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BUTCH TONGATE  
Cabinet Secretary

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November 1, 2018

Ms. Anne L. Idsal  
Regional Administrator (6-A)  
U.S. Environmental Protection Agency, Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, TX 75202-2733

Dear Ms. Idsal,

On behalf of the New Mexico Environment Department ("NMED"), I am pleased to submit New Mexico's infrastructure State Implementation Plan ("iSIP") for the 2015 Ozone National Ambient Air Quality Standard ("2015 O<sub>3</sub> NAAQS") to the Environmental Protection Agency ("EPA"). This submittal addresses Section 110(a)(2) of the federal Clean Air Act ("CAA") and demonstrates that New Mexico's SIP is sufficient to implement, maintain, and enforce the 2015 O<sub>3</sub> NAAQS. NMED does not address the intrastate transport provisions of CAA Section 110(a)(2)(D)(i)(I) in this submittal; that element will be addressed in a future SIP submission to EPA.

Public notice was conducted in accordance with 40 CFR §51.102 and included a 30-day public comment period. NMED did not receive any public comments or requests for a public hearing.

Should you have any questions concerning this submittal, please do not hesitate to contact Kerwin Singleton, Planning Section Chief, NMED Air Quality Bureau, at [kerwin.singleton@state.nm.us](mailto:kerwin.singleton@state.nm.us) or 505.476.4350.

Sincerely,

Butch Tongate  
Cabinet Secretary

Enclosures

Cc: Mr. Guy Donaldson, Associate Director, Air Programs, EPA Region 6  
Ms. Elizabeth Bisbey-Kuehn, Chief, Air Quality Bureau, NMED

# **New Mexico's Infrastructure State Implementation Plan Certification for the 2015 Ozone National Ambient Air Quality Standard**

## **Executive Summary**

A State Implementation Plan (SIP) identifies how the state will attain and maintain the primary and secondary National Ambient Air Quality Standards (NAAQS). The SIP contains regulations, source-specific requirements, non-regulatory items such as plans and inventories, and in some cases additional requirements to satisfy regulations promulgated by the U.S. Environmental Protection Agency (EPA). The initial SIPs for states were approved by EPA on May 31, 1972 (37 FR 10842). A state may revise its SIP with EPA approval as necessary. The federally enforceable SIP for New Mexico is compiled in 40 CFR Part 52 Subpart GG.

The enclosed SIP certification matrix outlines the requirements of section 110(a)(2)(A) through (M) of the federal Clean Air Act (CAA) and addresses how New Mexico will implement, maintain and enforce the revised Ozone (O<sub>3</sub>) NAAQS which was promulgated by EPA on October 1, 2015 (80 FR 65291, October 26, 2015).

CAA Section 110(a)(2)(D)(i)(I), requires states to adequately address the interstate transport of criteria pollutants that contribute to nonattainment or interfere with the maintenance of the NAAQS in other states. New Mexico will address this element in a separate submittal at a future date.

Legislative authority for New Mexico's air quality program is codified in the New Mexico Air Quality Control Act at New Mexico Statutes Annotated (NMSA) 1978, Sections 74-2-1 through -22, which gives the State Environmental Improvement Board and the New Mexico Environment Department (NMED) authority to implement the CAA in New Mexico.

The regulatory authority to implement CAA programs is contained in the New Mexico Administrative Code (NMAC), at Title 20, Chapter 2, entitled *Air Quality (Statewide)*. The regulations that are part of the approved New Mexico SIP are cited in 40 CFR 52.1620(c), unless otherwise stated.

Those requirements of CAA § 110(a)(2) that are included in the approved SIP or recently submitted SIP revisions relate to enforceable emission limits and schedules for compliance; monitoring, source testing and emissions reporting; recordkeeping and reporting requirements; and permit fees. Some requirements, such as intergovernmental consultation, air quality modeling, and compliance with Part D of Title I of the CAA, are fulfilled during the development of attainment SIP revisions, rather than infrastructure SIPs.

**State of New Mexico**  
**110(a)(2) SIP Requirements for the 2015 O<sub>3</sub> NAAQS Revision**

<b>§ 110(a)(2)(A)</b>	<b>Requirement Summary</b> Include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions or emissions rights), as well as schedules and timetable for compliance.
<p><b>New Mexico’s Requirements</b></p> <p>The New Mexico Environmental Improvement Act, NMSA 1978, 74-1-1 through -17, created the New Mexico Environment Department (NMED) and the New Mexico Environmental Improvement Board (EIB). The New Mexico Air Quality Control Act delegates authority to the EIB to adopt, promulgate, publish, amend, and repeal regulations consistent with the Air Quality Control Act to attain and maintain NAAQS and prevent or abate air pollution. The Air Quality Control Act also designates NMED as the State’s air pollution control agency and the Environmental Improvement Act provides NMED with enforcement authority. See NMSA 1978, §§ 74-2-2(C), 74-2-5.1, 74-2-5.2. The regulations at Title 20, Chapter 2, NMAC establish NMED as the State’s air pollution control agency and its enforcement authority, referencing the Air Quality Control Act (<i>See also</i> 44 FR 21019, April 9, 1979; revised 49 FR 44101, November 2, 1984; recodification approved in 62 FR 50514, September 26, 1997) (approving various statutory and regulatory provisions of New Mexico’s SIP).</p> <p>The EIB has promulgated rules to limit and control emissions of nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs), the precursors for ozone formation. These rules include emission limits, control measures, permits, fees, and compliance schedules and are found in 20.2 NMAC Parts 3, 5, 7, 8, 10, 32–34, 72–75, 79 and 99.</p> <p>The EIB has also promulgated rules governing excess emissions during start-up, shutdown, malfunctions, and emergencies. See 20.2.7 NMAC, <i>Excess Emissions</i>. On June 12, 2015, EPA published notice of a “SIP Call” finding the startup, shutdown, and malfunction (SSM) provisions of SIPs for 36 states substantially inadequate to meet Clean Air Act requirements (80 FR 33840). New Mexico was one of those states. The SIP call found that the affirmative defense provisions of 20.2.7.111 through 20.2.7.113 NMAC, <i>Excess Emissions</i>, were substantially inadequate to meet Clean Air Act requirements. In response to the SIP call, the EIB approved revisions to the SIP to remove affirmative defense provisions. The EIB adopted these amendments based on a rulemaking petition from NMED, which crafted the amendments to meet all requirements specified by EPA in the SIP call for amendments that would be sufficient to meet CAA obligations. The submittal was sent to EPA for approval on October 13, 2016.</p>	
<b>§ 110(a)(2)(B)</b>	Provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor, compile, and analyze data on ambient air quality, and upon request, make such data available to the Administrator.
<b>New Mexico’s Requirements</b>	

New Mexico maintains and operates a multi-station O<sub>3</sub> network to measure ambient levels. All monitoring data is measured using EPA approved methods as either Reference or Equivalent monitors as required by 40 CFR Part 53. All monitors are subjected to the quality assurance requirements of 40 CFR Part 58, Appendix A, and are located at sites that have met the minimum siting requirements of Part 58, Appendix E. All data is submitted to EPA's Air Quality System (AQS) in accordance with the schedule prescribed by 40 CFR Part 58.16.

New Mexico's Statewide Air Quality Surveillance Network was approved by EPA on August 6, 1981 (46 FR 40005) and consists of stations that measure ambient concentrations of the six criteria pollutants, including O<sub>3</sub>. The air quality surveillance network undergoes annual review by EPA. On July 16, 2018, NMED submitted its 2018 Annual Monitoring Network Plan (ANP) to EPA that included plans for the O<sub>3</sub> NAAQS. The NMED monitoring web site (<http://nmaqinow.net/>) provides the O<sub>3</sub> monitor locations, and current and historical data.

The Department is authorized to conduct monitoring by the Air Quality Control Act at NMSA 1978, §§ 74-2-5.1 (A) (authority to make investigations and studies) and 74-2-5.2 (A) (authority to take all actions necessary to secure the benefits of federal legislation).

<b>§ 110(a)(2)(C)</b>	Include a program to provide for enforcement of the measures in § 110(a)(2)(A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program as required in parts C and D of Title I of the CAA (i.e., the Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NSR) permit programs).
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**New Mexico's Requirements**

Enforcement: The Air Quality Control Act authorizes NMED to enforce the provisions of the Air Quality Control Act, regulations, and permit conditions, through administrative compliance orders or commencement of civil actions. *See* NMSA 1978, § 74-2-12. In addition, the Air Quality Control Act designates NMED as the air pollution control agency for the state. *See* NMSA 1978, § 74-2-2. The Environmental Improvement Act provides NMED with authority to enforce the state's environmental quality rules. *See* NMSA 1978, § 74-1-6.F. The EIB adopted regulations governing emissions of the criteria pollutants and their precursors throughout the State and these rules are in the federally enforceable SIP. Those regulations, codified at 20.2 NMAC parts 3, 5, 7, 8, 10– 22, 30–34, 40–41, 72–75, and 99, include allowable emission rates, compliance, control plan requirements, actual and allowable emissions, monitoring and testing requirements, recordkeeping and reporting requirements, and control schedules. If a regulated entity does not comply with the requirements set forth in these provisions, it is subject to an enforcement action by NMED.

Preconstruction PSD Permitting of Major Sources: New Mexico's Major source PSD permitting requirements are found at 20.2.74 NMAC. New Mexico's PSD program was conditionally approved for inclusion in the state's SIP on February 27, 1987 (52 FR 5964) and fully approved on August 15, 2011 (76 FR 41698). In addition, revisions to New Mexico's PSD program were approved for inclusion in the SIP on August 21, 1990 (55 FR 34013), May 2, 1991 (56 FR 20137), October 15, 1996 (61 FR 53639), March 10, 2003 (68 FR 11316), December 24, 2003 (68 FR 74483), September 5, 2007 (72 FR 50879), June 11, 2009 (75 FR 72688), November 26,

2010 (75 FR 72688), July 20, 2011 (76 FR 43149), June 13, 2012 (77 FR 35273), January 22, 2013, (78 FR 4339), March 11, 2013 (78 FR 15296) and July 14, 2015 (80 CFR 40915).

Green House Gases (GHG) PSD Permitting: New Mexico has the authority to issue permits under the SIP-approved PSD program to sources of GHG emissions (75 FR 82536, December 30, 2010). On November 10, 2010, New Mexico adopted revisions to the State’s PSD rules to implement the GHG thresholds established in EPA’s GHG Tailoring Rule and submitted the corresponding SIP revision to EPA on December 1, 2010. On April 14, 2011, EPA proposed approval of New Mexico’s GHG rules submitted on December 1, 2010 (76 FR 20907). On July 20, 2011, EPA approved New Mexico’s GHG rules, effective August 19, 2011 (76 FR 43149). On December 11, 2013, EPA approved revisions to New Mexico’s SIP submitted on January 8, 2013 with respect to Plantwide Applicability Limits for GHG sources (see 20.2.74.7.AZ(1) NMAC and 20.2.74.320 NMAC).

On June 23, 2014, the U.S. Supreme Court in *Utility Air Regulatory Group*, 134 S. Ct. 2427, vacated those portions of EPA’s Tailoring Rule that required sources to obtain a PSD or Title V permit based solely on GHG emissions. On April 10, 2015, the U.S. Court of Appeals for the D.C. Circuit issued an order amending its decision in *Coalition for Responsible Regulation v. EPA*, 684 F.3d 102 (2012), in accordance with the Supreme Court’s decision in *UARG*, and ordered the EPA to revise the applicable federal regulations to effectuate the *UARG* decision. New Mexico chose not to revise its PSD regulation based on this decision, as existing language stipulates that “if a federal court stays, invalidates or otherwise renders unenforceable by the US EPA, in whole or in part, the prevention of significant deterioration and Title V greenhouse gas tailoring rule (75 FR 31514, June 3, 2010), the definition “subject to regulation” shall be enforceable by the department only to the extent that it is enforceable by US EPA.” (see 20.2.74.7.AZ(6) NMAC).

EPA’s promulgation of the 2015 O<sub>3</sub> NAAQS did not include revisions to the PSD permitting program requirements including the existing screening and compliance demonstration tools used to implement the program.

Minor Source Permitting: EPA has determined that New Mexico’s Minor New Source Review (NSR) program, adopted pursuant to section 110(a)(2)(C) of the CAA, regulates emissions of all regulated air contaminants for which there is a NAAQS (77 FR 62195). New Mexico’s Minor NSR permitting requirements are found at 20.2.72 NMAC and were approved into the SIP on May 14, 1973 (38 FR 12702). The most recent revisions to New Mexico’s Minor NSR program were approved into the SIP on March 11, 2013 (78 FR 15296).

**§ 110(a)(2)(D)**

- (i) Contain adequate provisions prohibiting any source or other type of emissions activity from emitting any air pollutant in amounts which will:
  - (I) Contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard.
  - (II) Interfere with measures required to be included in the applicable implementation plan for any other state under part C to prevent significant deterioration of air quality or to protect visibility.
- (ii) Insure compliance with the applicable requirements CAA sections § 126 and 115 (interstate and international pollution abatement).

### **New Mexico's Requirements**

EPA Guidance (September 13, 2013 Memo, p. 30) states that, "Section 110(a)(2)(D)(i) contains two subsections: (D)(i)(I) and (D)(i)(II). Section 110(a)(2)(D)(i)(I) addresses any emissions activity in one state that contributes significantly to nonattainment, or interferes with maintenance, of the NAAQS in another state." The EPA refers to these requirements as Prong 1 (significant contribution to nonattainment) and Prong 2 (interference with maintenance). NMED is working with EPA to address this requirement as it relates to the 2015 O<sub>3</sub> NAAQS but a sufficient basis for a submittal addressing these requirements does not yet exist. NMED will continue to consult with EPA on how best to develop an appropriate submittal for this element as early as practicable.

The September 13, 2013 Guidance Memo also describes Section 110 (a)(2)(D)(i)(II) which requires infrastructure SIP provisions that prohibit any source or emissions activity in one state from interfering with measures required in other states to prevent significant deterioration of air quality (Prong 3) or from interfering with measures required in other states to protect visibility (Prong 4).

### **Prong 3**

With respect to the prevention of significant deterioration element of § 110 (a)(2)(D)(i)(II), as stated above in section 110(a)(2)(C) of this infrastructure SIP, the New Mexico PSD program has been approved by EPA into the SIP. New Mexico's PSD program contains the necessary provisions to implement the O<sub>3</sub> standard.

### **Prong 4**

With respect to the visibility element of § 110 (a)(2)(D)(i)(II), several prior SIP submissions are relevant. On September 17, 2007 New Mexico submitted a SIP to address the interstate transport provisions of CAA 110(a)(2)(D)(i) for the 1997 8-hour ozone and PM<sub>2.5</sub> NAAQS. In this submission, the State indicated that it intended to meet the requirements of section 110(a)(2)(D)(i)(II) with respect to visibility by submission of a Regional Haze SIP revision, which was then due on December 17, 2007. EPA had previously approved New Mexico's Visibility Protection Plan and a Long-Term Strategy for Visibility Protection as SIP revisions on January 27, 2006 (71 FR 4490). New Mexico had also submitted a Regional Haze SIP to EPA on December 1, 2003, and a revised Regional Haze SIP on July 5, 2011.

On August 22, 2011, EPA finalized disapproval of the visibility portion of the September 17, 2007 SIP submission (76 FR 52388). (EPA approved the 2007 SIP with respect to the PSD element of § 110 (a)(2)(D)(i)(II), along with the "interfere with maintenance" element of § 110 (a)(2)(D)(i)(I), on November 26, 2010 (75 FR 72688), and approved the 2007 SIP with respect to the "significant contribution to non-attainment" element of § 110 (a)(2)(D)(i)(I) on June 11, 2010 (75 FR 33174)). In the August 22, 2011 final rule, EPA promulgated a Federal Implementation Plan (FIP) imposing limits for NO<sub>x</sub> on the San Juan Generating Station (SJGS). EPA intended these limits to ensure that emissions from New Mexico sources do not interfere with other states' measures to protect visibility in accordance with section 110(a)(2)(D)(i)(II) for the 1997 8-hour ozone and 1997 PM<sub>2.5</sub> NAAQS, and to address the requirements under the Regional Haze program for Best Available Retrofit Technology (BART) regarding NO<sub>x</sub>. EPA based the timing of the FIP issuance in part on the existence of a consent decree deadline for

action under Section 110(a)(2)(D) (76 FR at 52390). EPA partially approved this 2007 SIP revision with respect to the PSD element of Prong 3, along with the “interfere with maintenance” element of Prong 2, on November 26, 2010 (75 FR 72688) and partially approved the 2007 SIP with respect to the “significant contribution to non-attainment” element of Prong 1 on June 11, 2010 (75 FR 33174).

On November 27, 2012 (77 FR 70693), EPA approved New Mexico’s 2003 and 2011 Regional Haze SIP submittals, but expressly declined to take action on the portion of the 2011 SIP making a nitrogen oxides (NOx) BART determination for SJGS, which consisted of selective non-catalytic reduction (SNCR) with an emission rate of 0.23 lbs/mmBtu.

In its August 22, 2011 final rule, EPA determined that a NOx emission limit from the SJGS of no greater than 0.27 – 0.28 lbs/mmBtu was necessary to satisfy the requirements of Section 110(a)(2)(D)(i)(II), and that no other additional reductions in New Mexico were required under that section (76 FR at 52424). Although New Mexico’s July 5, 2011 NOx BART determination of 0.23 lbs/mmBtu represented a lower emission rate than EPA determined to be necessary to satisfy Section 110(a)(2)(D)(i)(II), EPA promulgated its own NOx BART determination of 0.05 lbs/mmBtu using selective catalytic reduction (SCR).

New Mexico challenged EPA’s NOx BART FIP for the SJGS, and the case remains pending in the U.S. Court of Appeals for the Tenth Circuit. New Mexico, EPA, and Public Service Company of New Mexico (the operator of the SJGS) have reached a tentative agreement which would require the shutdown of two of the four SJGS units and installation of SNCR on the remaining two, with an emission rate of no greater than 0.23 lbs/mmBtu. On September 5, 2013, the EIB adopted a SIP revision incorporating the substantive terms of the tentative agreement. On December 17, 2013, EPA determined that the revised SIP submission was administratively complete.

On October 9, 2014 (79 FR 60985) EPA approved a revision to the New Mexico Regional Haze SIP that addressed BART for SJGS, making the emission limitations federally enforceable; satisfying CAA 110(a)(2)(D)(i)(II) with respect to interstate transport of air pollution and visibility protection for the 8-hour O<sub>3</sub> and PM<sub>2.5</sub> NAAQS (the New Mexico Visibility Transport SIP). (80 FR 15963, March 26, 2015). Because of this, EPA withdrew their FIP for New Mexico that applies to SJGS. Therefore, the requirement for New Mexico under Section 110(a)(2)(D)(i)(II) is satisfied by the SIP revisions approved on November 27, 2012 and October 9, 2014.

EPA guidance (September 13, 2013 Memo, p. 35) provides that Section 110(a)(2)(D)(ii) is satisfied when an Infrastructure SIP ensures compliance with the applicable requirements of CAA Sections 126(a), (b) and (c) (*Interstate Pollution Abatement*), and 115 (*International Air Pollution*). With respect to § 110(a)(2)(D)(ii), as stated above in Section 110(a)(2)(C) of the infrastructure SIP, New Mexico has a SIP-approved PSD program which includes provisions that satisfy the requirements of section 126 of the CAA. There are no final findings under section 115 of the CAA against New Mexico with respect to any air pollutant. If in the future there are one or more final findings under section 115 of the CAA, NMED will consult with EPA Region VI.

**§ 110(a)(2)(E)(i)**

Provide:

	(i) necessary assurances that the State (or, except where the administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the State or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of federal or state law from carrying out such implementation plan or portion thereof).
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**New Mexico’s Requirements**  
The resources to carry out the state implementation plan are provided through State General Funds, Permit Fees, and the CAA §§ 103 and 105 grant process. The Air Quality Control Act designates NMED as the State air pollution control agency for all purposes under federal legislation relating to air pollution and provides the NMED with the power to accept, receive and administer grants or other funds or gifts from public and private agencies, including the federal government, or from any person (NMSA 1978, § 74–2–5.1(F)).

New Mexico has adequate personnel to implement the SIP with respect to O<sub>3</sub> requirements. The Environmental Improvement Act provides that the secretary of the NMED shall employ and fix the compensation of those persons necessary to discharge his duties (NMSA 1978, § 9–7A–6(B)(4)). NMED is also authorized to receive State appropriations to implement environmental programs (NMSA 1978, § 9–7A-11A). Should EPA determine that New Mexico lacks adequate personnel to carry out the SIP, EPA may issue a finding with respect to that deficiency, which New Mexico would have a legal obligation to correct.

New Mexico does not anticipate the need for additional resources to implement the plan for the O<sub>3</sub> NAAQS beyond those which have been utilized for the preparation of the plan and plan revisions submitted to EPA and other current programmatic demands.

<b>§ 110(a)(2)(E)(ii)</b>	(ii) requirements that the State comply with the requirements respecting state boards under section 128
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**New Mexico’s Requirements**  
The New Mexico Environmental Improvement Act requires that at least a majority of the membership of the EIB shall be individuals who represent the public interest and do not derive any significant portion of their income from persons subject to or who appear before the board on issues related to the federal Clean Air Act or the Air Quality Control Act (NMSA 1978, § 74-1-4A).

20.1.1.111 NMAC, General Provisions – Recusal addresses when and how a board member should recuse themselves from rulemaking procedures when their impartiality or fairness may reasonably be questioned

On April 20, 1990, NMED submitted a SIP revision to EPA for Board composition and conflict of interest disclosure. EPA approved the SIP revision on June 1, 1999 (64 FR 29235).



<b>§ 110(a)(2)(E) (iii)</b>	(iii) Necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.
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**New Mexico’s Requirements**  
The Air Quality Control Act delegates authority to the EIB to adopt, promulgate, publish, amend and repeal regulations consistent with the Air Quality Control Act to attain and maintain national ambient air quality standards and prevent or abate air pollution (NMSA 1978, § 74–2–5(B)(1)). The Environmental Improvement Act provides NMED with the power “to enforce the rules, regulations and orders promulgated by the board” (NMSA 1978, § 74– 1–6(F)). The Air Quality Control Act also gives NMED the duty to develop and present to the EIB a plan for the regulation, control, prevention or abatement of air pollution and gives the EIB the authority to adopt such a plan. (NMSA 1978, § 74–2–5.1(H) and NMSA 1978, § 74–2– 5(B)(2)).

Pursuant to NMSA 1978, § 74-2-4, local authority has been established for Albuquerque-Bernalillo County, New Mexico, through the creation of the Albuquerque-Bernalillo County Air Quality Control Board and local administration by the City of Albuquerque Department of Environmental Health. Albuquerque-Bernalillo County develops and submits its own SIP revisions and is not covered by this infrastructure SIP. Under NMSA 1978, § 74-2-4(D), the NMED and the EIB retain jurisdiction and control for administration of the Air Quality Control Act with respect to any failure to act by a local authority.

<b>§110(a)(2)(F)</b>	Require, as may be prescribed by the Administrator: (i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps by owners or operators of stationary sources to monitor emissions from such sources, (ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and (iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection;
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**New Mexico’s Requirements**  
New Mexico’s regulations at 20.2 NMAC parts 5, 7, 8, 10–20, 30–34, 40–41, and 72–74 require source monitoring for compliance, recordkeeping and reporting, and provide for enforcement with respect to all the NAAQS and their precursors. These source monitoring program requirements generate data for NO<sub>x</sub> and VOCs.

The New Mexico SIP, and applicable laws and regulations do not contain any provisions that prevent the use of any credible evidence (including continuous emission monitoring data) to establish violations of applicable requirements. (See 20.2.72.218 NMAC)

Under New Mexico’s regulations at 20.2 NMAC parts 7, 8, 65, 70, 72-74, 79, and 81, NMED is required to analyze the emissions data from point, area, mobile, and biogenic sources. NMED uses this data to track progress towards maintaining the NAAQS, develop control and

<p>maintenance strategies, identify sources and general emission levels, and determine compliance with New Mexico and EPA requirements.</p> <p>NMED is current with its submittals to the NEI database; the 2017 data for larger sources was submitted to EPA in 2018. The data and reports are available for public inspection at reasonable times and online.</p>	
<b>§110(a)(2)(G)</b>	Provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority.
<p><b>New Mexico’s Requirements</b></p> <p>The Air Quality Control Act provides NMED with authority to address environmental emergencies and NMED has contingency plans to implement emergency episode provisions in the SIP.</p> <p>Upon a finding that any owner/operator is unreasonably affecting the public health, safety or welfare, or the health of animal or plant life, or property, the New Mexico Air Quality Control Act authorizes NMED, after a reasonable attempt to give notice, to declare a state of emergency and issue without hearing an emergency special order directing the owner/operator to cease such pollution immediately (NMSA 1978, § 74-2-10).</p> <p>New Mexico promulgated the “Air Pollution Episode Contingency Plan for New Mexico” including contingency measures with these provisions approved into the SIP on August 21, 1990 (55 FR 34013).</p> <p>The State has appropriate general emergency powers to address O<sub>3</sub> related episodes to protect the environment and public health.</p>	
<b>§110(a)(2)(H)</b>	<p>Provide for SIP revisions:</p> <p>(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and</p> <p>(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements, or to otherwise comply with any additional requirements established under this Act.</p>
<p><b>New Mexico’s Requirements</b></p> <p>New Mexico’s SIP is a compilation of regulations, plans, and submittals that act to improve and maintain air quality in accordance with national standards. The Air Quality Control Act provides that the EIB shall adopt, promulgate, publish, amend, and repeal regulations consistent with the Air Quality Control Act to attain and maintain national ambient air quality standards and prevent or abate air pollution (NMSA 1978, § 74–2–5(B)(1)). In addition, the Air Quality Control Act requires NMED to advise, consult, contract with and cooperate with local</p>	

<p>authorities, other states, the federal government and other interested persons or groups regarding matters of common interest in the field of air quality control (NMSA 1978, § 74-2-5.2(B)).</p> <p>New Mexico has the authority to revise its SIP from time to time as may be necessary to reflect revisions of primary or secondary NAAQS, or the availability of improved or more expeditious methods of attaining such standards. New Mexico also has the authority under the above provisions to revise its SIP in the event the EPA, pursuant to the CAA, finds the SIP to be substantially inadequate to attain the NAAQS.</p>	
<b>§110(a)(2)(I)</b>	In the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas);
<p><b>New Mexico's Requirements</b></p> <p>§110 (a)(2)(I) is not being addressed in this infrastructure SIP submittal. According to EPA's interpretation of the CAA, this element does not need to be addressed in the context of an infrastructure SIP submission. (See EPA September 13, 2013 Guidance Memo, p. 52).</p>	
<b>§110(a)(2)(J)</b>	Meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and Part C (relating to prevention of significant deterioration of air quality and visibility protection);
<p><b>New Mexico's Requirements</b></p> <p>All SIP revisions undergo public notice and hearing, which provides for comment by the public, including local political subdivisions.</p> <p>The Air Quality Control Act at NMSA 1978, § 74-2-6 provides that, "no regulations or emission control requirement shall be adopted until after a public hearing by the environmental improvement board or the local board" and provides that, "at the hearing, the environmental improvement board or the local board shall allow all interested persons reasonable opportunity to submit data, views, or arguments orally or in writing and to examine witnesses testifying at the hearing" (NMSA 1978, § 74-2- 6(B), (C) and (D)). In addition, the Air Quality Control Act provides that NMED shall have the power and duty to advise, consult, contract with and cooperate with local authorities, other states, the federal government and other interested persons or groups regarding matters of common interest in the field of air quality control (NMSA 1978, § 74-2-5.2(B)).</p> <p>New Mexico's SIP-approved PSD rules mandate that NMED shall provide for public participation and notification regarding permitting applications to any other state or local air pollution control agencies, local government officials of the city or county where the source will be located, and Federal Land Managers (FLM) whose lands may be affected by emissions from the source or modification (20.2.74.400 NMAC). New Mexico's PSD rules also require NMED to consult with FLMs regarding permit applications for sources impacting Class I Federal areas (20.2.74.403 NMAC). New Mexico has committed in the SIP to consult continually with the FLMs on the review and implementation of the visibility program and to notify the FLM of any advance notification or early consultation with a major new or modifying source prior to the submission of the permit application.</p>	

New Mexico’s SIP-approved Transportation Conformity rule requires that interagency consultation and opportunity for public involvement be provided before making transportation conformity determinations and before adopting applicable SIP revisions on transportation-related SIPs (20.2.99.102 and 20.2.99.110 NMAC). 20.2.99 NMAC was most recently amended on July 11, 2014 at a hearing before the EIB, to remove sections that are no longer federally required. This SIP revision was approved by EPA on June 18, 2015. (80 FR 34835).

New Mexico’s provisions regarding public notification of instances or areas in which any primary NAAQS was exceeded were approved into the SIP on August 24, 1983 (48 FR 38466). Air quality data from New Mexico’s monitoring network is published in real time on NMED’s website. The website also provides information on the health effects of O<sub>3</sub> and other criteria pollutants. Additionally, as part of the CAA Section 105 grant process, New Mexico is required to submit monitoring data to the Air Quality System (AQS) in a timely manner.

New Mexico’s PSD program was conditionally approved into the SIP on February 27, 1987 (52 FR 5964) and fully approved effective August 15, 2011 (76 FR 41698). Other EPA actions pertaining to New Mexico’s PSD program are found at: 52 FR 5964, 53 FR 44191, 55 FR 43013, 56 FR 20137, 61 FR 53639, 68 FR 11316, 68 FR 74483, 72 FR 50879, 75 FR 72688, and 80 FR 40915.

New Mexico’s minor source permitting requirements are found at 20.2.72 NMAC and were approved on May 14, 1973 (38 FR 12702). Infrastructure SIP element 110(a)(2)(C) contains detailed information regarding New Mexico’s permitting programs.

EPA’s revision of the O<sub>3</sub> NAAQS did not require new visibility protection obligations under part C. As a result, EPA’s interpretation of the CAA does not require the visibility subelement of Element J to be addressed in an infrastructure SIP submission.

<b>§110(a)(2)(K)</b>	Provide for: <ul style="list-style-type: none"> <li>(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and</li> <li>(ii) the submission, upon request, of data related to such air quality modeling to the Administrator;</li> </ul>
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**New Mexico’s Requirements**

The Air Quality Control Act authorizes NMED to “develop facts and make investigations and studies” (NMSA 1978, § 74– 2–5.1(A)). This provides NMED with necessary authority to develop air quality assessments and conduct modeling. NMED may provide data related to air quality modeling and analyses to the EPA upon request. The Air Quality Control Act authorizes NMED to cooperate with the federal government “regarding matters of common interest in the field of air quality control”, thereby allowing it to submit data and reports to EPA (NMSA 1978, § 74– 2–5.2(B)).

New Mexico has developed Air Dispersion Modeling Guidelines that follow EPA guidelines for air dispersion modeling. The New Mexico Air Dispersion Modeling Guidelines also include internal policy language. The Air Quality Bureau within NMED contains a modeling section with three qualified modelers, one with a Ph.D.

<p>The Air Quality Bureau routinely conducts air dispersion modeling for determining the impact of air pollutant emissions in relation to the NAAQS. New Mexico’s SIP-approved PSD and minor source permitting rules (20.2.72 NMAC and 20.2.74 NMAC) provide NMED with the authority to conduct modeling to ensure permitted emissions do not exceed any NAAQS.</p> <p>New Mexico’s NSR regulations ensure that all ambient air quality modeling required by those regulations is performed in accordance with EPA Guidance (See 20.2.72.203 NMAC and 20.2.74.305 NMAC). Upon request, NMED will submit current and future data relating to modeling to EPA.</p>	
<p><b>§110(a)(2)(L)</b></p>	<p>Require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover</p> <ul style="list-style-type: none"> <li>(i) the reasonable costs of reviewing and acting upon any application for such a permit, and</li> <li>(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V;</li> </ul>
<p><b>New Mexico’s Requirements</b></p> <p>The Air Quality Control Act provides the EIB with legal authority to establish an emission fee schedule and a construction permit fee schedule to recover the reasonable costs of evaluating permit applications, and issuing and enforcing permits (NMSA 1978, § 74–2–7). New Mexico’s Permit Fee System was approved by EPA on November 24, 1997 (62 FR 50514). New Mexico’s Permit Fee System implements a fee system for all preconstruction air permits issued by NMED. New Mexico’s regulations for construction permit fees are found at 20.2.75 NMAC. New Mexico’s Title V program and associated fees are not part of the SIP but were approved by EPA on November 26, 1996 (61 FR 60032) as part of the New Mexico Title V Program.</p>	
<p><b>§ 110(a)(2)(M)</b></p>	<p>Provide for consultation and participation by local political subdivisions affected by the plan.</p>
<p><b>New Mexico’s Requirements</b></p> <p>The Air Quality Control Act provides that, “no regulations or emission control requirement shall be adopted until after a public hearing by the environmental improvement board or the local board” and provides that, “at the hearing, the environmental improvement board or the local board shall allow all interested persons reasonable opportunity to submit data, views, or arguments orally or in writing and to examine witnesses testifying at the hearing” (NMSA 1978, §§ 74–2–6(B) and (D)). The Act Quality Control Act also establishes NMED’s power and duty to advise; consult; contract with and cooperate with local authorities, other states, the federal government and other interested persons or groups regarding matters of common interest in the field of air quality control (NMSA 1978, § 74–2–5.2(B)).</p>	

New Mexico's SIP-approved regulations for NSR (i.e. 20.2.74, 20.2.72 and 20.2.79 NMAC) and Transportation Conformity (20.2.99 NMAC) also provide for public participation. Infrastructure SIP element 110(a)(2)(J) above provides details of consultation and public participation activities conducted by NMED.

## Public Notice and Response to Comments

NMED published public notice in the Albuquerque Journal that the draft of New Mexico's 2015 Ozone NAAQS iSIP Certification was available for review and comment on September 28, 2018 in English and Spanish. The public comment period lasted until October 29, 2018 and NMED did not receive public comments. NMED made changes to the draft due to typos, grammatical errors, and to provide the most current information regarding NMED's submission of its annual network review for monitoring.



NEW MEXICO ENVIRONMENT DEPARTMENT
Notice of Opportunity for Public Hearing and Comment
New Mexico's Proposed Infrastructure Certification for
the 2015 Ozone National Ambient Air Quality Standard

The New Mexico Environment Department ("NMED") announces an opportunity to comment on and/or request a public hearing on a proposed certification that New Mexico has an adequate, federally-approved State Implementation Plan ("SIP") that addresses elements of a Clean Air Act ("CAA") Section 110(a)(2) infrastructure plan ("ISIP"), as applicable to the 2015 ozone National Ambient Air Quality Standard ("NAAQS").

Legislative authority for New Mexico's air quality program is codified in Chapter 74, Environmental Improvement, of the New Mexico Statutes, which gives the New Mexico Environmental Improvement Board and NMED the authority to implement the CAA in New Mexico, excluding Albuquerque/Bernalillo County which is under the jurisdiction of a local board and agency, and Tribal Lands.

New Mexico's proposed Infrastructure State Implementation Plan Certification for the 2015 Ozone NAAQS is available for a 30-day public comment period. Submission of comments on the proposed certification may be written or oral. All comments must be received by October 29, 2018.

The proposed certification may be reviewed during regular business hours at the New Mexico Environment Department's Air Quality Bureau office, 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico, 87505-1816.

Written comments, requests for copies and/or public hearing requests regarding the proposed certification should be submitted via email, mail, or fax to:

New Mexico Environment Department
ATTN: Michael Baca, Air Quality Bureau
2301 Entrada del Sol
Las Cruces, New Mexico, 88001
michael.baca1@state.nm.us
(Office): (575) 915-1081
(Fax): (575) 526-6162

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

Kristine Pintado, Non-Discrimination Coordinator
New Mexico Environment Department
1190 St. Francis Dr., Suite N4050
P.O. Box 5469
Santa Fe, NM 87502
(505) 827-2855
nd.coordinator@state.nm.us

If you believe that you have been discriminated against with respect to an NMED program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at to https://www.env.nm.gov/non-employee-discrimination-complaint-page/ to learn how and where to file a complaint of discrimination.

ENGLISH

AFFIDAVIT OF PUBLICATION
STATE OF NEW MEXICO
County of Bernalillo SS

Bernadette Gonzales, the undersigned, on oath states that she is an authorized Representative of The Albuquerque Journal, and that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 167, Session Laws of 1937, and that payment therefore has been made of assessed as court cost; that the notice, copy of which hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

09/29/2018

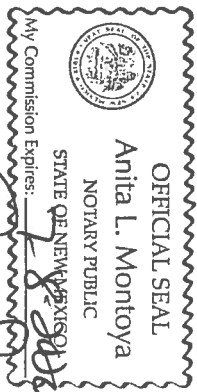
Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this 29 day of September of 2018
PRICE \$308.76

Statement to come at the end of month.

ACCOUNT NUMBER

1007594

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DEPARTAMENTO DE MEDIO AMBIENTE DE NUEVO MEXICO

Aviso de Oportunidad para una Audiencia Pública y Comentario Certificación de Infraestructura Propuesta por Nuevo México para la Norma Nacional de Calidad del Aire Ambiental de Ozono de 2015

El Departamento de Medio Ambiente de Nuevo México (NMED, por sus siglas en inglés) anuncia la oportunidad de comentar y/o solicitar una audiencia pública sobre una certificación propuesta que establece que Nuevo México tiene un Plan de Implementación Estatal (SIP, por sus siglas en inglés) adecuado, aprobado por el gobierno federal que trata los elementos de un plan de infraestructura (SIP), de la Sección 110(a)(2), de la Ley de Aire Limpio (CAA, por sus siglas en inglés), según es aplicable a la Norma Nacional de Calidad del Aire Ambiental (NAACS, por sus siglas en inglés) de ozono de 2015. NMED enviamos un otro análisis que trata los elementos de la Sección 110(a)(2)(D)(v). El objetivo de la certificación propuesta es confirmar a la Agencia de Protección Ambiental (EPA, por sus siglas en inglés) de EE. UU. Que el Estado de Nuevo México cuenta con la "infraestructura" requerida bajo el actual SIP para implementar, mantener y hacer cumplir la NAACS revisada de ozono de 2015.

La autoridad legislativa del programa de calidad del aire de Nuevo México está codificada en el Capítulo 74, Mejoramiento Ambiental, de los Estatutos de Nuevo México, que le otorga a la Junta de Mejoramiento Ambiental de Nuevo México y NMED la autoridad para implementar la CAA en Nuevo México, estableciendo el condado de Albuquerque/Bernalillo que está bajo la jurisdicción de una junta y agencia local, y las temas tribales. La certificación propuesta fue desarrollada por NMED para cumplir con los requisitos contenidos en la Sección 110 de la CAA y 40 CFR Parte 51, Requisitos para la Preparación, Adopción y Presentación de Planes de implementación. La certificación propuesta no adopta ni emienda ninguna legislación, por lo tanto, no está sujeta al requisito de audiencia pública obligatorio de NMSA 1978 Sección 74-3-8, Adopción de Reglamentos, Avisos y Audiencias. Sin embargo, se puede solicitar una audiencia como se describe a continuación.

La Certificación del Plan de Implementación del Estado para la NAACS de ozono de 2015 de Nuevo México está disponible para comentarios públicos por 30 días. La presentación de comentarios sobre la certificación propuesta puede ser escrita u oral. Todos los comentarios serán recibidos hasta el 15 de octubre de 2015. Todos los comentarios públicos recibidos durante el periodo de comentarios serán evaluados y responderá de acuerdo con el procedimiento de la EPA para presentar la certificación final a EPA. Si se recibe una solicitud de audiencia pública durante el periodo de comentario público de 30 días, se anunciará una fecha, hora y lugar de audiencia en una fecha posterior, de acuerdo con 20.1-1.1 NMAC - Procedimiento de Reglamentación - Junta de Mejoramiento Ambiental, incluyendo un periodo adicional de comentarios públicos. Una vez finalizado el periodo de 30 días de comentarios públicos y la audiencia, si se solicita, todos los documentos incluidos en la Certificación SIP de NAACS de ozono de 2015 de Nuevo México serán enviados a EPA para ser incluidos en el SIP de Nuevo México.

La propuesta de certificación puede ser revisada durante las horas de atención al público en la Oficina de Calidad del Aire del Departamento de Medio Ambiente de Nuevo México, 825 Camino de los Marquez, Suite 1, Santa Fe, Nuevo México, 87505-1618. El texto completo de la certificación propuesta de NMED también está disponible en el sitio web de NMED en <http://dshw.nm.gov/air-quality/proposed-regal>.

Los comentarios por escrito y/o una solicitud de audiencia pública con respecto a la certificación propuesta deberán enviarse por correo electrónico, por correo postal, o por fax a:

New Mexico Environment Department
ATTN: Michael Becc, Air Quality Bureau
2301 Entrada del Sol
Las Cruces, New Mexico, 89001
mbecc@state.nm.us
(Office): (505) 945-1081
(Fax): (505) 528-6182

El Departamento de Medio Ambiente de Nuevo México (NMED, por sus siglas en inglés) no discrimina por motivos de raza, color, origen nacional, discapacidad, edad o sexo en la administración de sus programas o actividades, según lo exigido por las leyes y reglamentos correspondientes. NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R., partes 5 y 7, Inciso b) de la Ley de Derechos Civiles de 1964, según enmendada; Sección 504 de la Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975; Título IX de las Enmiendas de Educación de 1972 y la Sección 13 de las Enmiendas a la Ley Federal de Control de Contaminación del Agua de 1972. Si usted tiene preguntas sobre este aviso o sobre cualquier programa, política o procedimiento de no discriminación de NMED, usted puede comunicarse con la Coordinadora de No Discriminación.

Kristina Pintado, Non-Discrimination Coordinator
New Mexico Environment Department
1180 St. Francis Dr., Suite 1405D
P.O. Box 6489
Santa Fe, NM 87502
(505) 827-2855
nd.coordinate@state.nm.us

Si usted cree que ha sido discriminado con relación a un programa o actividad de NMED, usted se puede comunicar con la coordinadora antidiscriminación mencionada arriba o visitar nuestro sitio electrónico: <http://www.nm.gov/non-discrimination-complaint-page> para aprender más sobre cómo y dónde presentar una queja de discriminación.

DEPARTMENTO DEM
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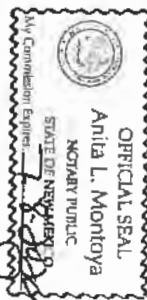
AFFIDAVIT OF PUBLICATION
STATE OF NEW MEXICO
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Bernadette Gonzales, the undersigned, on oath states that she is an authorized Representative of the Albuquerque Journal, and that this newspaper is duly qualified to publish legal notices or advertisements within the meaning of Section 3, Chapter 187, Session Laws of 1937, and that payment therefore has been made or assessed as court cost; that the notice, copy of which hereto attached, was published in said paper in the regular daily edition, for 1 time(s) on the following date(s):

09/29/2015

Sworn and subscribed before me, a Notary Public, in and for the County of Bernalillo and State of New Mexico this 29 day of September of 2015
PRICE \$399.54
Statement to come at the end of month.
ACCOUNT NUMBER 1007584

[Signature]



[Signature]