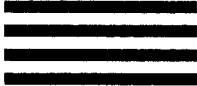
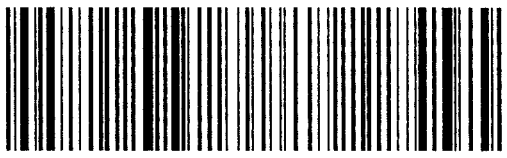


**Exhibit 4.4d Bound Printed Matter Return Service Label**

John Doe 123 Main St Washington DC 20260	<b>NO POSTAGE NECESSARY IF MAILED IN THE UNITED STATES</b>
	
<b>BPM RETURN SERVICE</b> PARCEL RETURNS <span style="float: right;">PERMIT NO. 12345</span>	
<b>BMC ZIP - USPS PARCEL RETURN SVC</b>  4206 0130 9157 0268 3733 1000 0010 15	<b>RETURN BULK MAIL CTR</b> 7500 ROOSEVELT RD FOREST PARK IL 60130-2296 <div style="background-color: black; color: white; padding: 5px; text-align: center; font-weight: bold; font-size: 1.2em;">A01</div>

We will publish an appropriate amendment to 39 CFR to reflect these changes.

**Stanley F. Mires,**  
*Chief Counsel, Legislative.*  
 [FR Doc. 03-23917 Filed 9-17-03; 8:45 am]  
 BILLING CODE 7710-12-C

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[NM-43-1-7600a; FRL-7556-7]

**Approval and Promulgation of Implementation Plans; New Mexico; Redesignation of Grant County to Attainment for Sulfur Dioxide**

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is taking direct final action on a request to redesignate Grant County, New Mexico from nonattainment area to attainment for the sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standards (NAAQS). In conjunction with this action, EPA is also approving the maintenance plan, and its associated contingency measures

plan for the Grant County nonattainment area, which were submitted to ensure that the attainment of SO<sub>2</sub> NAAQS will continue to be maintained. The redesignation request and maintenance and contingency measures plans were submitted as a revision to the New Mexico State Implementation Plan (SIP) by the New Mexico Environment Department (NMED) on February 21, 2003. We are approving these revisions in accordance with the requirements of the Federal Clean Air Act (Act).

**DATES:** This rule is effective on November 17, 2003 without further notice, unless EPA receives relevant adverse comment by October 20, 2003. 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:** Comments may be submitted by mail to: Mr. Thomas Diggs (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202-2733. Comments may also be submitted electronically, by facsimile, or through hand delivery/courier. Follow the detailed instructions as provided in the General Information section of this document.

**FOR FURTHER INFORMATION CONTACT:** Carrie Paige, Air State and Tribal Operations Section (6PD-S), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-6521, [paige.carrie@epa.gov](mailto:paige.carrie@epa.gov), or Alan Shar [shar.alan@epa.gov](mailto:shar.alan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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 General Information  
 Statutory and Executive Order Reviews  
 Throughout this document "we," "us," and "our" means EPA.

**A. What Action Is EPA Taking?**

The EPA designated Grant County, New Mexico as nonattainment for violating the secondary SO<sub>2</sub> NAAQS on March 3, 1978, at 43 FR 9016. On September 11, 1978, at 43 FR 40428, EPA designated Grant County, New Mexico as nonattainment for violating

the primary SO<sub>2</sub> NAAQS. Any area designated as not attaining the primary or secondary SO<sub>2</sub> NAAQS as of the date of enactment of the 1990 Amendments was designated nonattainment for SO<sub>2</sub> by operation of law upon enactment, pursuant to section 107(d)(1)(C)(i) of the Act (April 22, 1991, at 56 FR 16274).

On February 21, 2003, the Governor of New Mexico submitted to us a revision to the New Mexico SO<sub>2</sub> SIP (February 21, 2003 submittal). The February 21, 2003 submittal specifically requested EPA to redesignate the portion of Grant County, New Mexico, located in the Air Quality Control Region (AQCR) No. 021, from nonattainment to attainment for the SO<sub>2</sub> NAAQS. This particular portion of Grant County is restricted to a 3.5 mile radius around the Kennecott Copper Corporation (now owned by the Phelps Dodge Corporation and called the Hurley smelter) and land above 6470 feet Mean Sea Level within an 8 mile radius of the Hurley Smelter in Hurley, New Mexico. The air monitoring data for this area reveals values better than national standards for SO<sub>2</sub>. The February 21, 2003, submittal also included a maintenance plan for this area to ensure that attainment of the SO<sub>2</sub> NAAQS will be maintained through permitting and the applicable SIP rules. The State also submitted a contingency measures plan that consists of monitoring measures.

In this document we are approving NMED's request to redesignate the Grant County primary and secondary SO<sub>2</sub> nonattainment areas to attainment of the SO<sub>2</sub> NAAQS. We are also approving the maintenance plan and the contingency measures plan for this area into the New Mexico SO<sub>2</sub> SIP. See our Technical Support Document (TSD) for additional information and our evaluation of this submittal.

## **B. Why Was This SIP Revision Submitted?**

The NMED believes that the Grant County area is now eligible for redesignation because EPA approved New Mexico's SIP in 1982, and the SO<sub>2</sub> monitors in the nonattainment area of Grant County have not recorded exceedances of either the primary or secondary SO<sub>2</sub> NAAQS since 1979.

## **C. What Is the NAAQS for SO<sub>2</sub>?**

Under section 109 of the Act, EPA established the NAAQS to protect public health and welfare. The NAAQS address 6 criteria pollutants, which are carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide (SO<sub>2</sub>).

High concentrations of SO<sub>2</sub> affect breathing and may aggravate existing

respiratory and cardiovascular disease. Sensitive populations include asthmatics, individuals with bronchitis or emphysema, children and the elderly. SO<sub>2</sub> is also a primary contributor to acid deposition or acid rain, which causes acidification of lakes and streams and can damage trees, crops, historic buildings and statues. In addition, sulfur compounds in the air contribute to visibility impairment in large parts of the country. This is especially noticeable in national parks.

Ambient SO<sub>2</sub> results largely from stationary sources such as coal and oil combustion, steel mills, refineries, pulp and paper mills and from nonferrous smelters. There are 3 NAAQS for SO<sub>2</sub>:

- An annual arithmetic mean of 0.03 ppm (80 ug/m<sup>3</sup>);
- A 24-hour level of 0.14 ppm (365 ug/m<sup>3</sup>); and
- A 3-hour level of 0.50 ppm (1300 ug/m<sup>3</sup>).

The first two standards are primary (health-related) standards, while the 3-hour NAAQS is a secondary (welfare-related) standard. The annual mean standard is not to be exceeded, while the short-term standards are not to be exceeded more than once per year. Our TSD contains the ambient SO<sub>2</sub> monitored values for the Grant County, New Mexico nonattainment area.

## **D. What Is a SIP?**

Section 110 of the Act requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the NAAQS that EPA has established.

Each state must submit these regulations and control strategies to us for approval and incorporation into the federally enforceable SIP. Each federally approved SIP is designed to protect air quality. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

## **E. What Is the Federal Approval Process for a SIP?**

When a state wants to incorporate its regulations into the federally enforceable SIP, the state must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process includes a public notice, a public hearing, a public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state adopts a rule, regulation, or control strategy, the state may submit the adopted provisions to us and request

that we include these provisions in the federally enforceable SIP. We must then decide on an appropriate Federal action, provide public notice on this action, and seek additional public comment regarding this action. If we receive relevant adverse comments, we must address them prior to taking a final action.

Under section 110 of the Act, when we approve all state regulations and supporting information, those state regulations and supporting information become a part of the federally approved SIP. You can find records of these SIP actions in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations that we approved are not reproduced in their entirety in the CFR but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

## **F. What Does Federal Approval of a SIP Mean to Me?**

A state may enforce state regulations before and after we incorporate those regulations into a federally approved SIP. After we incorporate those regulations into a federally approved SIP, both EPA and the public may also take enforcement action against violators of these regulations.

## **G. What Requirements Must the State Meet for Approval of a Redesignation and How Did the State Meet Them?**

### *1. The State Must Show That the Area Is Attaining the Applicable NAAQS*

An area is considered to be in attainment of the SO<sub>2</sub> NAAQS provided that the primary and secondary standards have not been violated within the last three years. Grant County has had two monitors in place that have shown no violations since 1997; these monitors are in Bayard, NM and Hurley, NM. The monitor in Bayard has been in place since 1974 (and has shown no violations since 1979) and the monitor in Hurley has been in place since 1997. These monitors meet the requirements of 40 CFR Parts 53 and 58.

The monitor in Hurley is located in the area of highest concentration for SO<sub>2</sub> within the nonattainment area, as studied by the EPA Regional Office and NMED before deployment of the monitor in 1997. The monitor was placed where modeling indicated the highest concentration was likely to occur. As a result of this modeling, NMED does not have to submit additional material proving that the data is representative of the point of

highest concentration in the nonattainment area.

*2. The SIP for the Area Must Be Fully Approved Under Section 110(k) of the Act and Must Satisfy All Requirements That Apply to the Area*

The Grant County SO<sub>2</sub> SIP revision was approved by EPA on May 5, 1982 (47 FR 19332) and contained limits pertaining to the sole source of SO<sub>2</sub>, the Hurley Smelter. The EPA approved changes to New Mexico's SO<sub>2</sub> plan for Grant County on September 26, 1997 (62 FR 50514).

*3. The EPA Has Determined That the Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions*

Air quality improvement in the Grant County SO<sub>2</sub> nonattainment area is attributed to the SO<sub>2</sub> emission limits in the SIP and to the operating restrictions within the Title V permit imposed on the facility that contributed to the nonattainment status. Reductions in emissions are therefore permanent and enforceable.

*4. The State Has Met All Applicable Requirements Under Section 110 and Part D of the Act That Were Applicable Prior to Submittal of the Complete Redesignation Request*

The requirements under Section 110 and Part D are met with the prior approval of the SIP revisions for the source in the area in 1982, the approval of revisions in 1997 (62 FR 50514), and with the detailed study of the modeling generated by the NMED in 1997.

*5. EPA Is Fully Approving a Maintenance Plan, Including a Contingency Plan, for the Area Under Section 175A of the Act*

**Maintenance Plan**

Section 175A of the Act requires states to submit a SIP revision which provides for the maintenance of the NAAQS in the area for at least 10 years after approval of the redesignation. The basic components needed to ensure proper maintenance of the NAAQS are: attainment inventory, maintenance demonstration, verification of continued attainment, ambient air monitoring network, and a contingency plan.

**a. Attainment Inventory**

The state's submittal contains the emission inventory of SO<sub>2</sub> sources in the Grant County nonattainment area, dating back to 1997. It clearly shows that Grant County has not exceeded the SO<sub>2</sub> NAAQS since 1997.

**b. Maintenance Demonstration and Verification of Continued Attainment**

Maintenance of the SO<sub>2</sub> NAAQS in the Grant County nonattainment area has been achieved through the SIP and Title V permit requirements. The SO<sub>2</sub> emitting source involved in the Grant County SO<sub>2</sub> redesignation (the Hurley Smelter) is meeting the SO<sub>2</sub> emission limits identified in the SIP rules and permit. NMED will track the maintenance plan through the semi-annual review of permit conditions, air emission inventory and state regulations 20.2.41 NMAC and 20.2.3 NMAC which verify that the State of New Mexico has the continued legal authority needed to implement and enforce air quality controls to maintain the SO<sub>2</sub> NAAQS in Grant County.

**c. Monitoring Network**

After a detailed study of the modeling generated by the NMED in 1997 for placement of a new monitor in the Grant County nonattainment area, the Regional Office determined (in a letter to NMED dated August 26, 2002) that "the monitor was placed where modeling indicated the highest concentration was likely to occur." A copy of this letter is being attached to our TSD for reference purposes. Therefore, the NMED will use the current SO<sub>2</sub> air monitoring station located in Hurley, New Mexico to verify continuing attainment of the NAAQS in the area. The Hurley monitoring station meets 40 CFR Part 58. The SO<sub>2</sub> monitoring station located in Bayard, New Mexico will be discontinued.

**d. Contingency Plan**

Section 175A of the Act requires that the maintenance plan include contingency provisions to correct any violation of the NAAQS after redesignation of the area. However, the General Preamble for the Implementation of Title I of the Act Amendments of 1990 (57 FR 13498) states that SO<sub>2</sub> provisions require special considerations. A primary reason is that SO<sub>2</sub> control methods are well established and understood. Therefore, contingency measures for SO<sub>2</sub> need only consist of a comprehensive program to identify sources of violations of the SO<sub>2</sub> NAAQS and to undertake an aggressive follow-up for compliance and enforcement.

Upon verification of a violation of either the 24-hour or 3-hour SO<sub>2</sub> NAAQS, if the Hurley Smelter is responsible for the violation, NMED will work with this source to ensure that the violation will not occur again. If necessary, NMED will write and adopt

rules or amend the company's Title V permit to control SO<sub>2</sub> emissions at the company.

The State will be utilizing both the currently approved SIP requirements and Title V permit as tools for implementation of SO<sub>2</sub> Maintenance Plan. The State will be utilizing both Title V reporting, testing, compliance certification, and recordkeeping controls combined with the Continuous Emission Monitoring System (CEMS) data for SO<sub>2</sub> emissions as its Contingency Plan. It is EPA's finding that these reporting, testing, compliance certification, recordkeeping controls and the CEMS data requirements are a comprehensive program for identifying violations caused by the smelter. The February 21, 2003 submittal does not propose to remove or relax any of the existing SIP approved measures for controlling SO<sub>2</sub> emissions. A new major source of SO<sub>2</sub> or an existing source with major modification, including a process that may have been shut down or ceased operation, will not only have to comply with the existing federally approved SO<sub>2</sub> SIP provisions, it will also need to comply with terms and conditions that may be more stringent than existing SIP requirements imposed on the source in its air permit to ensure the area will continue maintaining the attainment status.

As detailed above, the State has met the maintenance plan requirements of Section 175A of the Act and the maintenance plan is fully approvable. The contingency measures plan is also fully approvable.

**Final Action**

We have evaluated the State's submittal and have determined that it meets the applicable requirements of the Act, and EPA regulations, and conforms to EPA policy. Therefore, we are approving the State of New Mexico's request to redesignate Grant County from a primary and secondary SO<sub>2</sub> nonattainment area to an SO<sub>2</sub> NAAQS attainment area. We are also approving the maintenance and contingency measures plans for Grant County into the New Mexico SIP. Furthermore, we are approving the NMED's request to discontinue the current SO<sub>2</sub> monitoring in Bayard, NM.

The EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no relevant adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the Maintenance Plan if relevant adverse

comments are received. This rule will be effective on November 17, 2003 without further notice unless we receive relevant adverse comment by October 20, 2003. If EPA receives relevant 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 at this time.

## General Information

### A. What Is the Public Rulemaking File?

The EPA is committed to ensuring public access to the information used to inform the Agency's decisions regarding the environment and human health and to ensuring that the public has an opportunity to participate in the Agency's decision-making process. The official public rulemaking file consists of the documents specifically referenced in a particular agency action, any public comments received, and other information related to the action. The public rulemaking file does not include Confidential Business Information (CBI) or other information for which disclosure is restricted by statute, although such information is a part of the Agency's official administrative record for the action.

### B. How Can I Get Copies of This Document and Other Related Information?

1. An official public rulemaking file is available for inspection at the Regional Office. The Regional Office has established an official public rulemaking file for this action under Identification Number (ID No.) NM-43-1-7600. The public rulemaking file is available for viewing at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. If possible, schedule the appointment two working days in advance of your visit. Official hours of business for the Regional Office are Monday through Friday, 8:30 a.m. to 4 p.m. excluding Federal holidays. Copies of any State submittals and EPA's TSD are also available for public inspection at the New Mexico Environment Department, Air Quality Bureau, 2044 Galisteo Street, Santa Fe, New Mexico 87505 during official business by appointment.

2. You may access this **Federal Register** document electronically through the Regulations.gov Web site located at <http://www.regulations.gov>. The Regulations.gov Web site is the central online rulemaking portal of the United States government and is a public service to increase participation in the government's regulatory activities by offering a central point for submitting comments on regulations.

### C. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, through hand delivery/courier or by facsimile. Instructions for submitting comments by each method are discussed below. To ensure proper receipt by EPA, identify the appropriate ID No. in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." The EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in section D below.

1. *Electronically.* To submit comments electronically (via e-mail, Regulations.gov, or on disk or CD-ROM), EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. The EPA's policy is that EPA will not edit your comments. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the public rulemaking file and may be made available in EPA's public Web sites. 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.

*i. E-mail.* Comments may be submitted by electronic mail (e-mail) to [Diggs.Thomas@epa.gov](mailto:Diggs.Thomas@epa.gov), Attention "Public comment on ID No. NM-43-1-7600." In contrast to the Regulations.gov Web site, EPA's e-mail system is not an "anonymous" system. If you send an e-mail comment directly to EPA, your e-

mail address will be automatically captured and included as part of the comment that is placed in the official public rulemaking file.

*ii. Regulations.gov.* Comments may be submitted electronically at the Regulations.gov Web site, the central online rulemaking portal of the United States government. Every effort is made to ensure that the Web site includes all rule and proposed rule notices that are currently open for public comment. You may access the Regulations.gov Web site at <http://www.regulations.gov>. Select "Environmental Protection Agency" at the top of the page and click on the "Go" button. The list of current EPA actions available for comment will be displayed. Select the appropriate action and follow the online instructions for submitting comments. Unlike EPA's e-mail system, the Regulations.gov Web site is an "anonymous" system, which means that any personal information, e-mail address, or other contact information will not be collected unless it is provided in the text of the comment. See the Privacy Notice at the Regulations.gov Web site for further information. Please be advised that EPA cannot contact you for any necessary clarification unless your contact information is included in the body of comments submitted through the Regulations.gov Web site.

*iii. Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to: Thomas Diggs (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Please include the text "Public comment on ID No. NM-43-1-7600." on the disk or CD ROM. These electronic submissions will be accepted in WordPerfect, Word, or ASCII file format. You should avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Thomas Diggs (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Please include the text "Public comment on ID No. NM-43-1-7600" in the subject line of the first page of your comments.

3. *By Hand Delivery or Courier.* Deliver your written comments or comments on a disk or CD ROM to: Thomas Diggs (6PD-L) Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. Attention "Public comment on ID No. NM-43-1-7600." Such deliveries are only accepted during official hours of business, which are Monday through Friday, 8:30 a.m. to 4 p.m., excluding Federal holidays.

4. *By Facsimile.* Fax your comments to: 214-665-7263, Attention "Public comment on ID No. NM-043-1-7600."

#### *D. How Should I Submit CBI to the Agency?*

You may assert a business confidentiality claim covering CBI information included in comments submitted by mail or hand delivery in either paper or electronic format. CBI should not be submitted via e-mail or at the Regulations.gov Web site. Clearly mark any part or all of the information submitted which is claimed as CBI at the time the comment is submitted to EPA. CBI should be submitted separately, if possible, to facilitate handling by EPA. Submit one complete version of the comment that includes the properly labeled CBI for EPA's official administrative record and one copy that does not contain the CBI to be included in the public rulemaking file. If you submit CBI on a disk or CD ROM, mark the outside of the disk or the CD ROM that it contains CBI and then identify the CBI within the disk or CD ROM. Also submit a non-CBI version if possible. Information which is properly labeled as CBI and submitted by mail or hand delivery will be disclosed only in accordance with procedures set forth in 40 CFR Part 2. For comments submitted by EPA's e-mail system or through the Regulations.gov Web site, no CBI claim may be asserted. Do not submit CBI to the Regulations.gov Web site or via EPA's e-mail system. Any claim of CBI will be waived for comments received through the Regulations.gov Web site or EPA's e-mail system. For further advice on submitting CBI to the Agency, contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

#### **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, 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 (Public Law 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 Clean Air Act. 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.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. 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 Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) 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 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 November 17, 2003. 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**

##### *40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

##### *40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: September 2, 2003.

#### **Lawrence Starfield,**

*Acting Regional Administrator, Region 6.*

■ 40 CFR Parts 52 and 81 are 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 paragraph (e) is amended by adding two new entries to the end of the table entitled "EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP," 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 geo-graphic or non-attainment area	State submittal/effective date	EPA approval date	Explanation
Revision for Attainment, and Maintenance Plan of SO2 Standards.	Portion of Grant County, this portion is restricted to a 3.5 mile radius around the Kennecott Copper Corporation (now owned by the Phelps Dodge Corporation and called the Hurley smelter) and land above 6470 feet Mean Sea Level within an 8 mile radius of the Hurley Smelter/Concentrator in Hurley.	02/21/03	9/18/03 [insert FR page citation].	
Contingency Measures Plan.	Portion of Grant County, this portion is restricted to a 3.5 mile radius around the Kennecott Copper Corporation (now owned by the Phelps Dodge Corporation and called the Hurley smelter) and land above 6470 feet Mean Sea Level within an 8 mile radius of the Hurley Smelter/Concentrator in Hurley.	02/21/03	9/18/03 [insert FR page citation].	

**PART 81—[AMENDED]**

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

**§ 81.332 New Mexico.**

■ 1. The authority citation for part 81 continues to read as follows:

■ 2. In § 81.332 the SO<sub>2</sub> table is amended by revising the entry for the AQCR 012 to read as follows:

NEW MEXICO—SO<sub>2</sub>

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 012:				
Grant County .....				X
Remainder of AQCR .....				X

\* \* \* \* \*  
 [FR Doc. 03-23747 Filed 9-17-03; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**  
**40 CFR Part 82**  
**[FRL-7560-9]**  
**RIN: 2060-AF36**  
**Protection of Stratospheric Ozone: Supplemental Rule Regarding a Recycling Standard Under Section 608 of the Clean Air Act; Correction**  
**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Final rule; correction.

**SUMMARY:** Through this action, EPA is correcting the final rule published in the **Federal Register** on July 24, 2003 (68 FR 43786). Specifically, EPA is clarifying that the effective date for the rule, as it applies to the certification of refrigerant recycling equipment is effective 90 days after the publication date (*i.e.*, October 22, 2003). The effective date for the remaining components of the final rule is September 22, 2003.

EPA is also including amendments to regulations that were discussed in the preamble to the July 24, 2003 final rule, but were inadvertently omitted from the **Federal Register**.  
**DATES:** The final rule that was published on July 24, 2003 at 68 FR 43786 is effective on September 22, 2003, except for § 82.158(n) (*i.e.*, certification standards for refrigerant recycling only equipment) which is effective October 22, 2003.  
**FOR FURTHER INFORMATION CONTACT:** Julius Banks; (202) 564-9870; Stratospheric Protection Implementation Branch, Global Programs Division, Office of Atmospheric Programs, Office of Air and Radiation (6205-J); 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The Stratospheric Ozone Information Hotline, 800-296-1996, and the Ozone Web page, <http://www.epa.gov/ozone/title6/608/regulations/index.html>, can also be contacted for further information concerning this correction.  
**SUPPLEMENTARY INFORMATION:** While the final rule published in the **Federal Register** on July 24, 2003 (68 FR 43786) lists the effective date for the certification of refrigerant recycling

equipment, as being effective 90 days after the publication date (*i.e.*, October 22, 2003), the notice failed to specify a regulatory citation associated with equipment certification. Therefore, EPA is clarifying that the effective date for the rule, as it applies to the certification of refrigerant recycling equipment, as stated in 40 CFR 82.158(n), is effective 90 days after the final rule publication date (*i.e.*, October 22, 2003).  
 The final rule discussed several edits to the appendices of 40 CFR part 82, subpart F that were omitted from the regulatory text published in the **Federal Register** (*i.e.*, reference list and standards for particulate used in standard contaminated refrigerant samples in Appendix B2 and the standards for becoming a certifying program for technicians in Appendix D). EPA is adding the reference list and the standards for particulate used in standard contaminated refrigerant samples to Appendix B2 (based on the ARI Standard 740-1995) that was inadvertently omitted from the **Federal Register** document. EPA is also adding edits to the regulatory text of Appendix D to subpart F-Standards for Becoming a Certifying Program for Technicians that were omitted from the final rule published on July 24, 2003. The edits