

days, unless law enforcement personnel are notified by the SARC that the victim has elected unrestricted reporting. Clothing or other personal effects may be released to the SARC for return to the victim. The information report will be updated when the evidence is destroyed, or released to investigative authorities.

(d) In the event that information about a sexual assault that was made under restricted reporting is disclosed to the commander from a source independent of the restricted reporting avenues, or to law enforcement from other sources, the commander may report the matter to law enforcement and law enforcement remains authorized to initiate its own independent investigation of the matter presented. Additionally, a victim's disclosure of his/her sexual assault to persons outside the protective sphere of the persons covered by the restricted reporting policy may result in an investigation of the allegations.

[FR Doc. 05-23853 Filed 12-8-05; 8:45 am]

BILLING CODE 3710-08-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 61 and 63

[R06-OAR-2005-NM-0005; FRL-8006-3]

Approval of the Clean Air Act Section 112(I) Program for Hazardous Air Pollutants and Delegation of Authority to the Albuquerque-Bernalillo County Air Quality Control Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB) has submitted updated regulations for receiving delegation of EPA authority for implementation and enforcement of National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources (both part 70 and non-part 70 sources). These regulations apply to certain NESHAPs promulgated by EPA, as amended through July 1, 2004. The delegation of authority under this action does not apply to sources in Indian Country. EPA is providing notice proposing to approve the delegation of certain NESHAPs to ABCAQCB.

DATES: Written comments must be received by January 9, 2006.

ADDRESSES: Comments may be mailed to Mr. Jeff Robinson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200,

Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the Addresses section of the direct final rule located in the final rules section of the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Robinson, Air Permits Section, Multimedia Planning and Permitting Division (6PD-R), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, at (214) 665-6435, or at robinson.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving ABCAQCB's request for delegation of authority to implement and enforce certain NESHAPs for all sources (both part 70 and non-part 70 sources). ABCAQCB has adopted certain NESHAPs into state regulations. In addition, EPA is waiving its notification requirements so sources will only need to send notifications and reports to ABCAQCB.

The EPA is taking direct final action without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the preamble to the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is published in the Rules section of this **Federal Register**.

Authority: 42 U.S.C. 7412.

Dated: November 29, 2005.

Carl E. Edlund,

Acting Regional Administrator, Region 6.

[FR Doc. 05-23809 Filed 12-8-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[R08-OAR-2005-SD-0002; FRL-8005-1]

Designation of Areas for Air Quality Planning Purposes; State of South Dakota; Approval of Redesignation Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a September 30, 2005 request from the designee of the Governor of South Dakota to redesignate the "Rapid City Area" under section 107 of the Clean Air Act (CAA) from unclassifiable to attainment for PM-10. EPA is proposing to approve the redesignation request because the State has adequately demonstrated that the "Rapid City Area" is in attainment of the PM-10 National Ambient Air Quality Standards (NAAQS) and has committed to the continuation of fugitive dust controls that should help ensure that the area continues to attain the PM-10 NAAQS. The requirements that will apply in the "Rapid City Area" will not change as a result of this action because, for the purposes of the requirements of the CAA, unclassifiable and attainment areas are treated the same. This action is being taken under section 107 of the Clean Air Act.

DATES: Comments must be received on or before January 9, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. R08-OAR-2005-SD-0002, by one of the following methods:

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

- Agency Web site: <http://docket.epa.gov/rmepub/index.jsp>. Regional Materials in EDOCKET (RME), EPA's electronic public docket and comment system for regional actions, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- E-mail: long.richard@epa.gov and dygowski.laurel@epa.gov.

- Fax: (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- Mail: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 200, Denver, Colorado 80202-2466.

- Hand Delivery: Richard R. Long, Director, Air and Radiation Program,

Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 200, Denver, Colorado 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. R08-OAR-2005-SD-0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available at <http://docket.epa.gov/rmepub/index.jsp>, 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 EDOCKET, regulations.gov, or e-mail. The EPA's Regional Materials in EDOCKET and Federal regulations.gov Web site are anonymous access systems, 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 EDOCKET or 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. For additional information about EPA's public docket visit EDOCKET online or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the Regional Materials in EDOCKET index at <http://docket.epa.gov/rmepub/index.jsp>. Although listed in the index, some information is not publicly available, i.e., CBI 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 either electronically in Regional Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202-2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski, EPA Region 8, 999 18th Street, Suite 200, MS 8P-AR, Denver, CO 80202, (303) 312-6144, dygowski.laurel@epa.gov.

SUPPLEMENTARY INFORMATION:

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (iii) The initials *SIP* mean or refer to State Implementation Plan.
- (iv) The words *State* or *South Dakota* mean the State of South Dakota, unless the context indicates otherwise.

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through Regional Materials in EDOCKET, regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be

disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for Preparing Your Comments.** When submitting comments, remember to:

- a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- d. Describe any assumptions and provide any technical information and/or data that you used.
- e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- f. Provide specific examples to illustrate your concerns, and suggest alternatives.
- g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- h. Make sure to submit your comments by the comment period deadline identified.

II. Background

The State of South Dakota has two areas designated under section 107 of the Act for PM-10 in 40 CFR 81.342, both of which are designated as unclassifiable: the "Rapid City Area" and the "Rest of State" (see 60 FR 55800, November 3, 1995, for the initial promulgation of PM-10 table in 40 CFR 81.342). EPA designated these areas as unclassifiable, rather than attainment, to be consistent with section 107(d)(4)(B) of the Act, which states that any area not initially designated as nonattainment for PM-10 shall be designated unclassifiable. Both "unclassifiable" and "attainment" areas have the same status relative to the applicable requirements of the Act. However, States do have the option of requesting redesignation of such areas from unclassifiable to attainment for PM-10, if certain criteria are met. Generally, EPA will look for the following elements to redesignate an area from unclassifiable to attainment for PM-10:

- A. A request from the Governor (or his/her designee) to redesignate an area from unclassifiable to attainment for PM-10 pursuant to section 107(d)(3)(D) of the Act;
- B. Verification of three consecutive years of PM-10 data for the area showing attainment; and

C. Some assurance that the State will continue to implement any control measures in place that have helped the area attain or maintain the PM-10 NAAQS.

III. Evaluation of State's Submittal

On September 30, 2005, the designee of the Governor of South Dakota submitted a request pursuant to section 107(d)(3)(D) of the CAA for the "Rapid City Area" to be redesignated from unclassifiable to attainment for PM-10. The State's letter indicates that the ambient air monitoring network, local and state regulations to control fugitive dust, and high wind advisory system to alert the public already in place in Rapid City will be maintained.

As stated in section II.B above, in order to be redesignated, an area must have three consecutive years of PM-10 data showing attainment. The State of South Dakota has maintained an appropriate PM10 monitoring network. To demonstrate attainment, the PM-10 monitoring data at each site must show that the expected 3-year annual arithmetic mean did not exceed 50 micrograms per cubic meter and the expected number of 24-hour days with PM-10 concentrations greater than 150 micrograms per cubic meter does not exceed more than one day per year. The expected 3-year annual arithmetic mean and 24-hour concentrations are calculated using Appendix K of 40 CFR, part 50. Appendix K of 40 CFR, part 50 requires that three consecutive years of complete data be used to demonstrate compliance. A complete year of data is based on a valid data capture efficiency of 75 percent of the scheduled sampling days in each of the calendar quarters used in the three year period. Sampling data from the air monitoring sites operating in 2002, 2003, and 2004 are being used to demonstrate that Rapid City should be redesignated from unclassifiable to attainment. The monitoring sites in Rapid City that operated during all three years are the Library (Air Quality System (AQS) # 46-103-1001), National Guard (AQS # 46-103-0013), and Black Hawk (AQS # 46-0093-0001) sites. In addition, data from the most recent maximum concentration sites, the Fire Station, AQS # 46-103-0019, and the Credit Union, AQS # 46-103-0020, are being used to support the redesignation even though complete data was not collected in 2003. The Fire Station site operated from 2000 until April 2003 when the building where the monitor was located was torn down, and the Fire Station site was replaced by the Credit Union site. The Credit Union site is located 30 meters east of the Fire Station site and began operating in

October 2003. Currently, the Credit Union is the high PM-10 concentration site for the western Rapid City area. As a result of having to move the high PM-10 concentration site, the State was unable to collect a full year of data in 2003. During 2003, the State was only able to collect PM-10 concentration data from January through April at the Fire Station site and October through December at the Credit Union site. Although this created a gap in the PM-10 concentrations for the high concentration site in Rapid City, EPA is using the data from these sites to support the redesignation because the data that was collected during 2002-2004 shows levels less than the NAAQS.

The only high concentration measurements were tied to high wind alert events. Under relevant EPA regulations and policies, these data are not used in determining attainment. As explained in greater detail below, South Dakota has developed and implemented a Natural Events Action Plan (NEAP) to help address anthropogenic emissions during high wind events. EPA's review of the relevant data indicates that the "Rapid City Area" is attaining both the 24-hour and annual PM-10 NAAQS.

As stated in section II.C above, we generally want to know that the State will continue to implement existing control measures that have helped the area attain or maintain the NAAQS. The State of South Dakota has an approved State Implementation Plan (SIP), which includes Article 74:36 of the Administrative Rules of South Dakota, to help ensure that the PM-10 NAAQS will be maintained. First, the State has a minor source construction and operating permit program in ARSD 74:36:04 and a major source permit program in ARSD 74:36:05. These regulations allow the State to issue a permit for a new source to construct or operate only when it has been shown that the new source will not prevent or interfere with attainment or maintenance of the NAAQS. Further, the State has been delegated authority to implement the Federal prevention of significant deterioration (PSD) permitting program in 40 CFR 52.21, which includes, among other things, the requirement that new and modified major stationary sources comply with the PM-10 increments and apply best available control technology (BACT). Thus, the State's permitting requirements should ensure that new growth in stationary source emissions does not impact attainment or maintenance of the PM-10 NAAQS in the "Rapid City Area".

In addition to the permitting requirements, the State has specific

regulations that control the emissions of particulate matter, including PM-10, in ARSD 74:36:06, 74:36:07, 74:36:15, 74:36:17, and 74:36:18. These include particulate emission limits for fuel-burning units, process industry units, incinerators, and wood waste burners; a 20% opacity limit that generally applies to all sources; open burning requirements; fugitive dust emission controls for street sanding and deicing; and fugitive dust emission controls from construction and continuous operations on State owned property. EPA believes these existing State regulations, which have been approved by EPA as part of the SIP, will help to ensure that the "Rapid City Area" maintains the PM-10 NAAQS.

The State has also developed a NEAP for Rapid City to address PM-10 exceedances that are natural events resulting from high winds and periods of prolonged drought. In July of 1998, the State developed and finalized a NEAP in accordance with EPA's 1996 Natural Events Policy (NEP), submitted it to EPA, and received EPA approval on the plan. In accordance with the NEP, the State also submitted a five-year review of their NEAP to EPA, and EPA approved the review on August 4, 2005. The NEAP contains control measures to minimize fugitive dust emissions during high wind events and also contains procedures for public notification when high wind events are occurring so members of the public can take extra precautions to protect themselves. The NEAP will remain in effect after redesignation to attainment. Finally, the State of South Dakota commits to maintain an appropriate PM10 monitoring network. This network will include a maximum concentration site, and data from the network will be submitted to EPA's Air Quality System database on a quarterly basis.

Based on the foregoing, EPA believes it is appropriate to approve the State's request to redesignate the "Rapid City Area" from unclassifiable to attainment for PM-10. Based on monitoring data, EPA will be aware if the attainment status of this area changes in the future and triggers the need for additional PM-10 controls as required by the Act.

IV. Proposed Action

EPA is proposing to approve the State of South Dakota's request for redesignation under section 107 of the CAA from unclassifiable to attainment for PM-10. EPA is soliciting public comments on this proposed action or on other relevant matters. Any comments will be considered before we take final action. Interested parties may participate in the Federal rulemaking

procedure by submitting written comments in accordance with the instructions outlined earlier in this notice.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve a redesignation to attainment and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107 of the Clean Air Act is an action that affects the attainment status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this proposed 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 proposes to approve a redesignation to attainment 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 proposed 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 proposes to approve a redesignation to attainment and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed 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.

Section 12(d) of the National Technology Transfer Advancement Act (NTTAA) of 1995, Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impracticable. VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS. This proposed 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.*).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: November 28, 2005.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. 05-23808 Filed 12-8-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

Solicitation of New Safe Harbors and Special Fraud Alerts

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice of intent to develop regulations.

SUMMARY: In accordance with section 205 of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, this annual notice solicits proposals and recommendations for developing new and modifying existing safe harbor provisions under the Federal anti-kickback statute (section 1128B(b) of the Social Security Act), as well as developing new OIG Special Fraud Alerts.

DATES: To assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on February 7, 2006.

ADDRESSES: Please mail or deliver your written comments to the following

address: Office of Inspector General, Department of Health and Human Services, Attention: OIG-101-N, Room 5246, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

We do not accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG-101-N. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 5541 of the Office of Inspector General at 330 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, (202) 619-0089, OIG Regulations Officer.

SUPPLEMENTARY INFORMATION:

I. Background

A. OIG Safe Harbor Provisions

Section 1128B(b) of the Social Security Act (the Act) (42 U.S.C. 1320a-7b(b)) provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit or receive remuneration in order to induce or reward business reimbursable under the Federal health care programs. The offense is classified as a felony and is punishable by fines of up to \$25,000 and imprisonment for up to 5 years. OIG may also impose civil money penalties, in accordance with section 1128A(a)(7) of the Act (42 U.S.C. 1320a-7a(a)(7)), or exclusion from the Federal health care programs, in accordance with section 1128(b)(7) of the Act (42 U.S.C. 1320a-7(b)(7)).

Since the statute on its face is so broad, concern has been expressed for many years that some relatively innocuous commercial arrangements may be subject to criminal prosecution or administrative sanction. In response to the above concern, the Medicare and Medicaid Patient and Program Protection Act of 1987, section 14 of Public Law 100-93, specifically required the development and promulgation of regulations, the so-called "safe harbor" provisions, specifying various payment and business practices which, although potentially capable of inducing referrals of business reimbursable under the Federal health care programs, would not be treated as criminal offenses under the anti-kickback statute and would not serve as a basis for administrative sanctions. OIG safe harbor provisions have been developed "to limit the reach of the statute somewhat by permitting