

normal operation as soon as possible. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 17, 2006.

Waverly W. Gregory, Jr.,

Chief, Bridge Administration Branch, Fifth Coast Guard District.

[FR Doc. 06-584 Filed 1-23-06; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2005-ND-0002; FRL-8011-1]

Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Revisions to the Air Pollution Control Rules; Delegation of Authority for New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule and delegation of authority.

SUMMARY: EPA is taking direct final action approving certain revisions to the State Implementation Plan (SIP) as submitted by the Governor of North Dakota with a letter dated April 11, 2003. The revisions affect certain portions of air pollution control rules regarding permitting. This action is being taken under section 110 of the Clean Air Act.

EPA is also providing notice that on July 27, 2005, North Dakota was delegated authority to implement and enforce certain New Source Performance Standards, as of January 31, 2004.

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. R08-OAR-2005-ND-0002, by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- Agency Web site: <http://docket.epa.gov/rmepub/>. On November 28, 2005, Regional Material in EDOCKET (RME), EPA's electronic public docket and comment system, was

replaced by an enhanced federal-wide electronic docket management and comment system located at <http://www.regulations.gov>. Therefore, you will be redirected to that site to access the docket EPA-R08-OAR-2005-ND-0002 and submit comments. Follow the on-line instructions for submitting comments.

- E-mail: long.richard@epa.gov and platt.amy@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 200, 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. R08-OAR-2005-ND-0002. EPA's policy is that all comments received will be included in the public docket without change and may be made available at <http://docket.epa.gov/rmepub/index.jsp>, 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 EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. The EPA's Regional Materials in EDOCKET and Federal [regulations.gov](http://www.regulations.gov) Web site are "anonymous access" systems, 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 EDOCKET or [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 information about EPA's public docket visit EDOCKET online or see the *Federal Register* of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the Regional Materials in EDOCKET index at <http://docket.epa.gov/rmepub/index.jsp>. Although listed in the index, some information is not publicly available, i.e., 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 in Regional Materials in EDOCKET or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202-2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Environmental Protection Agency, Region 8, (303) 312-6449, platt.amy@epa.gov.

SUPPLEMENTARY INFORMATION:

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Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (iii) The initials *SIP* mean or refer to State Implementation Plan.
- (iv) The words *State* or *ND* mean the State of North Dakota, unless the context indicates otherwise.

(v) The initials NDDH mean or refer to the North Dakota Department of Health.

I. General Information

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

1. *Submitting CBI.* Do not submit this information to EPA through Regional Materials in EDOCKET, 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:

- i. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- ii. 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.
- iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- iv. Describe any assumptions and provide any technical information and/or data that you used.
- v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- vi. Provide specific examples to illustrate your concerns, and suggest alternatives.
- vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

The Act requires States to follow certain procedures in developing implementation plans and plan revisions for submission to us. Sections 110(a)(2) and 110(l) of the Act provide that each implementation plan must be adopted after reasonable notice and public hearing.

To provide for public comment, the North Dakota Department of Health (NDDH), after providing notice, held a public hearing on April 19, 2002 to address the revisions to the State Implementation Plan (SIP) and Air Pollution Control Rules. Following the public hearing, comment period, and legal review by the North Dakota Attorney General's Office, the North Dakota State Health Council adopted the revisions, which became effective on March 1, 2003. The North Dakota Governor submitted the SIP revisions to us with a letter dated April 11, 2003.

On October 21, 2004, EPA published a notice of final rulemaking for the State of North Dakota (see 69 FR 61762). In that final rulemaking, we approved portions of the SIP revision submitted by the Governor of North Dakota on April 11, 2003. The portions of the SIP revision that we approved affected the North Dakota Air Pollution Control Rules regarding general provisions and emissions of particulate matter and sulfur compounds.

As we discussed in our October 21, 2004 notice of final rulemaking, we were handling separately the revisions in the April 11, 2003 submittal addressing North Dakota Air Pollution Control Rules Section 33-15-01-13, regarding shutdown and malfunction of an installation, certain portions of Chapter 33-15-14, regarding construction and minor source permitting, and certain portions of Chapter 33-15-15, regarding prevention of significant deterioration.

On August 8, 2005, EPA published a direct final rulemaking for the State of North Dakota (see 70 FR 45539). In that final rulemaking, we approved additional portions of the SIP revision submitted by the Governor of North Dakota on April 11, 2003. Those portions of the SIP revision that we approved affected certain section of the North Dakota Air Pollution Control Rules regarding permitting and prevention of significant deterioration of air quality.

III. Revisions in the April 11, 2003 Submittal That Are the Subject of This Document

The revisions in the April 11, 2003 submittal to be addressed in this document pertain to certain portions of the North Dakota Air Pollution Control Rules regarding permitting, which involve sections of the following chapter of the North Dakota Administrative Code (N.D.A.C.): 33-15-14 Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate (certain sections specific to

construction and minor source permitting).

A. Chapter 33-15-14, N.D.A.C., Section 33-15-14-02, Permit To Construct

In the Permit to Construct section, 33-15-14-02, subsection 33-15-14-02.19, Amendment of Permits, was revised to clarify how the NDDH can amend a construction permit. Specifically, in the event that a modification would be a "major modification" as defined in the State's prevention of significant deterioration (PSD) regulations, then the procedures established in Chapter 33-15-15, N.D.A.C., must be followed.

B. Chapter 33-15-14, N.D.A.C., Section, 33-15-14-03, Minor Source Permit To Operate

Subsection 33-15-14-03.16, Amendment of Permits, was similarly revised to clarify how the NDDH can amend a minor source permit to operate. Specifically, in the event that a modification would be a "major modification" as defined in the State's prevention of significant deterioration (PSD) regulations, then the procedures established in Chapter 33-15-15, N.D.A.C., must be followed.

The revisions discussed above are simply clarifying in nature and are approvable.

IV. Delegation of Authority

With a February 10, 2005 submittal, the Governor of North Dakota requested delegation of authority for revisions to the New Source Performance Standards (NSPS), promulgated in Chapter 33-15-12, N.D.A.C. On July 27, 2005, delegation was given with the following letter:

Ref: 8P-AR

Honorable John Hoeven,
Governor of North Dakota State Capitol, 600
E Boulevard Avenue, Bismarck, North
Dakota 58505-0001

Re: Delegation of Clean Air Act New Source Performance Standards

Dear Governor Hoeven:

In a February 10, 2005, letter from you and a February 15, 2005, letter from David Glatt, North Dakota Department of Health (NDDH), the State of North Dakota submitted revisions to its Air Pollution Control Rules and requested direct delegation to implement and enforce the Federal New Source Performance Standards (NSPS). Specifically, North Dakota Administrative Code Chapter 33-15-12, Standards of Performance for New Stationary Sources, was revised to update the citation for the incorporated Federal NSPS in 40 CFR Part 60 as those in effect on January 31, 2004, with the exception of subpart Eb, which the State has not adopted.

Subsequent to States adopting NSPS regulations, EPA delegates the authority for the implementation and enforcement of those

NSPS, so long as the State's regulations are equivalent to the Federal regulations. EPA reviewed the pertinent statutes and regulations of the State of North Dakota and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State. Therefore, pursuant to Section 111(c) of the Clean Air Act (Act), as amended, and 40 CFR Part 60, EPA hereby delegates its authority for the implementation and enforcement of the NSPS to the State of North Dakota as follows:

(A) Responsibility for all sources located, or to be located, in the State of North Dakota subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR Part 60, as in effect on January 31, 2004, with the exception of subpart Eb, which the State has not adopted. Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, Ce, BBBB, and DDDD. These subparts require state plans which are approved under a separate process pursuant to Section 111(d) of the Act.

(B) Not all authorities of NSPS can be delegated to States under Section 111(c) of the Act, as amended. The EPA Administrator retains authority to implement those sections of the NSPS that require: (1) Approving equivalency determinations and alternative test methods, (2) decision making to ensure national consistency, and (3) EPA rulemaking to implement. Therefore, of the NSPS of 40 CFR Part 60 being delegated in this letter, the enclosure lists examples of sections in 40 CFR Part 60 that cannot be delegated to the State of North Dakota. Please note that the enclosed list has been updated since our November 6, 2003, delegation of authority to implement and enforce the NSPS to the State of North Dakota.

(C) The North Dakota Department of Health (NDDH) and EPA will continue a system of communication sufficient to guarantee that each office is always fully informed and current regarding compliance status of the subject sources and interpretation of the regulations.

(D) Enforcement of the NSPS in the State will be the primary responsibility of the NDDH. If the NDDH determines that such enforcement is not feasible and so notifies EPA, or where the NDDH acts in a manner inconsistent with the terms of this delegation, EPA may exercise its concurrent enforcement authority pursuant to section 113 of the Act, as amended, with respect to sources within the State of North Dakota subject to NSPS.

(E) The State of North Dakota will at no time grant a variance or waiver from

compliance with NSPS regulations. Should the NDDH grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and initiate enforcement action against the source pursuant to section 113 of the Act. The granting of such relief by the NDDH shall also constitute grounds for revocation of delegation by EPA.

(F) If at anytime there is a conflict between a State regulation and a Federal regulation (40 CFR Part 60), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to enforce the more stringent Federal regulation, this portion of the delegation may be revoked.

(G) If the Regional Administrator determines that a State procedure for enforcing or implementing the NSPS is inadequate, or is not being effectively carried out, this delegation may be revoked in whole or part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the NDDH.

(H) Acceptance of this delegation of presently promulgated NSPS does not commit the State of North Dakota to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's requests of February 10, and 15, 2005.

(I) Upon approval of the Regional Administrator of EPA Region 8, the Director of the NDDH may subdelegate his authority to implement and enforce the NSPS to local air pollution control authorities in the State when such authorities have demonstrated that they have equivalent or more stringent programs in force.

(J) The State of North Dakota must require reporting of all excess emissions from any NSPS source in accordance with 40 CFR 60.7(c).

(K) Performance tests shall be scheduled and conducted in accordance with the procedures set forth in 40 CFR Part 60 unless alternate methods or procedures are approved by the EPA Administrator. Although the Administrator retains the exclusive right to approve equivalent and alternate test methods as specified in 40 CFR 60.8(b)(2) and (3), the State may approve minor changes in methodology provided these changes are reported to EPA Region 8. The Administrator also retains the right to change the opacity standard as specified in 40 CFR 60.11(e).

(L) Determinations of applicability such as those specified in 40 CFR 60.5 and 60.6 shall be consistent with those which have already been made by the EPA.

(M) Alternatives to continuous monitoring procedures or reporting requirements, as

outlined in 40 CFR 60.13(i), may be approved by the State only if the specific NSPS grants that authority. Otherwise, EPA retains the authority to review and approve such alternatives.

(N) If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS requirements, the State shall notify EPA Region 8 and obtain a determination on the applicability of the NSPS regulations.

(O) Information shall be made available to the public in accordance with 40 CFR 60.9. Any records, reports, or information provided to, or otherwise obtained by, the State in accordance with the provisions of these regulations shall be made available to the designated representatives of EPA upon request.

(P) All reports required pursuant to the delegated NSPS should not be submitted to the EPA Region 8 office, but rather to the NDDH.

(Q) As 40 CFR Part 60 is updated, North Dakota should revise its regulations accordingly and in a timely manner and submit to EPA requests for updates to its delegation of authority.

EPA is approving North Dakota's request for NSPS delegation for all areas within the State except for the following: Lands within the exterior boundaries of the Fort Berthold, Fort Totten, Standing Rock and Turtle Mountain Indian Reservations; and any other areas which are "Indian Country" within the meaning of 18 U.S.C. 1151.

Since this delegation is effective immediately, there is no need for the State to notify the EPA of its acceptance. Unless we receive written notice of objections from you within ten days of the date on which you receive this letter, the State of North Dakota will be deemed to accept all the terms of this delegation. EPA will publish an information notice in the **Federal Register** to inform the public of this delegation, in which this letter will appear in its entirety.

If you have any questions on this matter, please contact me or have your staff contact Richard Long, Director of our Air and Radiation Program, at (303) 312-6005.

Sincerely yours,
Robert E. Roberts
Regional Administrator.

Enclosure

cc: David Glatt, NDDH
Terry O'Clair, NDDH
Enclosure to Letter Delegating NSPS in 40 CFR Part 60, Effective Through January 31, 2004, to the State of North Dakota

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED

40 CFR subparts	Section(s)
A	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e); and 60.13(i).
Da	60.45a.
Db	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc	60.48c(a)(4).
Ec	60.56c(i), 60.8.
J	60.105(a)(13)(iii) and 60.106(i)(12).

EXAMPLES OF AUTHORITIES IN 40 CFR PART 60 WHICH CANNOT BE DELEGATED—Continued

40 CFR subparts	Section(s)
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O	60.153(e).
S	60.195(b).
DD	60.302(d)(3).
GG	60.332(a)(3) and 60.335(a).
VV	60.482–1(c)(2) and 60.484.
WW	60.493(b)(2)(i)(A) and 60.496(a)(1).
XX	60.502(e)(6).
AAA	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
BBB	60.543(c)(2)(ii)(B).
DDD	60.562–2(c).
GGG	60.592(c).
III	60.613(e).
JJJ	60.623.
KKK	60.634.
NNN	60.663(f).
QQQ	60.694.
RRR	60.703(e).
SSS	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
TTT	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WWW	60.754(a)(5).
CCCC	60.2030(c).

V. Section 110(l)

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. There are no nonattainment areas in North Dakota. The revisions to the permitting provisions were clarifying in nature, will not affect emissions, and will not interfere with requirements of the Act related to administrative or procedural provisions. Therefore, these revisions do not interfere with attainment or maintenance of the NAAQS or other applicable requirements of the Act.

VI. Final Action

We reviewed the adequacy of these certain revisions submitted by the North Dakota Governor with a letter dated April 11, 2003, and find them approvable. In addition, as requested by the North Dakota Governor with his February 10, 2005 submittal, we are providing notice that we granted delegation of authority to North Dakota on July 27, 2005, to implement and enforce the NSPS promulgated in 40 CFR part 60, promulgated as of January 31, 2004 (except subpart Eb, which the State has not adopted). However, the State's NSPS authorities do not include those authorities which cannot be

delegated to the states, as defined in 40 CFR part 60.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective March 27, 2006 without further notice unless the Agency receives adverse comments by February 23, 2006. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VII. Statutory and Executive Order Reviews

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

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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, 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,