

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

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 27, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of

such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: December 7, 2005.

**Kerrigan G. Clough,**

*Acting Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended to read 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 JJ—North Dakota

■ 2. Section 52.1820 is amended by adding paragraph (c)(35) to read as follows:

#### § 52.1820 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(35) Certain revisions to the North Dakota State Implementation Plan and Air Pollution Control Rules as submitted by the Governor with a letter dated April 11, 2003. The revisions affect portions of North Dakota Administrative Code (N.D.A.C.) regarding construction and minor source permitting.

(i) Incorporation by reference.

(A) Revisions to the North Dakota Air Pollution Control Rules as follows:

(1) In Chapter 33–15–14, N.D.A.C., Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate, the sentence in each first paragraph of subsections 33–15–14–02.19 and 33–15–14–03.16 that reads as follows, "In the event that the modification would be a major modification as defined in chapter 33–15–15, the department shall follow the procedures established in chapter 33–15–15." These revisions were effective March 1, 2003.

[FR Doc. 06–629 Filed 1–23–06; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Docket No.: EPA–R10–OAR–2005–OR–0001; FRL–8015–3]

### Approval and Promulgation of State Implementation Plans: Oregon; Portland Carbon Monoxide Second 10-Year Maintenance Plan

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

**ACTION:** Final rule.

**SUMMARY:** This action finalizes our approval of the State Implementation Plan (SIP) revisions submitted by the Oregon Department of Environmental Quality on January 3, 2005. EPA is approving the State of Oregon's second 10-year carbon monoxide (CO) maintenance plan for the Portland maintenance area. Specifically, EPA is approving the following: Oregon's demonstration that the Portland CO Attainment Area will maintain air quality standards for CO through the year 2017; a revised CO motor vehicle emissions budget for transportation conformity purposes using the MOBILE6.2 emissions model and latest growth and planning assumptions; and revised state implementation plan (SIP) control strategies and contingency measures.

**DATES:** This final rule is effective on February 23, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2005–OR–0001. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA, Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Seattle WA. EPA requests that if all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Gina Bonifacino, Office of Air, Waste and Toxics (AWT–107), EPA Region 10,

1200 Sixth Avenue, Seattle WA 98101; telephone number: (206) 553-2970; fax number: (206) 553-0110; e-mail address: [bonifacino.gina@epa.gov](mailto:bonifacino.gina@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, wherever “awe,” “aus,” or “aour” is used, we mean the EPA. Information is organized as follows:

- I. What Is the Background of This Rulemaking?
- II. What Comments Did We Receive on the Proposed Action?
- III. What Is Our Final Action?
- IV. Statutory and Executive Order Reviews

#### I. What Is the Background of This Rulemaking?

On September 6, 2005, EPA published in the **Federal Register**, a detailed description of our proposed action to approve the Portland, Oregon, CO Second 10-year maintenance plan. See 70 FR 52956.

The air quality data shows that the Portland CO maintenance area has not recorded a violation of the primary or secondary CO air quality standards since 1989. EPA believes the area will continue to meet the National Ambient Air Quality Standards (NAAQS or standards) until at least 2017 as required by the Clean Air Act.

#### II. What Comments Did We Receive on the Proposed Action?

EPA provided a 30-day review and comment period to solicit comments on our proposal published in the September 6, 2005 **Federal Register**. We received one comment letter on the proposed rulemaking. This comment letter was from Pacific Environmental Advocacy Center on behalf of the Northwest Environmental Defense Center. In general, the letter opposed the proposed SIP revision. The comments and our responses are summarized as follows:

*Comment:* The commenter states that EPA cannot approve Oregon’s proposed CO Maintenance Plan because it does not account for agricultural sources’ contributions to CO in the Portland area.

*Response:* The Portland Area Carbon Monoxide Maintenance Plan Emission Inventory and Forecast was prepared using current and applicable EPA procedure and guidance documents and computer software programs. The primary procedure and guidance documents are Procedures for the Preparation of Emission Inventories for Carbon Monoxide and Precursors of Ozone, Volume I, and Emission Inventory Requirements for Carbon Monoxide State Implementation Plans. Emission factors were taken from the supplemental Short List of AMS SCCS

and Emission Factors, and Compilation of Air Pollutant Emission Factors (AP-42).

By letter dated November 15, 2005, as corrected on November 21, 2005, the Oregon Department of Environmental Quality (ODEQ) provided specific information in response to the comment. As part of the Portland carbon monoxide maintenance plan, agricultural activity was inventoried per EPA guidance. The types of agricultural activity inventoried by ODEQ were orchard pruning burning (11 tons/year), agriculture field burning (61 tons/year) and non-road agriculture equipment (298.9 tons/year) for a total of 370.8 tons/year. The 370.8 tons of CO that ODEQ calculates are generated by agriculture in the Portland area represents .07% of the region’s total. ODEQ informed EPA that there are no Concentrated Animal Feeding Operations (CAFOs) within the boundary of the Portland CO Maintenance Area.

CO is not a pollutant where transport is a concern and there is no information to suggest that CO emissions from CAFOs outside of the Portland CO Maintenance Area impact CO levels within the maintenance area. For these reasons, EPA finds the State of Oregon’s second 10-year CO maintenance plan for the Portland CO Maintenance Area adequately accounts for emissions from agricultural sources.

*Comment:* The commenter states ODEQ cannot properly implement the maintenance plan as a result of budget cuts. Specifically, the commenter is concerned because the ODEQ air program is expected to lose nearly 20 staff members and 4 of the 5 air quality monitors that were installed in the Portland area several years ago are being decommissioned.

*Response:* ODEQ has informed EPA that the four air quality monitors which are to be decommissioned by ODEQ due to budget cuts are part of a temporary effort to investigate toxic air pollutants in the Portland airshed. The monitors to be removed do not measure CO and are not required by EPA for monitoring of CO. As stated in the maintenance plan submitted by ODEQ, three CO monitors operating in the Portland CO maintenance area will continue to operate throughout the second 10-year period. For these reasons, EPA believes that ODEQ will continue to fulfill the monitoring commitments set forth in the Maintenance Plan.

#### III. What Is Our Final Action?

EPA is taking final action to approve the Portland, Oregon CO Second 10-Year Maintenance Plan consistent with

the published proposal. A Technical Support Document on file at the EPA Region 10 office contains a detailed analysis and rationale in support of the plan.

#### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 27, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 8, 2005.

L. Michael Bogert,

Regional Administrator, EPA Region 10.

■ 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 MM—Oregon

■ 2. Section 52.1970 is amended by adding paragraph (c)(145) to read as follows:

##### § 52.1970 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(145) On December 27, 2004, the Oregon Department of Environmental Quality submitted to the Regional Administrator of EPA, the Second Portland Area Carbon Monoxide Maintenance Plan that demonstrates continued attainment of the NAAQS for carbon monoxide through the year 2017.

(i) Incorporation by reference.

(A) Oregon Administrative Rules, Chapter 340: 200-0040, 204-0090 and 242-0440, as effective December 15, 2004.

■ 3. Paragraph (a) of § 52.1973 is revised to read as follows:

##### § 52.1973 Approval of plans.

(a) Carbon monoxide.

(1) EPA approves as a revision to the Oregon State Implementation Plan, the Second Portland Area Carbon Monoxide Maintenance Plan, effective December 15, 2004, and submitted to EPA on December 27, 2004.

(2) [Reserved]

\* \* \* \* \*

[FR Doc. 06-636 Filed 1-23-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2005-MT-0001, FRL-8012-5]

#### Approval and Promulgation of Air Quality Implementation Plans; Montana; Revisions to the Administrative Rules of Montana; Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** EPA is taking direct final action approving State Implementation Plan (SIP) revisions submitted by the State of Montana on August 25, 2004. The revisions are to the Administrative Rules of Montana and correct internal references to state documents; correct references to, or update citations of, Federal documents; and make minor editorial changes. The intended effect of this action is to make federally enforceable those provisions that EPA is approving. This action is being taken under section 110 of the Clean Air Act.

**DATES:** This rule is effective on March 27, 2006 without further notice, unless EPA receives adverse comment by February 23, 2006. 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:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2005-MT-0001, by one of the following methods:

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

- E-mail: [long.richard@epa.gov](mailto:long.richard@epa.gov) and [ostrand.laurie@epa.gov](mailto:ostrand.laurie@epa.gov).

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

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

- Hand Delivery: Richard R. Long, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 999 18th Street, Suite 300, Denver, Colorado 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R08-OAR-2005-MT-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov> including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is