

intersection with a southward extension of the R9E–R10E line, T3N (Hood River Quadrangle); and

(35) Continues 0.6 mile north along the R9E–R10E extension, returning to the point of beginning at its intersection with the Washington State Highway 14, close to Tunnel 4, on the north bank of the Columbia River (Hood River Quadrangle).

Dated: March 26, 2004.

**Arthur J. Libertucci,**  
Administrator.

Approved: April 20, 2004.

**Timothy E. Skud,**

Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).

[FR Doc. 04–10513 Filed 5–7–04; 8:45 am]

BILLING CODE 4810–31–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[WI119–01a; FRL–7657–6]

#### Approval and Promulgation of Implementation Plans: Wisconsin: Kewaunee County Ozone Maintenance Plan Update

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a revision to the plan prepared by Wisconsin to maintain the one-hour national ambient air quality standard (NAAQS) for ozone in the Kewaunee County maintenance area through the year 2012. Wisconsin's submitted the revision on January 28, 2003, and supplemented it on February 5, 2003 and February 27, 2003. This revision is required by the Clean Air Act. The effect of this approval is to ensure federal enforceability of the state air program plan and to maintain consistency between the state-adopted plan and the approved State Implementation Plan (SIP).

**DATES:** This “direct final” rule is effective July 9, 2004, unless EPA receives written adverse comment by June 9, 2004. If written adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. WI119 by one of the following methods: Federal eRulemaking Portal: [http://](http://www.regulations.gov)

[www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.

*E-mail:* [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov).

*Fax:* (312)886–5824.

*Mail:* You may send written comments to: J. Elmer Bortzer, Chief, Criteria Pollutants Section, Air Programs Branch (AR–18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Hand delivery: Deliver your comments to: J. Elmer Bortzer, Chief, Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. WI119. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov), or e-mail. The federal [www.regulations.gov](http://www.regulations.gov) Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Unit I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in an index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is

restricted by statute. Publicly available docket materials are available in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Michael Leslie, Environmental Engineer, at (312) 353–6680 before visiting the Region 5 office.) This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

#### FOR FURTHER INFORMATION CONTACT:

Michael Leslie, Environmental Engineer, Criteria Pollutants Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, [leslie.michael@epa.gov](mailto:leslie.michael@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This section provides additional information by addressing the following questions:

- I. General Information
- II. What is a SIP?
- III. What is the Federal Approval Process for a SIP?
- IV. What are the criteria for approval of a maintenance plan?
- V. What does federal approval of a state regulation mean to me?
- VI. What is in the state's plan to maintain the standard?
- VII. Has Wisconsin held a Public Hearing?
- VIII. What action is EPA taking?
- IX. What are the Statutory and Executive Order Review Requirements?

#### I. General Information

##### A. Does This Action Apply to Me?

This action applies to the citizens, industries, and transportation agencies in Kewaunee County, Wisconsin.

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

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

accordance with procedures set forth in 40 CFR part 2.

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

(a) Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

(b) Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

(c) Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

(d) Describe any assumptions and provide any technical information and/or data that you used.

(e) If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

(f) Provide specific examples to illustrate your concerns, and suggest alternatives.

**II. What Is a SIP?**

The Clean Air Act (CAA) at section 110 requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. Each state must submit these regulations and control strategies to us for approval and incorporation into the federally-enforceable SIP. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive and contain state regulations or other enforceable documents, as well as supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

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

For state regulations to be incorporated into the federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body. Once a state rule, regulation, or control strategy

is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the federal action on the state submission. If adverse comments are received, they must be addressed prior to any final federal action. All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled "Approval and Promulgation of Implementation Plans." The actual state regulations which are approved are not reproduced in their entirety in the CFR, but are "incorporated by reference," which means that we have approved a given state regulation with a specific effective date.

**IV. What Are the Criteria for Approval of a Maintenance Plan?**

The requirements for the approval and revision of a maintenance plan are found in section 175A of the CAA. A maintenance plan must provide a demonstration of continued attainment including the control measures relied upon, provide contingency measures for the prompt correction of any violation of the standard, provide for continued operation of the ambient air quality monitoring network, provide a means of tracking the progress of the plan, and include the attainment emissions inventory and new budgets for motor vehicle emissions.

**V. What Does Federal Approval of a State Regulation Mean to Me?**

Enforcement of the state regulation before and after it is incorporated into the federally-approved SIP is primarily a state responsibility. However, after the regulation is federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

**VI. What Is in the State's Plan To Maintain the Standard?**

For the past ten years, Wisconsin has had a plan in place to maintain the one-hour ozone standard in the maintenance area through 2002. The CAA requires that the maintenance plan be revised to provide for maintenance for ten years after the expiration of the initial maintenance period. Wisconsin's submittal of January 28, 2003, which Wisconsin supplemented on February 5, 2003 and February 27, 2003, contained a revised plan that describes what will

be done during the next ten-year period to maintain the ozone standard in the Kewaunee County maintenance area through 2012. The following analysis will look at the elements necessary for approval of a maintenance plan and determine if they have been fulfilled.

*1. Demonstration of Continued Attainment*

This revised plan relies on an attainment level of emissions of volatile organic compounds (VOCs) and nitrogen oxides (NO<sub>x</sub>) to maintain the ozone standard through a combination of control measures. These measures include stationary, area and mobile source controls. The annual emissions from the entire area for 1999, a period when no excursions or violations of the standard occurred, and the project emissions for 2012, the last year of the maintenance plan, are shown in tables 1 and 2 below.

TABLE 1.—KEWAUNEE COUNTY VOC EMISSIONS [Tons/day]

Source category	1999	2012
Point .....	0.6	0.7
Area .....	1.2	1.3
On-Road Mobile .....	0.9	0.4
Non-Road Mobile .....	0.8	0.5
Totals .....	3.5	3.0

TABLE 2.—KEWAUNEE COUNTY NO<sub>x</sub> EMISSIONS [Tons/day]

Source category	1999	2012
Point .....	0.0	0.0
Area .....	0.2	0.2
On-Road Mobile .....	1.3	0.6
Non-Road Mobile .....	0.6	0.6
Totals .....	2.1	1.5

Any discrepancies between the table totals and the sum of their constituent values are due to rounding conventions. The sector totals were actually figured to three decimal places, summed, and then rounded to two decimal places to obtain the total emissions.

As can be seen, total emissions decreased during the ten-year maintenance period. Thus the plan has demonstrated that the one-hour ozone standard will be maintained. The full emissions benefits obtained from state and federal control measures are included in the tables above. For the demonstration of maintenance, it is only necessary for the state to show that there is no increase in the emissions. Clearly

excess emission benefits are included in the demonstration. Control measures used to reduce emissions and maintain the standard are shown in the following list. These measures include stationary, mobile and area source controls.

The state has quantified emission reductions from the following permanent and enforceable measures: Federal Motor Vehicle Control Program; 1992 gasoline Reid vapor pressure change; federal architectural, industrial and maintenance coatings rule; federal consumer and commercial products rule; autobody refinishing rule; Stage II vapor recovery; traffic markings rule; gasoline station tank breathing rule; federal non-road engine standards; wood furniture coating rule; miscellaneous wood products coating rule; industrial adhesives rule; lithographic printing rule; and, plastic parts coating rule.

2. Contingency Measures

Despite the best efforts to demonstrate continued compliance with the NAAQS, the ambient ozone concentrations may exceed or violate the NAAQS.

Therefore, as required by section 175A of the CAA, Wisconsin has provided contingency measures to promptly correct a future ozone air quality problem. For the years 2003 through 2007, Wisconsin has identified the following contingency measures: the NO<sub>x</sub> SIP Call (upwind reductions in Illinois and Indiana); federal non-road engine standards; BP Amoco Agreed Order (Indiana); Wisconsin rule NR 428 NO<sub>x</sub> reductions; Tier 2 vehicle standards and low sulfur fuel; heavy duty diesel standards and low sulfur diesel fuel; and volatile organic liquid storage (Indiana). These measures are adopted and will be implemented over this time period. From 2008 through 2013, a violation of the standard will trigger the following: Within 6 months Wisconsin will complete an analysis to determine appropriate VOC and/or NO<sub>x</sub> control levels and locations to address the cause of the violation, including recommended control measures; Wisconsin will adopt selected contingent maintenance measures within 18 months; and the state commits to as short an implementation time-frame as would be appropriate based on the type of control adopted. Implementation schedules specific to each control measure are set forth in the state's submission. Potential contingency measures contained in the plan for this time period include the following: Reinstatement of requirements for offsets and/or Lowest Achievable Emissions Reductions; application of Reasonable Achievable

Control Technology (RACT) to smaller existing sources; tightening of RACT for existing sources; expanded geographic coverage of current point source measures; additional NO<sub>x</sub> controls; transportation control measures, including, but not limited to, area-wide rideshare programs, telecommuting, transit improvements, and traffic flow improvements; high-enhanced I/M On-Board Diagnostic; California Engine Standards; California Architectural Industrial Maintenance rule; California Commercial and Consumer Products rules; broader geographic applicability of existing area source measures; and, California Off-road Engine Standards.

3. Ambient Air Quality Monitoring

Wisconsin currently operates one ozone monitor in Kewaunee County. Wisconsin has committed to continue operating and maintaining an approved ozone monitor network through the maintenance period and beyond.

4. Tracking the Progress of the Plan

Continued attainment of the ozone NAAQS in Kewaunee County depends, in part, on the state's efforts toward tracking indicators of continued attainment during the maintenance period. The tracking plan for Kewaunee County primarily consists of continued ambient ozone monitoring in accordance with the requirements of 40 CFR part 58. WDNR maintains a comprehensive ambient air quality monitoring network and air quality reporting program, including ozone monitoring sites throughout the state and a fully enhanced network in the area around Lake Michigan. These are structured in the state statute to continue through and past the maintenance period. The state will also evaluate future VOC and NO<sub>x</sub> emissions inventories for increases over 1999 levels. Triggers include a violation of the one-hour ozone NAAQS; monitored ambient levels of ozone exceeding 0.124 ppm more than once per year at any one monitoring station; and levels exceeding 0.124 more than twice over a three-year period at any one monitoring station.

5. Emission Inventory and Motor Vehicle Emissions Budgets

Wisconsin prepared an emissions inventory for the Kewaunee County maintenance area for the base year of 1999. The year 1999 year was selected for the inventory as no excursion nor violations of the standard occurred. Emissions were then projected for 2007 and 2012. The MOBILE6 emissions model was used for on-road mobile sources. These revised inventories were developed using the latest planning

assumptions, including updated vehicle registration data from 1999 through 2001, vehicle miles traveled (VMT), speeds, fleet mix, and SIP control measures. The emission inventory amounts are shown in the tables below.

TABLE 3.—KEWAUNEE COUNTY VOC EMISSIONS [Tons/day]

Source category	1999	2007	2012
Point .....	0.6	0.7	0.7
Area .....	1.2	1.3	1.3
On-Road Mobile .....	0.9	0.6	0.4
Non-Road Mobile .....	0.8	0.6	0.5
Totals .....	3.5	3.2	3.0

TABLE 4.—KEWAUNEE COUNTY NO<sub>x</sub> EMISSIONS [Tons/day]

Source category	1999	2007	2012
Point .....	0.0	0.0	0.0
Area .....	0.2	0.2	0.2
On-Road Mobile .....	1.3	1.0	0.6
Non-Road Mobile .....	0.6	0.6	0.6
Totals .....	2.1	1.8	1.5

Any discrepancies between the table totals and the sum of their constituent values are due to rounding conventions. The sector totals were actually figured to three decimal places, summed, and then rounded to two decimal places to obtain the total emissions.

Wisconsin has submitted a complete and accurate emissions inventory of VOC and NO<sub>x</sub> for the Kewaunee County maintenance area and we are approving the emissions inventory. Based upon the updated emissions inventory, the revised maintenance plan contains new budgets (or limits) for motor vehicle emissions resulting from transportation plans for the Kewaunee County maintenance area. We have reviewed the budgets and have found that the budgets meet all of the adequacy criteria in section 93.118 of the transportation conformity rule. These criteria include: (1) The SIP was endorsed by the Governor (or his designee) and was subject to a state public hearing; (2) consultation among federal, state, and local agencies occurred; (3) the emissions budget is clearly identified and precisely quantified; (4) the motor vehicle emissions budget, when considered together with all other emissions, is consistent with attainment; and (5) the motor vehicle emissions budget is consistent with and clearly related to the emissions inventory and control strategy in the

SIP. We are also required to consider comments submitted to the state at the public hearing. No comments were received by the state on the transportation conformity budgets. The new area-wide budgets are shown in the table below:

TABLE 5.—KEWAUNEE MOBILE VEHICLE EMISSIONS BUDGETS  
[Tons/day]

Year	VOC	NO <sub>x</sub>
2007 .....	0.61	0.97
2012 .....	0.41	0.63

These new budgets are to be used in all subsequent conformity determinations concerning transportation plans in the Kewaunee County maintenance area. We believe that the motor vehicle emissions budgets are consistent with the control measures identified in this maintenance plan and that this plan demonstrates maintenance with the one-hour ozone standard.

#### VII. Has Wisconsin Held a Public Hearing?

The Wisconsin submittal was subject to a 30 day public comment period. Wisconsin held a public hearing on November 22, 2002.

#### VIII. What Action Is EPA Taking?

We are approving: Wisconsin's revision of the maintenance plan for the Kewaunee County maintenance and the transportation conformity budgets for VOC and NO<sub>x</sub>.

The EPA is publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse comments are filed. This rule will be effective July 9, 2004 without further notice unless we receive relevant adverse written comments by June 9, 2004. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective July 9, 2004.

#### IX. What Are the Statutory and Executive Order Review Requirements?

##### *Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

##### *Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

Because this action does not significantly affect energy supply, distribution or use, it is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

##### *Regulatory Flexibility Act*

This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

##### *Unfunded Mandates Reform Act*

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

##### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

##### *Executive Order 13132: Federalism*

This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various

levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

##### *Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

##### *National Technology Transfer Advancement Act*

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

##### *Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

##### *Congressional Review Act*

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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this

action must be filed in the United States Court of Appeals for the appropriate circuit by July 9, 2004. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 26, 2004.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ 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 YY—Wisconsin**

■ 2. Section 52.2585 is amended by adding paragraph (t) to read as follows:

**§ 52.2585 Control strategy: Ozone.**

\* \* \* \* \*

(t) Approval—On January 28, 2003, Wisconsin submitted a request to update the ozone maintenance plan for Kewaunee County. Additional information was submitted on February 5, 2003 and February 27, 2003. As part of the request, the state submitted a maintenance plan as required by section 175A of the Clean Air Act, as amended in 1990. Elements of the section 175 maintenance plan include a contingency plan and Motor Vehicle Emissions Budgets (MVEB) for 2007 and 2012. The following table outlines the MVEB for transportation conformity purposes for the Kewaunee ozone maintenance area.

**KEWAUNEE MOBILE VEHICLE EMISSIONS BUDGETS**

[Tons/day]

Year	VOC	NO <sub>x</sub>
2007 .....	0.61	0.97
2012 .....	0.41	0.63

[FR Doc. 04–10341 Filed 5–7–04; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[SIP NO. SD–001–0017a; FRL–7652–3]

**Approval and Promulgation of Air Quality Implementation Plans; State of South Dakota; Revisions to the Administrative Rules of South Dakota and New Source Performance Standards Delegation**

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

**ACTION:** Direct final rule and NSPS delegation.

**SUMMARY:** EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of South Dakota on September 12, 2003. The September 12, 2003 submittal revises the Administrative Rules of South Dakota, Air Pollution Control Program, by modifying the chapters pertaining to definitions, operating permits for minor sources, new source review and performance testing. In addition, the State made revisions to the Prevention of Significant Deterioration program, which has been delegated to the State. The intended effect of this action is to make these revisions federally enforceable. We are also announcing that on October 31, 2003, we updated the delegation of authority for the implementation and enforcement of the New Source Performance Standards to the State of South Dakota. These actions are being taken under sections 110 and 111 of the Clean Air Act.

**DATES:** This rule is effective on July 9, 2004 without further notice, unless EPA receives adverse comment by June 9, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Written comments may be submitted by mail to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in sections (I)(B)(1)(i) through (iii) of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Laurel Dygowski, EPA Region 8, 999

18th Street, Suite 300, Mailcode 8P–AR, Denver, Colorado 80202, (303) 312–6144, e-mail [dygowski.laurel@epa.gov](mailto:dygowski.laurel@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. How Can I Get Copies of This Document and Other Related Information?*

1. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* EPA has established an official public rulemaking file for this action under [SD–001–0017]. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air and Radiation Program, EPA Region 8, 999 18th Street, Suite 300, Denver, CO. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. You may view the public rulemaking file at the Regional Office Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays. Copies of the Incorporation by Reference material are also available at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Avenue, NW., Washington, DC 20460.

2. *Copies of the State submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency.* Copies of the State documents relevant to this action are also available for public inspection at the South Dakota Department of Environmental and Natural Resources, Air Quality Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501.

3. *Electronic Access.* You may access this **Federal Register** document electronically through the [Regulations.gov](http://www.regulations.gov) Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on, Federal rules that have been published in the **Federal Register**, the Government’s legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA’s policy is that public comments, whether submitted electronically or in paper,