_{2.5} NAAQS in any state. The Albuquerque/Bernalillo Air Quality Control Board (AQCB) is responsible for the portion of the New Mexico SIP that applies in Bernalillo County, which encompasses the City of Albuquerque. This rulemaking action is being taken under section 110 of the CAA.

DATES: Comments must be received on or before August 30, 2010.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2007-1119, by one of the following methods:

- *Federal e-Rulemaking Portal:* <http://www.regulations.gov>.

- Follow the online instructions for submitting comments.

- *EPA Region 6 “Contact Us” Web site:* <http://epa.gov/region6/r6comment.htm>. Please click on “6PD (Multimedia)” and select “Air” before submitting comments.

- *E-mail:* Mr. Guy Donaldson at donaldson.guy@epa.gov. Please also send a copy by e-mail to the person listed in the **FOR FURTHER INFORMATION CONTACT** section below.

- *Fax:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), at fax number 214-665-7263.

- *Mail:* Mr. Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

- *Hand or Courier Delivery:* Mr. Guy Donaldson, Chief, Air Planning Section

(6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Such deliveries are accepted only between the hours of 8 a.m. and 4 p.m. weekdays, and not on legal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket No. EPA-R06-OAR-2007-1119. 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 e-mail. The 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 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.

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 Planning Section (6PD-L), 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 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 State submittal is also available for public inspection during official business hours, by appointment, at the City of Albuquerque, Environmental Health Department, One Civic Plaza, Albuquerque, NM 87102.

FOR FURTHER INFORMATION CONTACT: Emad Shahin, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-6717; fax number (214) 665-7263; e-mail address shahin.emad@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

Outline

- I. What action is EPA taking?
- II. What is a SIP?
- III. What is the background for this action?
- IV. What is EPA’s evaluation of the submittal?
- V. Proposed Action
- VI. Statutory and Executive Order Reviews

I. What action is EPA taking?

We are proposing to approve a revision to the New Mexico State Implementation Plan (SIP) to address the “good neighbor” provisions of the Clean Air Act (CAA) section 110(a)(2)(D)(i), for the 1997 ozone standards and the 1997 PM_{2.5} standards for Albuquerque/Bernalillo County, demonstrating that one of the required elements of the CAA section 110(a)(2)(D)(i) has been met. The SIP revision demonstrates in part that air pollutant emissions from sources within Albuquerque/Bernalillo County do not significantly contribute to nonattainment of the relevant NAAQS in any other state. Therefore, we have determined that emissions from sources in Albuquerque/Bernalillo County do not significantly contribute to nonattainment of the 1997 ozone standards or of the 1997 PM_{2.5} standards in any other state. In a separate action, EPA approved this revision for the remainder of the State. (75 FR 33174). The remaining three elements of section 110(a)(2)(D): (1) Interference with the maintenance of the NAAQS in any other

state; (2) interference with measures required to prevent significant deterioration of air quality in any other state; and (3) interference with measures required to protect visibility in any other state will be evaluated and addressed in future rulemakings.

II. What is a SIP?

Section 110(a) of the CAA requires each state to develop a plan that provides for the implementation, maintenance, and enforcement of the national ambient air quality standards (NAAQS). EPA establishes NAAQS under section 109 of the CAA. Currently, the NAAQS address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

The plan developed by a state is referred to as the state implementation plan (SIP). The content of the SIP is specified in section 110 of the CAA, other provisions of the CAA, and applicable regulations. SIPs can be extensive, containing state regulations or other enforceable measures and various types of supporting information, such as emissions inventories, monitoring networks, and modeling demonstrations.

A primary purpose of the SIP is to provide the air pollution regulations, control strategies, and other means or techniques developed by the state to ensure that the ambient air within that state meets the NAAQS. However, another important aspect of the SIP is to ensure that emissions from within the state do not have certain prohibited impacts upon the ambient air in other states through interstate transport of pollutants. This SIP requirement is specified in section 110(a)(2)(D). Pursuant to that provision, each state's SIP must contain provisions adequate to prevent, among other things, emissions that significantly contribute to violations of the NAAQS in any other state.

States are required to update or revise SIPs under certain circumstances. One such circumstance is EPA's promulgation of a new or revised NAAQS. Each state must submit these revisions to EPA for approval and incorporation into the federally-enforceable SIP.

III. What is the background for this action?

For air quality purposes, Albuquerque/Bernalillo County operates the same way as a state. The EPA treats and funds Albuquerque/Bernalillo County as it does states. Enacted in 1967, the New Mexico Air Quality Control Act allowed the establishment

of the Albuquerque/Bernalillo County AQCB as a local board and gave it authority to administer and enforce its air quality regulations within the Albuquerque/Bernalillo County boundaries. The AQCB has air quality jurisdiction over all of Bernalillo County, which encompasses the City of Albuquerque. The AQCB has the responsibility to adopt and implement the SIP as it applies to Bernalillo County. Therefore, AQCB has the responsibility to address 110(a)(2)(D) elements within Bernalillo county. The State of New Mexico Environmental Improvement Board has jurisdiction over all counties in New Mexico except Bernalillo County. The City of Albuquerque Environmental Health Department, Air Quality Division administers and staffs the air quality program for Albuquerque/Bernalillo County.

On July 18, 1997, EPA promulgated new standards for 8-hour ozone and fine particulate matter (PM_{2.5}). This action is being taken in response to the July 18, 1997, revision to the 8-hour ozone standards and PM_{2.5} standards. This action does not address the requirements for the 2006 PM_{2.5} standards or the 2008 8-hour ozone standards; those standards will be addressed in a later action.

Section 110(a)(1) of the CAA requires states to submit SIPs to address a new or revised NAAQS within 3 years after promulgation of such standards, or within such shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that such new SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions. On August 15, 2006, EPA issued its "Guidance for State Implementation Plan (SIP) Submission to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-Hour Ozone and PM_{2.5} National Ambient Air Quality Standards" ("Guidance") for SIP submissions that states should use to address the requirements of section 110(a)(2)(D)(i). EPA developed this guidance to make recommendations to states for making submissions to meet the requirements of section 110(a)(2)(D) for the 1997 8-hour ozone standards and 1997 PM_{2.5} standards.

EPA received a SIP revision adopted by AQCB on September 12, 2007, to address the requirements of section 110(a)(2)(D)(i) for both the 1997 8-hour ozone standards and 1997 PM_{2.5} standards. This SIP revision follows EPA's Guidance. As identified in the Guidance, the "good neighbor" provisions in section 110(a)(2)(D)(i) require each state to submit a SIP that

prohibits emissions that adversely affect another state in the ways contemplated in the statute.

Section 110(a)(2)(D)(i) contains four distinct requirements related to the impacts of interstate transport; however, in this rulemaking EPA is addressing only the requirement that pertains to preventing sources in one state from emitting pollutants in amounts that will contribute significantly to nonattainment of the 1997 8-hour ozone standards and 1997 PM_{2.5} standards in any other state. The Albuquerque/Bernalillo County submission relies on the same technical demonstration used by New Mexico Environment Department, which shows that emissions from the State of New Mexico, including Albuquerque/Bernalillo County, do not contribute to nonattainment in another state. Thus, the submission indicates that the current SIP is adequate to prevent significant contribution from the Albuquerque/Bernalillo County to nonattainment in any other state. Thus, no additional emissions controls are necessary at this time to alleviate interstate transport from sources in Albuquerque/Bernalillo County.

IV. What is EPA's evaluation of the submittal?

In accordance with EPA's Guidance, the SIP revision addresses interstate transport for the 1997 8-hour ozone standards and 1997 PM_{2.5} standards. The SIP revision makes a showing that emissions from Albuquerque/Bernalillo County do not significantly contribute to violations of either NAAQS in other states by two different means. For PM_{2.5}, the revision relied primarily upon technical analysis performed by EPA in connection with another regional rulemaking that addresses interstate transport. For ozone, the revision relied primarily on additional modeling to address the extent of interstate transport. We believe that the submission adequately establishes that emissions from Albuquerque/Bernalillo County do not significantly contribute to violations of either NAAQS in other states, for the reasons explained below.

To support a determination of no "significant contribution" for the 1997 PM_{2.5} standards, the submission relied on EPA's Clean Air Interstate Rule (CAIR)¹ analysis. This approach is consistent with EPA's Guidance to

¹ See, "Rule to Reduce Interstate Transport of Fine Particulate Matter and Ozone (Clean Air Interstate Rule); Revisions to Acid Rain Program; Revisions to the NO_x SIP Call; Final Rule," 70 FR 25162 (May 12, 2005). Information regarding CAA section 110(a)(2)(D) SIPs can be found beginning of page 25263.

states for this SIP submission. In CAIR, EPA evaluated which states significantly contribute to violations of the 1997 8-hour ozone standards and 1997 PM_{2.5} standards in other states. Based upon its analysis, EPA did not include New Mexico in the CAIR region. In the CAIR preamble, EPA provided its rationale for the exclusion of the western states, including New Mexico, from further consideration of transport for 8-hour ozone and PM_{2.5} and the requirements of CAIR.

The "Technical Support Document for the Interstate Air Quality Rule Air Quality Modeling Analysis," January 2004 (available at <http://www.epa.gov/cair/technical.html>) contains documentation of the modeling used to support CAIR. This modeling included an analysis of the maximum impact of emissions from states without CAIR controls applied on areas projected in PM_{2.5} nonattainment in 2010. A maximum impact level of 0.15 µg/m³ was considered significant for this analysis (**Note:** in the final CAIR EPA changed the maximum impact level for this significance test to 0.20 µg/m³). EPA's modeling indicated that the maximum impact from emissions from sources in New Mexico (including Albuquerque/Bernalillo County) on any projected nonattainment area in another state was 0.03 µg/m³. This value is 20% of the significant impact level that EPA used in the CAIR proposal, and therefore EPA determined that emissions from the State of New Mexico (including Albuquerque/Bernalillo County) do not significantly contribute to pollutant levels in any area projected to be nonattainment of the PM_{2.5} standard in that analysis.

CAIR was remanded by the U.S. Court of Appeals for the District of Columbia, and EPA is currently in the process of developing a replacement rule to address interstate transport for the 1997 8-hour ozone and 1997 PM_{2.5} standards. We do not believe that the CAIR remand affects EPA's CAIR analysis for the purpose of evaluating New Mexico's and Albuquerque/Bernalillo County's PM_{2.5} impacts on other states. Specifically, EPA's modeling was conducted without including the impact of any CAIR controls, and thus the evaluation is not impacted by any uncertainty in the implementation of CAIR controls due to the remand. Also, despite remand of the CAIR rules, EPA's reliance on the maximum impact level of 0.20 µg/m³ as the cutoff for the inclusion of a state in the CAIR region was upheld by the court. Therefore, with respect to the 1997 PM_{2.5} standards, we believe that the submission adequately establishes that

sources in that State, including Albuquerque/Bernalillo County, are not significantly contributing to violations of that NAAQS in any other state.

To support a determination of no "significant contribution" for the 8-hour ozone NAAQS, AQCB could not rely upon EPA's CAIR analysis because western states including New Mexico were not included in the area modeled for ozone. Instead, New Mexico and AQCB provided an additional modeling analysis of the impact of emissions from the State on projected 8-hour ozone nonattainment in downwind states. We note that modeling is not necessarily required to support this type of SIP submission, but this approach is consistent with EPA's Guidance to states for this SIP submission.

The modeling relied upon by AQCB is described in greater detail in its technical support document in the submission, and is available at <http://www.regulations.gov>, Docket No. EPA-R06-OAR-2007-1119. We note that EPA assisted the State and AQCB with this analysis, including the development of the modeling demonstration. In order to develop a model scenario that could evaluate New Mexico's impacts, the State and EPA determined that it was appropriate to rely on data developed by the Central Regional Air Planning Association (CENRAP). Modeling was conducted using a 2002 third quarter CENRAP modeling dataset that included New Mexico in the modeling domain. While a more recent dataset might be assumed to be more appropriate to support this action, a 2010 dataset was not available from CENRAP. However, we believe that the use of the 2002 dataset is adequate to evaluate the degree of contribution of emission sources in Albuquerque/Bernalillo County, to violations of the 1997 8-hour ozone standards. Because the analysis is based on year 2002 emissions, we believe it is a conservative estimate of potential transport impacts in 2010 because emissions have been decreasing since 2002 due to various recent federal control programs (including On-Road and Nonroad reductions). This trend is confirmed by available 2005 inventory. In other words, if data from 2002 establish that there is no significant contribution to violations of the 1997 8-hour ozone standards in other states, then Albuquerque/Bernalillo County would have even lower impacts in 2010 and consequently no significant contribution.

In the Guidance, we recommended a number of ways that states might elect to evaluate whether or not there is significant contribution, and we

suggested that states might consider assessing the potential for contribution using assumptions similar to those used by EPA in CAIR. The State's and AQCB's analysis considered three factors comparable to those used by EPA as screening criteria in determining significance for states in CAIR: (a) The magnitude of the contribution, (b) the frequency of the contribution, and (c) the relative amount of contribution. The additional modeling yielded consistent results showing New Mexico emissions, including Albuquerque/Bernalillo County do not contribute significantly to 8-hour ozone nonattainment in any of the areas analyzed. New Mexico's highest overall contribution to total nonattainment for any nonattainment area at the time of the modeling was for Dallas/Fort Worth. New Mexico's highest impact on the Dallas/Fort Worth area was a daily average contribution of 0.4%, with a contribution average of 0.4 ppb. By EPA's own metrics (as established in CAIR and upheld by the court), these impacts are considered to be small, infrequent, and well below screening criteria established at 1% and 2 ppb, respectively. Moreover, not a single metric of the three contribution factors was found to be above the significance threshold established by EPA for any of the downwind counties. For more details please see the document titled "Modeling Data and Report for New Mexico from EPA Regions 6 and 7" that is included in the docket materials for this action.

At the time the modeling was performed, Denver's air quality was meeting the standard. (The 2004–2006 8-Hour Ozone Design Value (DV) was 81 ppb.) Therefore, the State and AQCB did not evaluate New Mexico's ozone impacts on Denver. Denver had a very high ozone season in 2007 that temporarily pushed the area into nonattainment. The preliminary 2007–2009 DV (awaiting final data validation) is 82 ppb so the area appears to now be back in attainment. The preliminary 2007–2009 DV is based upon 4th High values of 90 ppb in 2007, 79 ppb in 2008, and 79 ppb in 2009 (preliminary). With the last two 4th Highs of 79 ppb, Denver would have to monitor a 4th High value of 97 ppb in 2010 to go back into nonattainment for the period 2008–2010. Denver has not had a 4th High value of more than 92 ppb in the last 15 years, so it is unlikely that Denver will be in nonattainment at the end of the 2010 ozone season for the 84 ppb standard. Based on preliminary 2007–2009 data, Denver is attaining the standard, so Albuquerque/Bernalillo County emissions should not be

considered as contributing to nonattainment in Denver.

With respect to the 1997 8-hour ozone standards, we believe that the submission adequately establishes that sources in Albuquerque/Bernalillo County are not significantly contributing to violations of that NAAQS in any other state. As noted previously, EPA will be acting on the other elements of Section 110(a)(2)(D)(i) in separate rulemakings.

V. Proposed Action

We are proposing to approve a revision to the New Mexico SIP which adequately demonstrates that air pollutant emissions from sources within Albuquerque/Bernalillo County do not significantly contribute to nonattainment of the relevant NAAQS on any other state.

Information provided by New Mexico Environment Department and AQCB in the technical demonstration sufficiently demonstrates that emissions from Albuquerque/Bernalillo County do not significantly contribute to downwind nonattainment. Thus, EPA concludes that the New Mexico SIP as it pertains to Albuquerque/Bernalillo County complies with CAA section 110(a)(2)(D)(i)(I).

VI. 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 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.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 20, 2010.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. 2010-18560 Filed 7-28-10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R09-OAR-2010-0585; FRL-9182-7]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Nevada; Redesignation of Las Vegas Valley to Attainment for the Carbon Monoxide Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve the State of Nevada's request to redesignate to attainment the Las Vegas Valley nonattainment area for the carbon monoxide national ambient air quality standard. EPA is also proposing to approve the carbon monoxide maintenance plan and motor vehicle emissions budgets for the area, as well as certain additional revisions to the Nevada State implementation plan. These revisions include the suspension of a local wintertime cleaner burning gasoline rule, and the relaxation of a State rule governing wintertime gasoline in Clark County. EPA's proposed approval is contingent upon receipt of a supplemental submittal from the State of Nevada containing a commitment to reinstate the existing vapor pressure limit in the State wintertime gasoline rule, if necessary, and thereby to implement the related contingency measure in the maintenance plan.

DATES: Comments must be received on or before August 30, 2010.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2010-0585, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *E-mail:* occonnor.karina@epa.gov.

3. Mail or deliver: Karina O'Connor (AIR-2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: Direct your comments to Docket ID No. EPA-R09-OAR-2010-0585. 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 that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail 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