

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

For the reasons set forth in the preamble, amend part 706 of title 32 of the CFR as follows:

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

■ 1. The authority citation for part 706 continues to read as follow:

Authority: 33 U.S.C. 1605.

■ 2. Section 706.2 is amended in Table Three, by revising the entries for USS MICHIGAN (SSGN 727) and USS GEORGIA (SSGN 729), to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

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TABLE THREE

Vessel	Number	Masthead lights arc of visibility; rule 21(a)	Side lights arc of visibility; rule 21(b)	Stern light arc of visibility; rule 21(c)	Side lights distance inboard of ship's sides in meters; Section 3(b) annex 1	Stern light distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; Section 2(K) annex 1	Anchor lights relationship of aft light to forward light in meters; Section 2(K) annex 1
* * * * *								
USS MICHIGAN	SSGN 727	225°	112.5°	209°	5.3	9.0	3.8	4.0 below.
USS GEORGIA	SSGN 729	225°	112.5°	209°	5.3	9.0	3.8	4.0 below.

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Approved: May 4, 2011.

M. Robb Hyde,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).

[FR Doc. 2011-11759 Filed 5-13-11; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R06-OAR-2007-0502; FRL-9305-6]

Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Sunland Park Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving a revision to the New Mexico State Implementation Plan (SIP). The submitted revision consists of a maintenance plan for Sunland Park, New Mexico, developed to ensure continued attainment of the 1997 8-Hour National Ambient Air Quality Standard (NAAQS or standard) through the year 2014. The Maintenance Plan meets the requirements of Section 110(a)(1) of the Federal Clean Air Act (CAA or Act), EPA's rules, and is consistent with EPA's guidance. EPA is approving the revision pursuant to section 110 of the CAA.

DATES: This rule is effective on *July 15, 2011* without further notice, unless EPA receives relevant adverse comment by June 15, 2011. 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 No. EPA-R06-OAR-2007-0502, by one of the following methods:

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

- *EPA Region 6 Contact Us Web site:* <http://epa.gov/region6/r6coment.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 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-2007-0502. 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 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 at the State Air Agency listed below during official business hours by appointment:

New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, Santa Fe, NM 87505.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Boyce, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone 214-665-7259; fax number 214-665-7263; e-mail address boyce.kenneth@epa.gov.

SUPPLEMENTARY INFORMATION:

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

Outline

- I. Background
- II. Analysis of the State’s Submittal
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background

Under the 1990 CAA Amendments, the Sunland Park area was designated nonattainment for the 1-hour ozone standard on June 12, 1995 and classified as “marginal.” The Sunland Park area is a portion of Dona Ana County, New Mexico, is approximately 42 square miles (sq. mi.) in area, and includes the communities of Sunland Park, Santa Teresa, and La Union. Sunland Park, La Union, and Santa Teresa are located

along the border region of New Mexico and are adjacent to El Paso, Texas, and Ciudad Juarez, Mexico, or what is commonly referred to as the Paso del Norte Airshed. New Mexico submitted all the requirements for a 1-hour ozone nonattainment area classified as marginal, and EPA approved them into the New Mexico SIP on February 8, 2002. See 67 FR 6152. There are no outstanding obligations under the 1-hour ozone NAAQS.

The Sunland Park area has unique considerations for ozone planning due to airshed contributions from Mexico and Texas. Air quality within the Paso del Norte Airshed has improved over the last 10 years due to cooperative efforts between the State of Texas, the State of New Mexico, and Mexico through organizations such as the Paso Del Norte Joint Advisory Committee (JAC). Although the area has continued to monitor attainment of the 1-hour ozone standard the State chose not to submit a request for redesignation before EPA revoked the 1-hour ozone NAAQS.¹

In 1997, EPA revised the ozone standard from a 1 hour form to one based on an 8 hour average. On April 30, 2004, EPA designated and classified areas for the 1997 8-hour ozone NAAQS (69 FR 23858) and published the final Phase 1 rule for implementation of the 1997 ozone NAAQS (69 FR 23951). The Sunland Park area was designated as attainment/unclassifiable for the 1997 8-hour ozone standard on June 15, 2004 (see 69 FR 23858. The Phase I rule listed requirements for areas that were nonattainment for the 1 hour standard and attaining the 1997 8 hour standard under 51.905(a)(3). New Mexico was required to provide a 10 year maintenance plan for this 1997 8-hour ozone attainment area under section 110(a)(1) of the Act and the Phase 1 rule. (40 CFR 51.905(a)(3)(iii)).

On May 20, 2005, EPA issued guidance regarding how a state might fulfill the obligation established by the Act and the Phase 1 rule. (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8 hour Ozone Areas Under Section 110(a)(1) of Clean Air Act*, May 20, 2005.

On May 7, 2007, New Mexico adopted and submitted to EPA a 1997 8-hour

¹ Monitors in Sunland Park continue to reflect attainment of the 1-hour ozone NAAQS. The State, however, did not submit a request for redesignation of the area to attainment for the 1-hour ozone standard and a section 175A maintenance plan. Because the area was never redesignated to attainment, the area must continue to meet the 1-hour ozone marginal area applicable requirements (see 40 CFR 51.905(a)(3)).

ozone standard maintenance plan for the Sunland Park area. This SIP revision satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the Sunland Park unclassifiable/attainment area.

II. Analysis of the State’s Submittal

In this action, EPA is approving the State’s maintenance plan for the 1997 ozone NAAQS for the area of Sunland Park because EPA finds that the New Mexico submittal meets the requirements of section 110(a)(1) of the CAA, EPA’s rule, and is consistent with EPA’s guidance. As required, the plan provides for continued attainment and maintenance of the 1997 ozone NAAQS in the area for 10 years from the effective date of the area’s designation as unclassifiable/attainment for the 1997 ozone NAAQS, and includes components illustrating how the area will continue in attainment of the 1997 ozone NAAQS and contingency measures. Our analysis of the State’s submission is discussed below.

Section 110(a)(1) of the CAA does not explicitly state what is required for a maintenance plan, so the guidance suggested using CAA section 175A, which states the requirements for a maintenance plan, as a guide for states to use in developing their maintenance plans. The required components of a Maintenance Plan under CAA Section 175A include:

1. Attainment Inventory;
2. Maintenance Demonstration;
3. Monitoring Network;
4. Verification of Continued Attainment; and
5. Contingency Plan

1. Attainment Inventory

The New Mexico Environmental Department (NMED) developed comprehensive inventories of VOC, CO, and NO_x emissions from area, stationary, and mobile sources using a base year of 2002 to demonstrate maintenance of the 1997 8-hour ozone standard for Sunland Park. The year 2002 is an appropriate year for the NMED to base attainment level emissions because States may select any one of the three years on which the 8-hour attainment designation for the 1997 ozone NAAQS was based (2001, 2002, and 2003). The State’s submittal contains the detailed inventory data and summaries by source category. Using the 2002 inventory as a base year reflects one of the years used for calculating the air quality design values on which the 8-hour ozone designation decisions were based. It also is one of

the years in the 2002–2004 time period used to establish the baseline visibility levels for the regional haze program.

A practical reason for selecting 2002 as the base year emission inventory is that Section 110(a)(2)(B) of the CAA and the Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) require States to submit emissions inventories for all criteria pollutants and their precursors every three years, on a schedule that includes the emissions year 2002.

For stationary point sources in Sunland Park, the NMED provided estimates for each commercial or

industrial operation that emits 100 ton/year or greater of NO_x and VOC. These data are quality assured by the State before submission to national emission inventory. There are only two major point sources: El Paso Electric and Foamex. For area sources (sources too numerous to inventory individually) NMED used EPA emissions factors to estimate emissions based on surrogates such as population. For non-road and on-road mobile sources, the State obtained the data through EPA’s 2002 NEI. Mobile sources emissions were estimated using the data in EPA’s 2002 NEI using EPA’s MOBILE6 motor

vehicle emissions factor computer model. This information was provided down to the county level in each state. Using population projections for the Sunland Park area and Dona Ana County, the State estimated the on-road and non-road mobile emissions for Sunland Park for the projection year 2014.

Table 1 below lists emissions data (area, point, mobile, and biogenic) for the base year of 2002 for the ozone precursors NO_x, CO, and VOC. Please see the Technical Support Document (TSD) for additional emission inventory data.

TABLE 1—SUMMARY OF ALL SOURCE CATEGORIES FOR SUNLAND PARK, BASELINE 2002
[TPY = tons per year, TPD = ton per day]

Source category	NO _x		CO		VOC	
	TPY	TPD	TPY	TPD	TPY	TPD
Area	30.40	0.0896	157.94	0.586	193.73	0.553
Point	1,085.7	3.044	192.38	0.552	94.19	0.331
Mobile	829.63	2.27	6,040.64	16.55	530.14	1.45
Biogenic	5.74	0.015	n/a	n/a	528.08	1.44
Total Emissions	1,951.47	5.41	6,390.96	17.68	1,342.04	3.74

The procedures used by the NMED for development of the emissions inventory are described in the NMED’s submitted 8-Hour Ozone Maintenance Plan for the Sunland Park area, pages 8–49. The emissions inventory process includes quality assurance procedures to verify that data have been reviewed and examined for their source or origin, methods of compilation, accuracy, occurrence of errors, and clarity. This is to assure a good product and that such procedures can easily be applied to

future inventories. EPA’s *Emission Inventory Improvement Program* was used as a guide in developing the 2002 emission inventory for the Sunland Park Nonattainment area.

EPA has reviewed the State’s methodologies, modeling data, and performance, etc. in developing the 2002 base year emissions and finds that New Mexico has developed the 2002 emissions inventory appropriately to identify the level of ozone-forming emissions in Sunland Park that was

consistent with attainment of the NAAQS in 2002.

Projections for 2014 were developed by NMED using a University of New Mexico, Bureau of Business and Economic Research study which projected a population growth of 3.2%/year. Based on this study, the State projected all of the emission categories would grow at 3.2%/year. Table 2 shows the projected VOC, NO_x, and CO emissions inventory data for the Sunland Park area for the year 2014.

TABLE 2—SUMMARY OF ALL SOURCE CATEGORIES FOR SUNLAND PARK, PROJECTED FOR 2014
[TPY = tons per year, TPD = tons per day]

Source category	NO _x		CO		VOC	
	TPY	TPD	TPY	TPD	TPY	TPD
Area	42.07	0.115	218.59	0.598	262.44	0.719
Point	1,502.6	4.12	266.25	0.729	130.36	0.357
Mobile	1,147.96	3.14	8,360.24	22.90	733.71	2.010
Biogenic	7.94	0.015	n/a	n/a	730.86	2.002
Total Emissions	2,700.57	7.39	8,445.08	24.27	1,857.37	5.088

2. Maintenance Demonstration

The primary purpose of a maintenance plan is to demonstrate how an area will continue to remain in compliance with the 1997 ozone standard for the 10 year period following the effective date of designation as unclassifiable/attainment. The end projection year is

10 years from the effective date of the attainment designation for the 1997 ozone NAAQS, which for Sunland Park was June 15, 2004. Therefore, the plan must demonstrate attainment through 2014. As discussed in section (1) Attainment Inventory above, New Mexico has identified the level of ozone-forming emissions in Sunland

Park that was consistent with attainment of the NAAQS for ozone in 2002. New Mexico has projected VOC, NO_x, and CO² emissions for the year

² Carbon Monoxide has low reactivity and leads to little ozone formation so it is generally not tracked in determining whether maintenance is expected. New Mexico has provided estimates of

2014 in Sunland Park, and also discusses emissions projections for the Paso del Norte airshed.

Generally, maintenance is demonstrated when emissions in the projection year remain less than or equal to the emissions during the attainment period. The projections provided by New Mexico, however, actually show an increase in emissions. For 2014, the VOC and NO_x emissions are projected to increase by 1.35 tons per day and 1.98 tons per day, respectively. EPA has reviewed these growth estimates and New Mexico only used one methodology to calculate the growth for all the source categories. The use of this particular methodology has resulted in extremely conservative emissions growth calculations. We believe this methodology significantly overstates the growth in emissions and if it had been properly calculated, there would be no projected growth in emissions in Sunland Park.

In projecting future emissions, New Mexico's use of projected population as a surrogate for estimating the rate of emissions growth results in a significant overestimate of emissions growth. Using population as a surrogate does not take into account the significant reductions that will occur due to fleet turnover in both on-road and off-road categories. The best way to calculate these emissions would be to use EPA's mobile emission factor model and the non-road emissions model along with projections of vehicle miles traveled. We examined the base and projected El Paso emissions contained in the Texas maintenance plan for the El Paso area, which EPA approved on January 15, 2009, at 74 FR 2387. To make a more reasonable estimation of emissions growth for the mobile source category, we looked at the emissions projections for El Paso performed using the MOBILE model for on-road emissions and NonRoad model for off-road emissions. In El Paso, mobile NO_x emissions were

projected to decrease by 54% percent and mobile VOC emissions are projected to decrease by 47%. We applied these figures proportionally to the Sunland Park area. In addition, it is not clear why NMED projected growth in biogenic VOC emissions. These are generally held constant in projections; there is no scientific basis for projecting an increase. As shown in Tables 3 and 4, if these more reasonable assumptions about NO_x and VOC emissions growth for the mobile source category and the biogenic emissions are made for Sunland Park then the emissions actually would be expected to decline slightly. Further, emissions growth is more closely correlated to economic growth in particular industrial sectors (the area source category) than population growth. We did not apply the El Paso economic growth factors to the Sunland Park area and calculate a revised emissions growth for this area source category.

TABLE 3—SUMMARY OF PROJECTED NO_x EMISSIONS FOR SUNLAND PARK, ADJUSTED

Source category	2002 TPD	2014	2014 (adjusted)
Area	0.0896	0.115	.115
Point	3.044	4.12	4.12
Mobile	2.27	3.14	1.04
Biogenic	0.015	0.015	.015
Total Emissions	5.41	7.39	5.29

TABLE 4—VOC PROJECTIONS FOR SUNLAND PARK, ADJUSTED

Source category	2002 TPD	2014 TPD	2014 (adjusted)
Area	0.553	0.719	0.719
Point	0.331	0.357	0.357
Mobile	1.45	2.010	0.77
Biogenic	1.44	2.002	1.44
Total Emissions	3.74	5.088	3.59

EPA recognizes that the estimates in Tables 4 and 5 are rough approximations, analogized from the information specific for the El Paso area, and we would not normally rely on these methods for emission projections. In this case, however, because of the overestimate of the projected growth in emissions in the Sunland Park area for the year of 2014, we believe that the use

of these El Paso analogy methods by EPA serves the purpose to illustrate the Sunland Park area will continue in attainment through 2014.

We also believe that these El Paso analogy methods are adequate in this instance because emissions in Sunland Park represent only a small percentage of the emissions in the Paso Del Norte airshed. As demonstrated in Table 5

below, sources in the Sunland Park area were contributing a small percentage (approximately 1.6%) of the CO, NO_x, and VOC emissions in the airshed for the base year of 2002. An overwhelming majority of the emissions contributing to ground level ozone in the airshed are from the City of El Paso and Ciudad Juarez.

CO emission growth, which are included here, but

CO estimates will not be included in the remainder of the discussion.

TABLE 5—EMISSIONS IN PASO DEL NORTE AIRSHED
[TPY = tons per year]

Source	Ciudad Juarez TPY			El Paso County TPY			Sunland Park TPY		
	VOC	NO _x	CO	VOC	NO _x	CO	VOC	NO _x	CO
Mobile	20,208	25,590	155,583	9,939	17,122	148,277	530	830	6,040
Area	68,085	14,082	52,393	8,640	872	5,993	190	30	158
Point	2,308	18,133	13,821	861	4223	1,704	94	1,086	94
Total	90,601	57,805	221,797	19,440	22,217	155,974	810	1,946	6,292
Percentage	81.7	70.5	57.7	17.5	27.1	40.6	.73	2.4	1.6

* The emissions data for Ciudad Juarez comes from, The 1999 Mexico NEI: Six Border States and are based on the inventory data for the State of Chihuahua. This is the only complete emission inventory data currently available for this area.

** The emissions data for El Paso comes from the, El Paso County 8-Hour Ozone Maintenance Plan and the El Paso Redesignation to Attainment for Carbon Monoxide and Maintenance Plan, both submitted to EPA by the Texas Commission on Environmental Quality in January of 2006.

Since such a small percentage of emissions to the airshed are contributed by Sunland Park, we feel it is reasonable to rely upon the El Paso analogy methods to demonstrate that the attainment level emissions in Sunland Park will be maintained. As discussed previously, we examined the base and projected El Paso

emissions contained in the Texas maintenance plan for the El Paso area, which EPA approved on January 15, 2009, at 74 FR 2387. Table 6 below, shows emissions data for the base year of 2002 for the ozone precursors NO_x, and VOC for both Sunland Park and the El Paso areas. Table 7 shows the

projected emissions data for the year of 2014 for both areas (Sunland Park table is not adjusted). Table 8 shows the change between 2002 and 2014 in emissions data for both areas (Sunland Park table is not adjusted). Please see the Technical Support Document (TSD) for additional emission inventory data.

TABLE 6—SUNLAND PARK AND EL PASO (U.S. PORTION OF THE PASO DEL NORTE AIRSHED) VOC, AND NO_x BASELINE EMISSIONS INVENTORY, 2002

Emissions source	2002 Sunland Park tons per day	2002 El Paso tons per day	2002 Total tons per day
Total VOC	3.74	52.44	56.18
Total NO _x	5.41	60.87	66.28

TABLE 7—SUNLAND PARK AND EL PASO (U.S. PORTION OF THE PASO DEL NORTE AIRSHED) VOC, AND NO_x PROJECTED EMISSIONS, 2014

Emissions source	2014 Sunland Park tons per day	2014 El Paso tons per day	2014 Total tons per day
Total VOC	5.09	44.61	49.70
Total NO _x	7.39	36.89	44.28

TABLE 8—SUNLAND PARK AND EL PASO (U.S. PORTION OF THE PASO DEL NORTE AIRSHED) VOC, AND NO_x EMISSIONS INVENTORY BASELINE (2002) AND PROJECTIONS (2014)

Emissions source	2002 Sunland Park and El Paso tons per day	2014 Sunland Park and El Paso tons per day	Change tons per day (percentage)
Total VOC	56.18	49.61	-7.02 (-12.5%)
Total NO _x	66.28	44.28	-22.00 (-33.2%)

Table 8 shows that overall emissions of VOC and NO_x on the U.S. portion of the air basin are declining substantially for the 10-year period despite the fact those emissions are projected by New Mexico to grow slightly in the Sunland Park area. As discussed previously, EPA believes New Mexico's estimates for growth for all the source categories but point sources were over estimated and this over estimation leads to a

conclusion that the emissions in Sunland Park are expected to increase. On the other hand, we believe emissions in Sunland Park would be expected to decrease, if assumptions that are more reasonable were made. The fact that the combined emissions in El Paso and Sunland Park are projected to decline adds further support that the area will continue to maintain the standard. Therefore, we believe Sunland Park is

expected to maintain attainment of the 1997 8-hour ozone standard during the period of the maintenance plan. Please see the Technical Support Document (TSD) for more information on EPA's review and evaluation of the States 2014 projected emissions inventories.

3. Monitoring Network

The State of New Mexico has committed in its maintenance plan to continue operation of an appropriate

ozone monitoring network and to work with EPA in compliance with 40 CFR part 58 with regard to the continued

adequacy of such a network, if additional monitoring is needed, and when monitoring can be discontinued.

Table 9 below, contains information on the current ozone monitoring network in the Sunland Park nonattainment area.

TABLE 9—MONITORING STATIONS IN THE SUNLAND PARK NONATTAINMENT AREA

Name	AIRS monitor ID	County site ID	Monitoring period
Sunland Park, NM	35-013-0017	0071	1989–Present.
Desert View, NM	35-013-0021	0021	1996–Present.
Santa Teresa, NM	35-013-0022	0022	1996–Present.
La Union, NM	35-013-0008	0008	1974–Present.

The Area was meeting the 1997 8-hour Standard during the 2002–2004 time period when we did designations with a design value of 77 ppb. The area continues to meet the 1997 8-hour standard with the most recent design value for 2008–2010 being 70 ppb. The area also has met the revoked 1-hour standard since 1998 with the most recent 1-hour design value of being 97 ppb.

4. Verification of Continued Attainment

To guarantee that attainment will be continued in the future, the State commits in the maintenance plan to track the progress of the maintenance plan by providing the EPA with an interim emissions inventory report for point, area, mobile and biogenic emissions of VOCs and CO in the Sunland Park area. In addition, New Mexico commits to verify the 8-hour ozone status through appropriate ambient air quality monitoring, and to quality assure air quality monitoring data according to federal requirements. New Mexico further demonstrates that it has the legal authority to implement and enforce all air quality measures needed to attain and maintain the 8-hour ozone NAAQS.

5. Contingency Plan

The section 110(a)(1) maintenance plan includes contingency provisions to correct promptly any violation of the 1997 ozone NAAQS that occurs in the Sunland Park area. The contingency indicator is based upon monitoring data. The triggering mechanism for activation of contingency measures is a monitoring violation of the 1997 8-hour ozone NAAQS. In the maintenance plan, if contingency measures are triggered, New Mexico is committing to implement the measures as expeditiously as practicable but no longer than 24 months following the trigger.

The following contingency measures are identified for implementation: The use of public outreach materials, e.g., public service announcements, press

releases, and informational pamphlets; the holding of an open house at the beginning of the ozone season and mid-way through; and Ozone Action Days, e.g., announcements during weather forecasts on the radio and television, advisories on the NMED web site. Real time monitoring data is also available on the NMED web site. Information on Ozone Action Days will be included in the outreach material for the Maintenance area.

These contingency measures and schedules for implementation satisfy EPA’s long-standing guidance on the requirements of section 110(a)(1) of Continued Attainment. Based on the above, we find that the contingency measures provided in the State’s Sunland Park 8-hour Ozone maintenance plan are sufficient and meet the requirements of section 110(a)(1) of the CAA.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, contingency plan, and verification of continued attainment. The maintenance plan SIP revision submitted by the State of New Mexico for the Sunland Park area meets the requirements of Section 110(a)(1) of the CAA.

III. Final Action

EPA is approving a revision to the New Mexico SIP. The revision is a 1997 8-hour ozone NAAQS maintenance plan for Sunland Park. Sunland Park remains in attainment of the eight-hour ozone standard. The State of New Mexico submitted the 1997 8-hour ozone NAAQS maintenance plan on behalf of the NMED for Sunland Park to EPA on May 2, 2007. EPA is approving the maintenance plan SIP revision for Sunland Park as meeting the requirements of CAA Section 110(a)(1) and EPA’s regulations under 40 CFR 51.905(a)(3) and (4) and being consistent with EPA guidance. We have evaluated the State’s submittal and have

determined that it meets the applicable requirements of the Clean Air Act and EPA regulations, and is consistent with EPA policy. Therefore, we are approving the request of NMED to revise the SIP for the Sunland Park ozone area.

EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no 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 relevant adverse comments are received. This rule will be effective on July 15, 2011 without further notice unless we receive adverse comment by June 15, 2011. If we receive 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 Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason and because this action will not have a significant, adverse effect on the supply, distribution, or use of energy, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional

requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive

policy on environmental justice. Because this rule merely approves a state rule implementing a Federal standard, EPA lacks the discretionary authority to modify today's regulatory decision on the basis of environmental justice considerations.

In reviewing SIP submissions under the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note), EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 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 rule 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. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *July 15, 2011*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 6, 2011.

Al Armendariz,
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

- 2. In § 52.1620, the second table in paragraph (e) entitled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP," is amended by adding an entry at the end of the table to read as follows:
(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Sunland Park 1997 8-Hour Ozone Maintenance Plan.	Sunland Park, NM	5/7/2007	5/16/2011 [Insert FR page number where document begins].	