

**K. Congressional Review Act (CRA)**

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

**L. Petitions for Judicial Review**

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 August 14, 2017. 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, Incorporation by reference, Intergovernmental relations, New source review, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: May 19, 2017.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 F—California**

■ 2. Section 52.220 is amended by adding paragraphs (b)(14)(ii), (c)(279)(i)(A)(15) and (16), and (c)(442)(i)(A)(4) to read as follows:

**§ 52.220 Identification of plan-in part.**

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(b) \* \* \*  
(14) \* \* \*

(ii) Previously approved on May 31, 1972 in paragraph (b)(14) of this section and now deleted with replacement in paragraph (c)(351)(i)(A)(4) of this section, Rule 103.

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(c) \* \* \*  
(279) \* \* \*  
(i) \* \* \*

(A) \* \* \*

(15) Rule 204, “Applications,” revised on September 14, 1999.

(16) Previously approved on January 3, 2007 in paragraph (c)(279)(i)(A)(14) of this section and now deleted with replacement in paragraph (c)(442)(i)(A)(4) of this section, Rule 206.

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(442) \* \* \*

(i) \* \* \*

(A) \* \* \*

(4) Rule 206, “Processing of Applications,” revised on October 22, 2013.

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

[EPA–R06–OAR–2014–0237; FRL–9962–75–Region 6]

**Approval and Promulgation of Implementation Plans; New Mexico; Regional Haze Progress Report State Implementation Plan**

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving a revision to a State Implementation Plan (SIP) submitted by the State of New Mexico on March 14, 2014. New Mexico’s SIP revision addresses requirements of the Act and the EPA’s rules that require New Mexico to submit a periodic report assessing progress toward the reasonable progress goals (RPGs) for mandatory Class I Federal areas in and outside New Mexico with a determination of the adequacy of the State’s existing regional haze SIP.

**DATES:** This rule is effective on July 14, 2017.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2014–0237. All documents in the docket are listed at the <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 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 through <http://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

**FOR FURTHER INFORMATION CONTACT:** Mr. James E. Grady, (214) 665–6745; [grady.james@epa.gov](mailto:grady.james@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document “we,” “us,” or “our” each mean “the EPA.”

**I. Background**

The background for this action is discussed in detail in the EPA’s November 3, 2015 proposal.<sup>1</sup> In that document, the EPA proposed to approve New Mexico’s regional haze progress report SIP revision (submitted on March 14, 2014) as meeting the applicable regional haze requirements set forth in 40 CFR 51.309(d)(10). In addition, the EPA proposed to approve New Mexico’s determination that the current regional haze SIP is adequate to meet the State’s RPGs for the first planning period and requires no further substantive revision to achieve established goals for visibility improvement and emission reductions.

The proposal and the accompanying technical support document (TSD) provide detailed descriptions of New Mexico’s SIP revision and the rationale for the EPA’s proposed approval of the State’s submittal. Please see the docket for these and other documents regarding the proposal.

The public comment period for the proposal closed on December 3, 2015. The EPA received one set of comments in a letter dated December 3, 2015, from the National Parks Conservation Association and the San Juan Citizens Alliance regarding the EPA’s proposal. The comment letter is included in the publicly posted docket associated with this action at <http://www.regulations.gov>. Below, the EPA provides a summary of the comments received and corresponding responses. After careful consideration of the comments and the information provided, the EPA is approving the progress report, as proposed.

**II. Response to Comments**

**Comment:** The commenter noted that New Mexico’s progress report indicated that the State is no longer implementing its State Mobile Source Regulation but is relying on federal programs that will achieve the same reductions. The commenter argued that the progress report does not meet 40 CFR 51.309(d)(10)(i)(A) because it was not clear about the start date of the State’s

<sup>1</sup> See 80 FR 67682.

reliance on federal programs for mobile source reduction or the impact that a delayed start had on visibility.

*Response:* The comment does not demonstrate a failure to meet § 51.309(d)(10)(i)(A). This element requires a description of the status of implementation of all control measures included in the regional haze SIP for achieving RPGs for Class I areas both within and outside the State. As discussed in the proposal, New Mexico stated in the progress report that it is implementing all long-term control strategies with the exception of the formerly adopted, and now repealed, State Mobile Source Regulation. The State Mobile Source Regulation, when adopted in 2007, would have applied the California motor vehicle standards within New Mexico. We do not agree that the provided details for § 51.309(d)(10)(i)(A) are lacking or inadequate. Section 51.309(d)(10)(i)(A) requires only a description of the status of the implementation of the measures in the regional haze SIP, not an assessment of the effect of the implementation or failure to implement each specific measure. New Mexico's reliance on the federal program is unlikely to have a significant impact on visibility. At the time the regulation was adopted by New Mexico, the California standards were projected to substantially differ from federal motor vehicle emissions standards. Since that time, as the progress report notes, the California and federal programs for emissions standards for motor vehicles are more aligned with each other than was expected by New Mexico when it adopted the State Mobile Source Regulation.<sup>2</sup>

*Comment:* The progress report does not meet 40 CFR 51.309(d)(10)(i)(A) because it was not clear whether certain Western Regional Air Partnership (WRAP) policies, including the *WRAP Policy on Enhanced Smoke Management Programs for Visibility* and the *WRAP Policy on Annual Emissions Goals for Fire*, were incorporated into the State's Smoke Management Plan (SMP) and are being implemented.

*Response:* Consistent with the recommendation of the Grand Canyon Visibility Transport Commission, the regional haze program under 40 CFR part 309 brings special attentiveness to smoke management. New Mexico adopted a revision to the New Mexico

Administrative Code (NMAC) addressing smoke management to meet these regional haze rule requirements. The EPA previously approved New Mexico's regional haze SIP in 2012 as meeting the requirements of 40 CFR 51.309(d)(6), which deals with implementation plan requirements related to fire.<sup>3</sup> In doing so, the EPA noted that the SMP operating within New Mexico was consistent with the *WRAP Policy on Enhanced Smoke Management Programs for Visibility* and the *WRAP Policy on Annual Emissions Goals for Fire*, both of which were appendices to the approved Regional Haze SIP.<sup>4</sup> The progress report stated that New Mexico, aside from its update regarding State Mobile Source Regulation, is implementing the long-term strategies adopted into the regional haze SIP. This sufficiently indicates the status of implementation for the State's SMP. Therefore, we disagree that the progress report's discussion of the State's SMP failed to meet the requirements of 40 CFR 51.309(d)(10)(i)(A).

*Comment:* The progress report does not meet 40 CFR 51.309(d)(10)(i)(B) because it did not include any information about emission reductions provided by the State's SMP. Annual emissions related to fire and estimated benefits should be readily available.

*Response:* We do not agree with the assertion that the progress report fails to meet the requirements of 40 CFR 51.309(d)(10)(i)(B). While this provision requires a summary of the emission reductions achieved in the State through the implementation of the measures in its regional haze SIP, nothing in this provision requires the State to include estimates in its progress report of the emission reductions achieved by specific measures. Namely, there is no requirement for a detailed, causal analysis that pinpoints or links certain emission reductions to actual regional haze SIP measures. It is acceptable for the State to provide a summary of overall emission changes, rather than an analysis that attributes particular emission reductions from specific sources to certain measures in the plan, mainly when such a higher level summary does not indicate any problem with the direction and magnitude of these overall changes. We address in the response to a later comment the adequacy of the State's summary of overall emissions.

Additionally, the comment misperceives the basis for inclusion of

the SMP in the SIP. The visibility goal announced in section 169A of the CAA is both to prevent future impairment as well as remedy existing impairment. Regional haze SIPs accordingly may include programs to avert increases in emissions. The SMP is generally designed to limit increases in emissions, rather than to reduce existing emissions. As such, there would be little purpose for the State to try to estimate the specific emission reductions achieved through implementation of the program.<sup>5</sup>

*Comment:* The progress report does not meet 40 CFR 51.309(d)(10)(i)(B) because there were no estimates of reductions by the new source review (NSR) and prevention of significant deterioration (PSD) programs. The progress report did not indicate what emissions were avoided or allowed by the implementation of these programs.

*Response:* As explained above, nothing in 40 CFR 51.309(d)(10)(i)(B) requires the State to include estimates in its progress report of the emission reductions achieved by specific measures included in the regional haze SIP.

Additionally, although the regional haze SIP also cited the PSD and NSR programs, the primary benefit from these programs is to limit emission increases rather than precisely working to achieve reductions in existing emissions. Given this, there would be little purpose for New Mexico to try to estimate the specific emission reductions achieved through the implementation of these programs.

*Comment:* The progress report does not meet 40 CFR 51.309(d)(10)(i)(B) because point source data for sources reporting to the Clean Air Markets Database should be included.

*Response:* This comment does not identify a basis to disapprove the SIP revision. Source-specific information on all electric generating units (the sources reporting to the Clean Air Markets Database) is not required in summarizing the emission reductions in the progress report. The submitted progress report provided detailed information on anticipated emission reductions at the San Juan Generating Station (SJGS). This facility is the largest point source in the State and the most significant New Mexico emission source in the Clean Air Markets Database. More

<sup>2</sup> For example, in 2009, the EPA and the National Highway Traffic Safety Administration (NHTSA) proposed "regulatory convergence" with California on motor vehicle fuel economy standards. See 74 FR 49454 (September 28, 2009). This was subsequently adopted, starting with model years 2012–2016. 75 FR 25323 (May 7, 2010).

<sup>3</sup> See 77 FR 70693 (November 27, 2012) (approving 20.2.65 NMAC (Smoke Management)).

<sup>4</sup> See 77 FR 36065.

<sup>5</sup> Consistent with these points, as reported on New Mexico's Smoke Management Program Web site, a fire emissions summary for 2005–2016 shows no appreciable increases in SMP-regulated emissions. See New Mexico 2017 Annual Smoke Management Meeting Presentation, available at [https://www.env.nm.gov/wp-content/uploads/2017/01/2016\\_Fire\\_Emissions.pdf](https://www.env.nm.gov/wp-content/uploads/2017/01/2016_Fire_Emissions.pdf).

importantly, it is the only electric generating unit with definite emission limits in the New Mexico regional haze SIP. The progress report provided statewide point source emission data from 2008–2012 and compared it to the 2018 projected emission levels.<sup>6</sup> While additional information from the Clean Air Markets Database regarding emissions from other electric generating units may be useful, it is not essential for the approval of the submitted progress report. As noted in the proposal, we compared the point source data in the progress report to that reported by the Clean Air Markets Database and found that the reported emissions were consistent with that data.

*Comment:* The progress report does not meet 40 CFR 51.309(d)(10)(i)(B) because the inventories did not address all haze-related pollutants. Emission inventories specific to particulate organic matter, coarse mass, ammonia (NH<sub>3</sub>), and volatile organic compounds (VOCs) should be included.

*Response:* 40 CFR 51.309(d)(10)(i)(B) requires a summary of the emission reductions achieved throughout the State through implementation of the control measures mentioned in 40 CFR 51.309(d)(10)(i)(A). Because this provision does not call for a summary of all pollutants that could contribute to visibility impairment, we do not agree that the progress report is inadequate. The initial regional haze SIP focused on reducing emissions of sulfur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), and particulate matter (PM) emissions, and New Mexico's progress report summarized the changes in emissions in these pollutants from 2008–2012. Even if no information on other pollutants was included in the progress report, we would consider it reasonable and sufficient if New Mexico's progress report only provided a summary of emission reductions for these pollutants.

New Mexico's progress report, however, also provided information on other visibility-impairing pollutants. Section 3.5 of the progress report discussed New Mexico's baseline emissions inventory for 2002 and an estimated emissions inventory for 2008. The 2002 inventory was developed by the WRAP for use in the initial WRAP regional haze SIP strategy development. The 2008 inventory was based on WRAP inventory work for the West-wide Jumpstart Air Quality Modeling Study (WestJumpAQMS) and the

Deterministic & Empirical Assessment of Smoke's Contribution to Ozone (DEASCO3) modeling project efforts. The pollutants inventoried were SO<sub>2</sub>, NO<sub>x</sub>, NH<sub>3</sub>, VOCs, primary organic aerosol (POA), elemental carbon (EC), fine soil, and coarse mass. The inventories were categorized for all major visibility-impairing pollutants under major source groupings either as anthropogenic or natural. The anthropogenic source categorization included point and area sources, on and off-road mobile sources, area oil and gas, fugitive and road dust, and anthropogenic fire. The natural source categorization included natural fire, wind-blown dust, and biogenic sources.

*Comment:* The progress report presented information on visibility levels within section 3.3 of the progress report, which is titled as addressing the requirement of 40 CFR 51.309(d)(10)(i)(B). The commenter does not consider this presentation as satisfying the requirement of 40 CFR 51.309(d)(10)(i)(B) concerning emissions because the progress report failed to explain how much of the monitored improvements in visibility impairment were the result of emission reductions from control measures in the New Mexico SIP or from factors outside of the SIP. Furthermore, the trends outlined in section 3.5 were seven years out of date.

*Response:* We agree with the commenter that information on visibility levels is not an adequate substitute for the summary of emissions that is specifically required by § 51.309(d)(10)(i)(B). However, we are not basing our approval of the progress report as meeting the requirements of 40 CFR 51.309(d)(10)(i)(B) on the information on visibility levels presented in section 3.3 of the progress report. The summary of emissions requirement is satisfied for the reasons explained in our earlier responses.

*Comment:* The goal of the progress report is to document progress and changes over the past five years and to make informed decisions on that basis. To meet the requirements of 40 CFR 51.309(d)(10)(i)(C), the progress report should include information that describes the preceding five-year period as closely as possible. The progress report discussed the 2005–2009 period. Although information from 2007–2011 was included, the EPA should require the use of the most recent data available.

*Response:* Although New Mexico used 2005–2009 data to estimate current conditions, it also included additional IMPROVE data in its progress report. The 2007–2011 visibility information was specifically included in Tables 3.3–

3.18 of the progress report. We do not agree that the information was not addressed such that the requirements of the section were not met. Because the progress report was not submitted until March 14, 2014, however, there was an understandable lag between its drafting, its adoption, and submission. We do not consider the non-inclusion of visibility data more recent than 2011 to be a basis for disapproval. Visibility data for all Class I areas through 2013 were available to the public as of the date of the commenter's letter via the IMPROVE program's Web site, and the commenter did not argue that the more recent data supports disapproval of the progress report.

*Comment:* The progress report does not meet 40 CFR 51.309(d)(10)(i)(D) because it did not use the most up-to-date emissions information nor provide sufficient forward projections.

*Response:* Section 3.8 of the progress report contains a detailed analysis of 2008 emissions from all source types. In addition, Figure 3.6 of the SIP revision presents SO<sub>2</sub> and NO<sub>x</sub> point source emission data for 2008–2012. The year 2012 was the most recent emission information covering all types of point sources available at the time of the progress report's development. The progress report does not include any emissions information for non-point sources for any year more recent than 2008. However, we note that the 2011 National Emissions Inventory (NEI) Version 1.01 was published by the EPA in July 2013,<sup>7</sup> only about 8 months before the State submitted the progress report. In light of this, we consider the progress report to adequately meet the requirement of 40 CFR 51.309(d)(10)(i)(D), which calls for an analysis tracking the changes “over the past 5 years” in emissions from “all sources” based on “the most recent updated emissions inventory.”

Regarding the issue of projected inventories, § 51.309(d)(10)(i)(D) states that emission estimates must be projected forward as necessary and appropriate to account for emissions changes during “the applicable 5-year period.” This phrase is meant to refer to “the past 5 years,” a phrase that itself is not clearly defined in the rule. The progress report was required to be submitted in 2013 and was submitted in February 2014. Thus, a projection for point sources would at most have included estimates for 2013. In light of this, we do not believe that a projection

<sup>6</sup> See Figure 3.6 of Progress Report for the State Implementation Plan for Regional Haze, March 11, 2014.

<sup>7</sup> Profile of the 2011 National Air Emissions Inventory, April 2014, [https://www.epa.gov/sites/production/files/2015-08/documents/lite\\_finalversion\\_ver10.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/lite_finalversion_ver10.pdf).

for point sources beyond 2012 is necessary. With regard to non-point sources, a projection could have addressed projected-emissions several years beyond the 2008 information presented in the progress report; however, the SIP focuses primarily on the control of point source emissions. With respect to changes in fire-related emissions, projections would inherently be highly uncertain in any case. Consequently, we do not believe that projections of non-point source emissions beyond 2008 were needed in the progress report.

*Comment:* The progress report does not meet 40 CFR 51.309(d)(10)(i)(E) because it drew an unsupported conclusion that no anthropogenic emissions within New Mexico limited or impeded progress in reducing pollutant emissions or improving visibility. For example, White Mountain had visibility degradation.

*Response:* We disagree with the comment. 40 CFR 51.309(d)(10)(i)(E) requires an assessment of any significant changes in anthropogenic emissions within or outside the State that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the State's sources. In its progress report, New Mexico concluded that no such changes had occurred. The proposal noted that there have been significant reductions in emissions of SO<sub>2</sub> and NO<sub>x</sub> from point sources within the State. Also, the State has relied on the history of visibility levels at affected Class I areas to assess whether there have been changes in emissions that limit or impede progress. While we do not consider information on visibility levels to be a substitute for the required summary of emissions that is exactly required by § 51.309(d)(10)(i)(B), we consider this approach to be an acceptable method for making the assessment of whether there have been changes in emissions that limit or impede progress. Overall visibility at each of the seven Class I areas in New Mexico had improved since the baseline period, with the exception of visibility at the White Mountain Wilderness Area for the most recent period. Specifically, for White Mountain, the five-year average deciview trend for the 2007–2011 period showed slightly worse visibility (0.2 dv higher) for the 20% worst days, as compared to average conditions for 2000–2004. The commenter relied on this degradation in visibility at White Mountain to support its argument that anthropogenic emissions within New Mexico have limited progress in

improving visibility. The slight visibility degradation at White Mountain, however, was the result of elevated coarse mass levels from non-anthropogenic sources in 2011 compared to baseline levels.<sup>8</sup> Overall SO<sub>2</sub> and NO<sub>x</sub> emissions in New Mexico have actually been going down, or are at least stable. The proposal also indicated that White Mountain showed a 0.3 dv improvement in visibility on the 20% best days.<sup>9</sup>

*Comment:* The progress report does not meet 40 CFR 51.309(d)(10)(i)(E) because it failed to address anthropogenic emissions outside of New Mexico that may have limited or impeded progress in visibility improvement.

*Response:* The progress report is required to assess significant changes outside the State that have limited or impeded progress, as specified by § 51.309(d)(10)(i)(E). As in the case of assessing in-state emissions, we believe it was acceptable for the State to use trends in visibility levels to make this assessment. Visibility conditions at the Class I areas are improving, as discussed in response to the comment above, and there do not appear to be significant changes that would call for explicit discussion. We also note that the State's Regional Haze SIP and its participation in the section 309 program addressed anthropogenic emissions from outside of the borders that limit or impede visibility improvement.

*Comment:* The progress report does not meet 40 CFR 51.309(d)(10)(i)(F) because it cited 2000–2010 visibility monitoring data to conclude that New Mexico's approach was sufficient to meet the RPGs. The progress report offers little support to show that visibility is causally linked to New Mexico's SIP measures rather than to changes in natural or out-of-state sources. The EPA should require quantitative evidence to show the link between visibility benefits and the SIP measures.

*Response:* We view the requirement of this section as a qualitative assessment that should evaluate emissions and visibility trends, including expected emission reductions from measures that have not yet become effective. Even though section 3.7 of the progress report (titled as addressing the requirement of 40 CFR 51.309(d)(10)(i)(F)) cited visibility monitoring data from 2000–2010, visibility data through 2011 is presented in other sections of the progress report. In particular, tables 3.3–

3.18 presented visibility values of the 20% worst and 20% best days of periods 2000–2004, 2005–2009, 2006–2010, and 2001–2011 for each affected Class I area. Table 2.1 of the progress report showed the RPGs for each area.

The five-year average deciview values for the most recent period 2007–2011 indicated visibility improvement for all Class I areas (relative to 2000–2004 baseline period) except White Mountain, which was slightly worse by 0.2 dv. It is important to note that White Mountain visibility improved in the 2005–2009 and 2006–2010 periods compared to the baseline period 2000–2004. The data supports the conclusion that the 2007–2011 visibility conditions at White Mountain were higher than the 2000–2004 baseline due to elevated coarse mass levels in 2011 from high wind events.

The 2007–2011 visibility conditions at Bandelier and San Pedro parks were higher than in the intermediate periods, due to elevated particulate organic matter levels in 2011 from impacts of fires, but better than in 2000–2004.

For all the areas, the 2007–2011 visibility levels were better than the RPGs for the 20% best days. This is also true for five of the areas for the 20% worst days. The commenter did not suggest any particular reasons to expect that visibility will degrade in these areas for the best/worst days where it is already better than the 2018 RPGs.

As noted, three Class I sites were not yet meeting the 2018 RPGs for the 20% worst days in 2007–2011. The progress report explains that in this period White Mountain was adversely affected by coarse mass from high wind events, and San Pedro and Bandelier were affected by particulate organic matter from natural and anthropogenic fires. In 2005–2009, these three areas were below or very close to the 2018 RPGs.

In summary, we conclude that the State's visibility assessment is adequate. Wildfires or dust storms might again affect visibility in the 2018 timeframe, but New Mexico expects further reduction of SO<sub>2</sub> and NO<sub>2</sub> emissions, principally from the implementation of Best Available Retrofit Technology (BART) controls. These control measures should contribute toward improved visibility conditions at all New Mexico Class I areas, including Bandelier, San Pedro, and White Mountain for 2018. Further progress will also occur through recently adopted or proposed regulatory programs. The State was reasonable to rest on these positive overall visibility trends and future expectations regarding emission reductions in determining that the existing SIP requires no further revision

<sup>8</sup> See 80 FR 67688.

<sup>9</sup> The SIP includes this information in Table 3.17 and Table 3.18.

to achieve established RPGs. New Mexico demonstrated progress toward meeting the RPGs and no substantive revisions to the Regional Haze SIP are necessary for the first planning period. We also note that § 51.309(d)(10)(i)(F) does not impose a requirement for a demonstration of a causal linkage between improvements in visibility and measures in New Mexico's SIP.

*Comment:* The progress report does not meet 40 CFR 51.309(d)(10)(i)(F) because it did not offer sufficient evaluation of the lack-of-progress or backsliding at Class I areas, like White Mountain, that indicated degradation in the 2007–2011 time-period relative to 2005–2009 values. A more detailed account of visibility issues at these Class I areas should be required before concluding that the existing SIP is adequate.

*Response:* We disagree with this comment. Based on the speciation information in Tables 3.3–3.18, the data supports the conclusion that dust storms and/or wildfires are responsible for the limited cases of degradation in visibility between 2005–2009 and 2007–2011, rather than any backsliding on the control of emissions from anthropogenic sources.

*Comment:* According to 40 CFR 51.308(d)(1)(B)(vi), RPGs should reflect all reductions in the SIP and in any other CAA requirement. RPGs for Class I areas impacted by SJGS should be lower. The EPA should require the progress report to include a list of Class I areas impacted by future reductions from SJGS and clarify that RPGs are those that would be consistent with that source's reductions.

*Response:* The progress report was prepared with emphasis on New Mexico's improvement in meeting established RPGs for 2018. There were no changes to the State's RPGs in the progress report nor were there any submitted for review as any separate SIP revision. Whether the RPGs should be lower is not in the scope of the proposed action. We agree that future reductions at SJGS will improve visibility at Class I areas inside and outside of New Mexico. Having already approved the RPGs,<sup>10</sup> we noted that with the additional future two-unit shut down and two-unit selective non-catalytic reduction (SNCR) installation at the SJGS, New Mexico emissions will improve on the RPGs in its SIP. New Mexico is not impeding other states in meeting analogous RPGs, and the additional BART controls will decrease

visibility-impairing pollutants more than anticipated from the RPGs based on the WRAP modeling for NO<sub>x</sub>, SO<sub>2</sub> and PM.

New Mexico does not have a progress report requirement to list all Class I areas impacted by future reductions from the SJGS. However, state and federal technical records for the BART determination at SJGS provide information on this area of interest.

*Comment:* The commenter requested that the EPA require revisions to the progress report to ensure Class I areas in New Mexico and surrounding states are on the glide path to achieve natural visibility conditions by 2064.

*Response:* In the progress report SIP, New Mexico was required to assess whether the SIP was sufficient to meet the RPGs that were established for the first ten-year planning period. There is no requirement for a state to include an assessment of whether a SIP is sufficient to ensure that Class I areas (in the State or those in nearby states) are on track to meet the uniform rate of progress (URP).<sup>11</sup> The State followed the proper approach in setting the RPGs through 2018 by considering the URP and the factors established in section 169A of the CAA and in the EPA's Regional Haze Rule at 40 CFR 51.308(d)(1)(i)(A). In doing so, the RPGs reflected a slower rate of progress than the URP for the first planning period. Those established RPGs for each Class I area in New Mexico were approved by the EPA in a previous action.<sup>12</sup> Looking forward, New Mexico will be required to provide new updated RPGs for 2028 in the next comprehensive regional haze SIP revision planning period.

### III. Final Action

The EPA is approving New Mexico's regional haze progress report SIP revision (submitted on March 11, 2014) as meeting the applicable regional haze requirements set forth in 40 CFR 51.309(d)(10).<sup>13</sup> The EPA is also

<sup>11</sup> The URP is the minimum rate of progress needed to achieve the CAA goal of natural visibility conditions within sixty years (to 2064). It represents the slope between baseline visibility conditions in 2004 and natural visibility conditions in 2064. The URP for each ten-year long-term strategy equals the visibility improvement along the glide path for that planning period.

<sup>12</sup> The RPGs can be seen in the June 2012 proposed action (77 FR 36044) which was finalized on November 27, 2012 (77 FR 70693).

<sup>13</sup> The final action does not pertain to the Albuquerque/Bernalillo County portion of the SIP in New Mexico. The New Mexico Air Quality Control Act (section 74–2–4) authorizes Albuquerque/Bernalillo County to locally administer and enforce the State Air Quality Control Act by providing for a local air quality control program, and that entity submitted an initial regional haze SIP for that jurisdiction that was

approving New Mexico's determination that the current regional haze SIP requires no further substantive revision at this time in order to achieve established RPGs for 2018 for visibility improvement and emission reductions.

40 CFR 51.309(d)(10)(i)(A) requires a description of the status of implementation of all control measures included in the regional haze SIP for achieving RPGs for Class I areas both within and outside the State. New Mexico adequately addressed the status of control measures in the progress report regional haze SIP as required by the provisions under 40 CFR 51.309(d)(10)(i)(A). All major control measures (including BART) were identified and the emission reduction strategy behind each control was explained. New Mexico included a summary of the implementation status associated with each control measure and quantified the benefits where possible. In addition, the progress report SIP adequately outlined the compliance time-frame for all controls.

40 CFR 51.309(d)(10)(i)(B) requires a summary of the emission reductions achieved throughout the State through implementation of control measures mentioned in 40 CFR

51.309(d)(10)(i)(A). The progress report must identify and estimate emission reductions to date in visibility-impairing pollutants from the SIP control measures identified for implementation. New Mexico has adequately summarized the emission reductions achieved throughout the State in the progress report regional haze SIP as required under 40 CFR 51.309(d)(10)(i)(B).

40 CFR 51.309(d)(10)(i)(C) requires that for each mandatory Class I Federal area within the State, the State must assess visibility conditions and changes, with values for most impaired and least impaired days expressed in terms of five-year averages of these annual values. New Mexico has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(C) to include summaries of monitored visibility data as required by the Regional Haze Rule.<sup>14</sup>

40 CFR 51.309(d)(10)(i)(D) requires an analysis tracking the change over the

separately approved by the EPA (77 FR 71119, November 29, 2012). The EPA anticipates a separate regional haze progress report SIP submittal from this entity.

<sup>14</sup> For purposes of improved clarity on future reports, we recommend that New Mexico include a graph of rolling averages similar to what was provided in the guidance example, illustrating the uniform glide path. The glide path graphically shows what would be a uniform rate of progress, toward meeting the national goal of a return to natural visibility conditions by 2064 for each Class I area.

<sup>10</sup> The RPGs can be seen in the June 2012 proposed action (77 FR 36044) which was finalized on November 27, 2012 (77 FR 70693).

past five years in emissions of pollutants contributing to visibility impairment from all sources and activities within the State. The analysis must be based on the most recent updated emissions inventory, with estimates projected forward as necessary and appropriate, to account for emissions changes during the applicable five-year period. New Mexico has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(D) to track changes in emissions of pollutants contributing to visibility impairment from all sources and activities within the State. The analysis in the progress report was based on appropriate data.

40 CFR 51.309(d)(10)(i)(E) requires an assessment of any significant changes in anthropogenic emissions within or outside the State that have occurred over the past five years that have limited or impeded progress in reducing pollutant emissions and improving visibility in Class I areas impacted by the State's sources. New Mexico has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(E) to show that the major contributors of anthropogenic emissions are being reduced and visibility is improving without having limited or impeded progress.

40 CFR 51.309(d)(10)(i)(F) calls for an assessment of whether the current implementation plan elements and strategies in the regional haze SIP are sufficient to enable the State, or other states with mandatory Federal Class I areas affected by emissions from the State, to meet all established RPGs. New Mexico has adequately addressed the requirements under 40 CFR 51.309(d)(10)(i)(F). New Mexico referenced the improving visibility trends with appropriately supported data with a focus on future implementation of BART controls.

40 CFR 51.309(d)(10)(i)(G) requires a review of the State's visibility monitoring strategy and any modifications to the strategy as necessary. New Mexico has adequately addressed the sufficiency of the monitoring strategy as required by the provisions under 40 CFR 51.309(d)(10)(i)(G). New Mexico reaffirmed the continued reliance upon the IMPROVE monitoring network. New Mexico also explained the importance of the IMPROVE monitoring network for tracking visibility trends at the Class I areas and identified no expected changes in this network.

Under 40 CFR 51.309(d)(10)(ii), states are required to submit, at the same time as the progress report SIP, a determination of the adequacy of the existing regional haze SIP and take one

of four possible actions based on information in the progress report. New Mexico stated in the progress report SIP that the current Section 309 and 309(g) regional haze SIPs are adequate to meet the State's 2018 RPGs and require no further revision at this time. The EPA is approving this negative declaration from New Mexico.

#### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations, 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, if the choices meet the criteria of the CAA. Accordingly, this action merely approves the information and determinations in the State's progress report as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because this rulemaking does not involve technical standards; and
- Does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible

methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a 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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 14, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce the requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Best available retrofit technology, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Particulate matter, Reporting and recordkeeping requirements, Regional haze, Sulfur dioxide, Visibility, Volatile organic compounds.

Dated: June 1, 2017.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 1. The authority citation for part 52 continues to read as follows:

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

**Subpart GG—New Mexico**

■ 2. In § 52.1620(e), the second table titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the New Mexico SIP” is amended by adding the entry “New

Mexico Progress Report for the State Implementation Plan for Regional Haze” at the end of the table to read as follows:

**§ 52.1620 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
New Mexico Progress Report for the State Implementation Plan for Regional Haze.	Statewide .....	3/14/2014	6/14/2017 [Insert <b>Federal Register</b> citation].	

[FR Doc. 2017–12208 Filed 6–13–17; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 68**

[EPA–HQ–OEM–2015–0725; FRL–9963–55–OLEM]

RIN 2050–AG91

**Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act; Further Delay of Effective Date**

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

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** The Environmental Protection Agency (EPA) is delaying the effective date of the Risk Management Program Amendments for an additional 20 months, to allow EPA to conduct a reconsideration proceeding and to consider other issues that may benefit from additional comment. The new effective date of the rule is February 19, 2019. The Risk Management Program Amendments were published in the **Federal Register** on January 13, 2017. On January 26, 2017 and on March 16, 2017, EPA published two documents in the **Federal Register** that delayed the effective date of the amendments until June 19, 2017. The EPA proposed in an April 3, 2017 **Federal Register** action to further delay the effective date until February 19, 2019 and held a public

hearing on April 19, 2017. This action allows the Agency time to consider petitions for reconsideration of the Risk Management Program Amendments and take further regulatory action, as appropriate, which could include proposing and finalizing a rule to revise or rescind these amendments.

**DATES:** The effective date of the rule amending 40 CFR part 68 published at 82 FR 4594 (January 13, 2017), as delayed at 82 FR 4594 (January 26, 2017) and 82 FR 13968 (March 16, 2017), is further delayed until February 19, 2019.

**ADDRESSES:** The EPA has established a docket for the rule amending 40 CFR part 68 under Docket ID No. EPA–HQ–OEM–2015–0725. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (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 electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** James Belke, United States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW., (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564–8023; email address: [belke.jim@epa.gov](mailto:belke.jim@epa.gov), or: Kathy Franklin, United

States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW., (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564–7987; email address: [franklin.kathy@epa.gov](mailto:franklin.kathy@epa.gov).

Electronic copies of this document and related news releases are available on EPA’s Web site at <https://www.epa.gov/rmp>. Copies of this final rule are also available at <https://www.regulations.gov>.

**SUPPLEMENTARY INFORMATION:****I. General Information****A. Does this action apply to me?**

This final rule applies to those facilities, referred to as “stationary sources” under the Clean Air Act (CAA), that are subject to the chemical accident prevention requirements at 40 CFR part 68. This includes stationary sources holding more than a threshold quantity (TQ) of a regulated substance in a process. Table 5 provides industrial sectors and the associated NAICS codes for entities potentially affected by this action. The Agency’s goal is to provide a guide for readers to consider regarding entities that potentially could be affected by this action. However, this action may affect other entities not listed in this table. If you have questions regarding the applicability of this action to a particular entity, consult the person(s) listed in the introductory section of this action under the heading entitled **FOR FURTHER INFORMATION CONTACT**.

TABLE 5—INDUSTRIAL SECTORS AND ASSOCIATED NAICS CODES FOR ENTITIES POTENTIALLY AFFECTED BY THIS ACTION

Sector	NAICS code
Administration of Environmental Quality Programs .....	924.
Agricultural Chemical Distributors:	