

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

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

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–015 to read as follows:

**§ 165.T09–015 Safety zone; Port Pirate Festival Fireworks, Port Washington Harbor, Port Washington, WI.**

(a) *Location.* The following area is a temporary safety zone: All waters of Port Washington Harbor and Lake Michigan within the arc of a circle with a 1000-foot radius from the fireworks launch site located in position 43°23'07" N, 087°51'54" W (NAD 83).

(b) *Effective period.* This regulation is effective from 8 p.m. to 11 p.m. (local), on June 2, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in section 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: April 17, 2007.

**Bruce C. Jones,**

*Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.*

[FR Doc. E7–7948 Filed 4–25–07; 8:45 am]

**BILLING CODE 4910–15–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA–R06–OAR–2006–0568; FRL–8305–1]

**Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County; Prevention of Significant Deterioration (PSD) and New Source Review**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is approving revisions to the State Implementation Plan (SIP) for the Albuquerque/Bernalillo County, New Mexico, area that were adopted on December 14, 2005, and submitted to EPA by the Governor of New Mexico on May 24, 2006. The SIP revisions modify the PSD and Nonattainment New Source Review (NNSR) regulations in the SIP. They were submitted to make the area’s PSD and NNSR rules consistent with the Federal PSD and NNSR revised regulations, which were promulgated by EPA on December 31, 2002, (67 FR 80186), and reconsidered with minor changes on November 7, 2003, (68 FR 63021), (collectively, the “2002 New Source Review (NSR) Reform rules”). The revisions include provisions for baseline emissions calculations, an actual-to-projected-actual methodology for calculating emissions changes, options for plantwide applicability limits, and recordkeeping and reporting requirements. The EPA is approving these revisions pursuant to section 110, part C, and part D of the Federal Clean Air Act.

**DATES:** This final rule is effective on May 29, 2007.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID Number EPA–R06–OAR–2006–0568. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business information or other information the disclosure of which 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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Permits Section (6PD–R), 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 Freedom of Information Act 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 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:

Albuquerque Environmental Health Department, Air Pollution Control Division, One Civic Plaza, Albuquerque, New Mexico 87103.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stanley M. Spruiell, Air Permits Section (6PD–R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733, telephone (214) 665–7212; fax number (214) 665–7263; or e-mail address [spruiell.stanley@epa.gov](mailto:spruiell.stanley@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, any reference to “we,” “us,” or “our” means EPA.

**Outline**

- I. What Action Is EPA Taking?
- II. Statutory and Executive Order Reviews

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

The EPA is taking final action to approve the SIP revisions that the Governor of New Mexico submitted May 24, 2006. This submittal consists of revisions to two regulations that are already part of the Albuquerque/Bernalillo County SIP. The affected regulations are: 20.22.60 New Mexico Administrative Code (NMAC) (Permitting in Nonattainment Areas) and 20.22.61 NMAC (Prevention of Significant Deterioration). These revisions update the Albuquerque/Bernalillo County Air Quality Control Board (AQCB) NNSR and PSD regulations to ensure that the regulations are consistent with the 2002 New Source Review Reform Rules.

The SIP revision also includes other non-substantive changes to AQCB’s PSD and NNSR rules needed to update the regulatory citations, make clarifying revisions to the regulatory text, correct typographical errors, and ensure that the regulations are consistent with all

current Federal requirements for PSD and NNSR. These non-substantive changes do not change the regulatory requirements.

On February 15, 2007 (72 FR 7361), we published our proposed approval of this SIP revision. The February 15, 2007, proposal provided detailed information about the Albuquerque/Bernalillo County SIP revisions that are being approved today. The proposal also provided a detailed analysis of EPA's rationale for approving the Albuquerque/Bernalillo County SIP revisions. In the proposal, we provided opportunity for public comment on the proposed action. The public comment period for this proposed rulemaking ended March 19, 2007. We received no comments, adverse or otherwise, on the proposed rulemaking. We are therefore finalizing our proposed approval without changes. For more details on this submittal, please refer to the proposed rulemaking and to the Technical Support Document, which is in the docket for this action.

The EPA is also making a non-substantive administrative change to the title of the second table under 40 CFR 52.1620(c), which incorporates the SIP-approved Albuquerque/Bernalillo County regulations. The title of this table currently is "EPA Approved Albuquerque/Bernalillo County, NN Regulations." The EPA is changing this title to "EPA Approved Albuquerque/Bernalillo County, NM Regulations."

## II. 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 (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, the relationship between the Federal Government and Indian tribes, or 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, the relationship between the national government and the States, or 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. The EPA interprets Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), as applying only to those regulatory actions that concern health or safety risks such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a State program. 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, 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. 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. The 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. 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 June 25, 2007. 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, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 17, 2007.

**Richard E. Greene,**

*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. Section 52.1620 is amended as follows:

- a. The title of the second table in paragraph (c) is revised to read: "EPA Approved Albuquerque/Bernalillo County, NM Regulations"
- b. The second table in § 52.1620(c) entitled "EPA Approved Albuquerque/Bernalillo County, NM Regulations" is amended as follows:

■ i. By revising the entry for Part 60 (20.11.60).

■ ii. By revising the entry for Part 61 (20.11.61).

§ 52.1620 Identification of plan.

\* \* \* \* \*

The amendments read as follows:

(c) \* \* \*

EPA-APPROVED ALBUQUERQUE/BERNALILLO COUNTY, NEW MEXICO REGULATIONS

State citation	Title/subject	State submittal/ effective date	EPA approval date	Explanation
* * * * *				
<b>New Mexico Administrative Code Title 20—Environmental Protection, Chapter 11—Albuquerque/Bernalillo County Air Quality Control Board</b>				
* * * * *				
Part 60 (20.11.60)	Permitting in Nonattainment Areas.	12/14/05	4/26/07 [Insert FR page number where document begins].	
Part 61 (20.11.61)	Prevention of Significant Deterioration.	12/14/05	4/26/07 [Insert FR page number where document begins].	
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[FR Doc. E7-7896 Filed 4-25-07; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 1051**

[EPA-HQ-OAR-2006-0858; FRL-8305-8]

RIN 2060-A035

**Extension of Temporary Exhaust Emission Test Procedure Option for All Terrain Vehicles**

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

**ACTION:** Direct final rule.

**SUMMARY:** In a rule published November 8, 2002, EPA promulgated new emission standards for recreational vehicles beginning in model year 2006. This included a newly regulated class of nonroad vehicles/engines commonly referred to as all-terrain vehicles. In that rulemaking, a temporary provision was included allowing manufacturers to test all-terrain vehicles over a steady-state, engine-based, duty cycle for exhaust emissions prior to the 2009 model year in lieu of the transient, chassis-based, Federal Test Procedure which was effective for 2006 and later model years. In this rulemaking we are taking direct final action to extend the availability of this temporary provision for in some cases up to an additional six model years. More specifically, manufacturers would have to certify exhaust emission engine families representing not less

than 50 percent of their US-directed production on the Federal Test Procedure in model year 2014 and 100 percent in 2015. Manufacturers with only one all terrain vehicle exhaust emission engine family would not be required to use the Federal Test Procedure until the 2015 model year. For those manufacturers who have not yet done so, this will allow additional time to certify to the previously promulgated Federal Test Procedure-based emission standards using either contract facilities or by obtaining in-house capability.

**DATES:** This direct final rule is effective on June 25, 2007, without further notice, unless we receive adverse comments by May 29, 2007 or a request for a public hearing by May 11, 2007. If EPA receives such comments or such a request, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2005-0858, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- E-mail: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov)
- Fax: (202) 566-1741
- Mail: Environmental Protection Agency, Mail Code: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460. Please include two copies.
- Hand Delivery: EPA Docket Center (Air Docket), U.S. Environmental Protection Agency, EPA West Building, 1301 Constitution Avenue, NW., Room:

3334 Mail Code: 6102T, Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. EPA-HQ-OAR-2006-0858. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](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 [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](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](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you 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