

particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone encompassing a 1,000 foot radius of the Battleship Texas while it is under tow within the Houston Ship Channel and Galveston Channel. It is categorically excluded from further review under paragraph L60a of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

#### List of Subjects in 33 CFR Part 165

Harbours, Marine safety, Navigation, Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.2.

■ 2. Add § 165.T08–0651 to read as follows:

#### § 165.T08–0651 Safety Zone; Houston Ship Channel, Houston, TX.

(a) *Location.* The following area is a safety zone during specified conditions: All navigable waters within a 1,000 foot radius of the deadship tow of the Battleship Texas while the vessel transits the Houston Ship Channel and Galveston Channel.

(b) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the Captain of the Port Houston-Galveston (COTP) or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative by 281–464–4780, or email at [houstonwmm@uscg.mil](mailto:houstonwmm@uscg.mil). Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) Tug and barge traffic will be authorized to transit through the safety zone in the barge lanes, with no meeting or overtaking of other tug and barge traffic, with Vessel Traffic Service approval.

(c) *Enforcement period.* The safety zone remains in effect from 6 a.m. until 9 p.m. on August 31, 2022, until the Battleship Texas is moored at the drydock facility on the Galveston Channel.

Dated: August 22, 2022.

**J.E. Smith,**

*Captain, U.S. Coast Guard, Captain of the Port, Houston-Galveston.*

[FR Doc. 2022–18578 Filed 8–26–22; 8:45 am]

**BILLING CODE 9110–04–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R06–OAR–2021–0772; FRL–9889–02–R6]

#### Air Plan Approval; New Mexico; Interstate Transport Requirements for 2010 Nitrogen Dioxide National Ambient Air Quality Standards

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) revision submitted by the State of New Mexico, through the New Mexico Environment Department (NMED), for the purpose of addressing the Clean Air Act (CAA or “Act”) “good neighbor” interstate

transport (prongs 1 and 2) infrastructure SIP requirements for the 2010 1-hour Nitrogen Dioxide (NO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS). Specifically, the EPA is approving New Mexico's June 25, 2021, SIP revision that address prongs 1 and 2 to ensure that air emissions in the State do not significantly contribute to nonattainment or interfere with the maintenance of the 2010 1-hour NO<sub>2</sub> NAAQS in any other state. The EPA is approving this action pursuant to section 110 and part D of the CAA and the EPA's regulations.

**DATES:** This final rule is effective on September 28, 2022.

**ADDRESSES:** The EPA has established a docket for this action, Docket No. EPA–R06–OAR–2021–0772. All documents in the docket are listed on the <https://www.regulations.gov>. 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 electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Nevine Salem, EPA Region 6 Office, Infrastructure and Ozone Section, 214–665–7222, [salem.nevine@epa.gov](mailto:salem.nevine@epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

#### SUPPLEMENTARY INFORMATION:

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

#### I. Background

The EPA published a proposed rule for the approval of New Mexico's, June 25, 2021, SIP submission to address the 2010 1-hour NO<sub>2</sub> NAAQS. The background for this action and rationale for EPA's proposed action are explained in the notice of proposed rulemaking (NPRM) (87 FR 38362, June 28, 2022), and will not be restated here. No comment was received during the public comment period which ended on July 28, 2022.

#### II. Final Action

EPA is approving the New Mexico's June 25, 2021, SIP submission as satisfying the requirements of CAA

section 110(a)(2)(D)(i)(I) for the 2010 1-hour NO<sub>2</sub> NAAQS interstate transport prongs 1 and 2. New Mexico's SIP submission includes provisions that ensure emissions from New Mexico will not significantly contribute to nonattainment or interfere with the maintenance of the 2010 NO<sub>2</sub> NAAQS in any other state. The EPA is approving this action pursuant to section 110 of the CAA.

### III. Environmental Justice Considerations

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”<sup>1</sup>

The EPA provided additional analysis of environmental justice associated with this action for the purpose of providing information to the public in our June 28, 2022 proposal (87 FR 38362). The EPA's analysis shown in the proposed action demonstrates that there are no areas in New Mexico or nationwide that show problems attaining or maintaining air quality with regard to 2010 NO<sub>2</sub> NAAQS. There is also no indication that NO<sub>2</sub> emissions from New Mexico would contribute to environmental and health impacts on any group, including minority and low-income population. In addition, the national average of NO<sub>2</sub> concentrations have decreased substantially over the years.<sup>2</sup>

We therefore believe that this rule will not have disproportionately high or adverse human health or environmental

effects on communities with environmental justice concerns.

### 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 proposes to approve 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 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 proposed 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 Start Printed Page 11875 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2022. 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, Nitrogen dioxide, Ozone, Reporting and record keeping requirements, Volatile organic compounds.

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

Dated: August 23, 2022.

**Earthea Nance,**

*Regional Administrator, Region 6.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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.*

<sup>1</sup> <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>.

<sup>2</sup> See <https://www.epa.gov/air-trends/nitrogen-dioxide-trends>.

**Subpart GG—New Mexico**

■ 2. In § 52.1620(e), the table titled “EPA-Approved Nonregulatory Provisions and Quasi-Regulatory

Measures in the New Mexico SIP” is amended by adding the entry “Interstate Transport for the 2010 NO<sub>2</sub> NAAQS” at the end of the table to read as follows:

**§ 52.1620 Identification of plan.**  
\* \* \* \* \*  
(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	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Interstate Transport for the 2010 NO <sub>2</sub> NAAQS ...	Statewide .....	6/25/2021	8/29/2022, [Insert Federal Register citation].	

[FR Doc. 2022–18532 Filed 8–26–22; 8:45 am]  
BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R06–OAR–2016–0673; FRL–9878–02–R6]

**Air Plan Approval; Albuquerque-Bernalillo County, New Mexico; Excess Emissions**

**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 a State Implementation Plan (SIP) revision from the New Mexico Environment Department (NMED) submitted on October 17, 2016, on behalf of the Albuquerque-Bernalillo County Air Quality Control Board (Air Board). The submittal is in response to the EPA’s national SIP call on June 12, 2015, concerning excess emissions during periods of Startup, Shutdown, and Malfunction (SSM). EPA is approving the SIP submittal and finds that the SIP revision corrects the substantial inadequacies identified in the June 12, 2015, SIP call.

**DATES:** This rule is effective on September 28, 2022.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2016–0673. All documents in the docket are listed on the <https://www.regulations.gov> website. 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. Publicly available docket materials are available electronically through <https://www.regulations.gov>.  
**FOR FURTHER INFORMATION CONTACT:** Mr. Alan Shar, Regional Haze and SO<sub>2</sub> Section, EPA Region 6 Office, 1201 Elm Street, Suite 500, Dallas, Texas 75270, (214) 665–6691, [Shar.alan@epa.gov](mailto:Shar.alan@epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.  
**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 June 13, 2022 (87 FR 35701) proposal. In that document, we proposed to approve the removal of Part 49 Excess Emissions from the Albuquerque-Bernalillo County provisions of the New Mexico SIP. We also proposed to determine that such SIP revision corrects the substantial inadequacies identified in the June 12, 2015 SIP call.

**II. Response to Comments**

The public comment period for our proposed approval and determination ended on July 13, 2022, and no adverse comments were received. We received one comment supporting the action and urged EPA to take action on a separate SIP submittal concerning 20.2.7 NMAC Excess Emissions of the New Mexico SIP.

We acknowledge the support for our proposal and note that while 20.2.7 NMAC (Part 7 Excess Emissions) of the New Mexico SIP was not the subject of our June 13, 2022 (87 FR 35701) proposal, the EPA intends to fulfill its

obligations under the terms of a consent decree for taking action on the New Mexico SIP submittal concerning 20.2.7 NMAC.<sup>1</sup> As no concerns were raised in public comment, we are finalizing our action as proposed.

**III. Final Action**

The EPA is approving a revision to the Albuquerque-Bernalillo County provisions of the New Mexico SIP submitted on October 17, 2016, in response to the EPA’s national SIP call of June 12, 2015, concerning excess emissions during periods of SSM. More specifically, we are approving the removal of Part 49 Excess Emissions from the Albuquerque-Bernalillo County provisions of the New Mexico SIP. We are approving these revisions in accordance with section 110 of the Act. EPA is also determining that the SIP revision corrects the inadequacies identified in the June 12, 2015 SIP call.

**IV. Environmental Justice Considerations**

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to

<sup>1</sup> See Consent Decree resolving *Sierra Club et al. v. Regan* (Case No. 4:21–CV–6956–SBA, N.D. Calif.).