

airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it proposes to create Class E airspace sufficient in size to contain aircraft executing instrument procedures at the Red Dog Airport and represents the FAA’s continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71— DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is to be amended as follows:

* * * * *

Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Red Dog, AK [Revised]

Red Dog Airport, AK
(Lat. 68°01′53″ N., long. 162°54′11″ W.)
Noatak NDB/DME, AK
(Lat. 67°34′19″ N., long. 162°58′26″ W.)
Selawik VOR/DME, AK
(Lat. 66°36′00″ N., long. 159°59′30″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Red Dog Airport, AK; and that airspace extending upward from 1,200 ft. above the surface within a 14-mile radius of the Red Dog Airport, AK, and within 5 miles either side of a line from the Selawik VOR/DME, AK, to lat. 67°38′06″ N., long. 162°21′42″ W., to lat. 67°54′30″ N., long. 163°00′00″ W., and within 5 miles either side of a line from the Noatak NDB/DME, AK, to lat. 67°50′20″ N., long. 163°19′16″ W., and within a 5-mile radius of lat. 67°50′20″ N., long. 163°19′16″ W.

* * * * *

Issued in Anchorage, AK, on December 8, 2006.

Anthony M. Wylie,

Manager, Alaska Flight Service Information Office.

[FR Doc. E6–21517 Filed 12–15–06; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R08–OAR–2006–0502; FRL–8257–8]

Approval and Promulgation of Air Quality Implementation; North Dakota; Revisions to New Source Review Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions adopted by North Dakota on February 1, 2005 to Chapter 33–15–15 of the North Dakota Administrative Code (Prevention of Significant Deterioration of Air Quality) that incorporate EPA’s December 31, 2002 NSR Reforms. North

Dakota submitted the request for approval of these rule revisions into the State Implementation Plan (SIP) on February 10, 2005. North Dakota has a federally-approved Prevention of Significant Deterioration (PSD) program for new and modified sources impacting attainment areas in the State. North Dakota is in attainment for all pollutants, and does not have a SIP-approved non-attainment permit program.

On December 31, 2002, EPA published revisions to the Federal Prevention of Significant Deterioration (PSD) and non-attainment NSR regulations (67 FR 80186). These revisions are commonly referred to as “NSR Reform” regulations and became effective nationally in areas not covered by a SIP on March 3, 2003. These regulatory revisions include provisions for baseline emissions determinations, actual-to-future-actual methodology, plantwide applicability limits (PALs), clean units, and pollution control projects (PCPs). On November 7, 2003, EPA published a reconsideration of the NSR Reform regulations that clarified two provisions in the regulations (68 FR 63021). On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit issued a ruling on challenges to the December 2002 NSR Reform revisions (*State of New York v. EPA*, 413 F.3d 3 (D.C. Cir. 2005)). Although the Court upheld most of EPA’s rules, it vacated both the Clean Unit and the Pollution Control Project provisions and remanded back to EPA the “reasonable possibility” standard for when a source must keep certain project-related records.

North Dakota is seeking approval at this time for its PSD regulations to implement the NSR Reform provisions that have not been vacated by the June 24, 2005, court decision.

DATES: Comments must be received on or before January 17, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OAR–2006–0502, by one of the following methods:

- <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: long.richard@epa.gov and daly.carl@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-2006-0502. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or e-mail. The 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 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 the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. 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 www.regulations.gov index. 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, will be publicly available only in hard copy. Publicly-available docket materials are available

either electronically in www.regulations.gov or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, 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: Carl Daly, Air and Radiation Program, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202, (303) 312-6416, daly.carl@epa.gov.

SUPPLEMENTARY INFORMATION:

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 *North Dakota* mean the State of North Dakota, unless the context indicates otherwise.

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I. General Information

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

1. **Submitting CBI.** Do not submit CBI to EPA through 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.
- g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- h. Make sure to submit your comments by the comment period deadline identified.

II. What Is Being Addressed In This Document?

EPA is proposing to approve North Dakota's revisions to their Air Pollution Control Rules Chapter 33-15-15 (Prevention of Significant Deterioration of Air Quality), submitted by North Dakota on February 10, 2005, that relate to the PSD construction permit programs of the State of North Dakota. These revisions to Chapter 33-15-15 were adopted by the North Dakota Department of Health on February 1, 2005. North Dakota's Regulations for a PSD program for attainment areas were federally-approved and made a part of the SIP on November 2, 1979 (44 FR 63103).

On December 31, 2002, EPA published revisions to the Federal PSD and non-attainment NSR regulations in 40 CFR Parts 51 and 52 (67 FR 80186). These revisions are commonly referred to as the "NSR Reform" regulations and became effective nationally in areas not covered by a SIP on March 3, 2003. These regulatory revisions include provisions for baseline emissions determinations, actual-to-future-actual methodology, plantwide applicability limits (PALs), clean units, and pollution control projects (PCPs). As stated in the December 31, 2002 rulemaking, State and local permitting agencies must adopt and submit revisions to their part 51 permitting programs implementing the minimum program elements of that

rulemaking no later than January 2, 2006 (67 FR 80240). With the February 10, 2005 submittal, North Dakota requested approval of program revisions into the State Implementation Plan (SIP) that satisfy this requirement.

On November 7, 2003, EPA published a reconsideration of the NSR Reform regulations that clarified two provisions in the regulations by including a definition of “replacement unit” and by clarifying that the plantwide applicability limitation (PAL) baseline calculation procedures for newly constructed units do not apply to modified units (68 FR 63021).

On June 24, 2005, the United States Court of Appeals for the District of Columbia Circuit issued a ruling on challenges to the December 2002 NSR Reform revisions (*State of New York et al. v. EPA*, 413 F.3d 3 (D.C. Cir. 2005)). Although the Court upheld most of EPA’s rules, it vacated both the Clean Unit and the Pollution Control Project provisions and remanded back to EPA the recordkeeping provision at 40 CFR 52.21(r)(6) that required a stationary source to keep records of projects when there was a “reasonable possibility” that the project could result in a significant emissions increase.

In an August 30, 2005 letter to EPA, North Dakota requested that EPA not take action on the clean unit and PCP provisions of the State rule and on the term “reasonable possibility” as they were incorporated by reference into the North Dakota Air Pollution Control Rules Chapter 33–15–15. North Dakota requested no action on these provisions because of the June 24, 2005 United States Court of Appeals for the District of Columbia Circuit’s decision. North Dakota has since withdrawn their request for no action on the term “reasonable possibility.” North Dakota has also supplemented its February 10, 2005 request in a November 2, 2005 submission that provided corrections to several typographical errors in Chapter 33–15–15. All of these documents are available for review as part of the Docket for this action.

III. What Are The Changes That EPA Is Approving?

EPA is proposing to approve a revision to North Dakota’s SIP that would incorporate by reference the Federal requirements found at 40 CFR 52.21 into the State’s PSD program. The current revision to the North Dakota Air Pollution Control Rules Chapter 33–15–15, which EPA is now proposing to approve into the SIP, incorporates by reference the provisions of 40 CFR 52.21 paragraphs (a)(2) through (f), (h) through (r), and (v) through (bb) as they existed

on October 1, 2003 with the exceptions noted below. North Dakota did not incorporate by reference those sections of the Federal rules that do not apply to state activities or are reserved for the Administrator of the EPA, such as the “delegation of authority” section found at 40 CFR 52.21(u) and the “plan disapproval” section found in 40 CFR 52.21(a)(1). North Dakota retained existing SIP language for “reclassification” at 33–15–15–02. The reclassification provision at 40 CFR 52.21(g) was not revised by the December 2002 NSR Reform rule, so it is acceptable that North Dakota’s existing SIP-approved reclassification provision remains in the SIP.

In an August 30, 2005 letter to EPA, North Dakota requested that EPA not take action on the Clean Unit and Pollution Control Project provisions and on the term “reasonable possibility” as they were incorporated by reference into Chapter 33–15–15. However, North Dakota has since withdrawn its request for no action on the term “reasonable possibility” used in § 52.21(r)(6). Therefore, EPA is not taking action at this time on the following provisions in Chapter 33–15–15: 40 CFR 52.21(x), 52.21(y), 52.21(z), 52.21(a)(2)(iv)(f), 52.21(a)(2)(vi), 52.21(b)(2)(iii)(h), 52.21(b)(3)(iii)(b), 52.21(b)(3)(vi)(d), 52.21(b)(32), and 52.21(b)(42).

The phrase “reasonable possibility” used in the Federal rule at 40 CFR 52.21(r)(6) limits the recordkeeping provisions to modifications at facilities that use the actual-to-future-actual methodology to calculate emissions changes and that may have a “reasonable possibility” of a significant emissions increase. EPA has not yet responded to the D.C. Circuit Court’s remand of the recordkeeping provisions of EPA’s 2002 NSR Reform Rules. The North Dakota rule contains recordkeeping requirements that are identical to the remanded Federal rule. As a result, EPA’s final decision with regard to the remand may require EPA to take further action on this portion of North Dakota’s rules. At this time, however, North Dakota’s recordkeeping provisions are as stringent as the Federal requirements, and are therefore, approvable.

The following provisions in 40 CFR 52.21 have been revised in North Dakota Air Quality Rules Chapter 33–15–15 to either add language that is currently contained in the North Dakota SIP or to add new language to North Dakota’s PSD program: 40 CFR 52.21(b)(3)(iii)(a), 52.21(b)(14), 52.21(b)(15), 52.21(b)(22), 52.21(b)(29), 52.21(b)(30), 52.21(b)(43), 52.21(b)(48)(ii), 52.21(b)(51),

52.21(b)(53), 52.21(b)(54), 52.21(d), 52.21(e), 52.21(h), 52.21(i), 52.21(k)(1), 52.21(l)(1), 52.21(m)(3), 52.21(o)(1), 52.21(p), 52.21(p)(6), 52.21(p)(7), 52.21(p)(8), 52.21(q), 52.21(r)(2), 52.21(v)(1), 52.21(v)(2)(iv)(a), 52.21(w)(1), and 52.21(aa)(15). EPA’s review of these revisions is contained in a Technical Support Document (TSD) for this action. The TSD is available for review as part of the Docket for this action.

The North Dakota “incorporation by reference” properly clarified the circumstances in which the term “Administrator,” found throughout the Federal rules, was to remain the EPA Administrator, and when it was intended to refer to the “North Dakota Department of Health,” instead.

As noted above, on November 7, 2003, EPA published a reconsideration of the NSR Reform regulations that added a definition of “replacement unit” and clarified that the plantwide applicability limitation (PAL) baseline calculation procedures for newly-constructed units do not apply to modified units. Since North Dakota has incorporated by reference the regulations in 40 CFR 52.21 “as they exist on October 1, 2003” (North Dakota provision 33–15–15–01.2), these clarifications are not proposed for approval at this time. EPA has communicated to North Dakota that, at its earliest convenience, the State should revise provision 33–15–15–01.2 (Scope) to specify that 40 CFR 52.21 as amended and promulgated on July 1, 2004, or later, is incorporated by reference in order for these clarifications to become part of the SIP.

The requirements included in North Dakota’s PSD program, as specified in Chapter 33–15–15, are substantively the same as the Federal provisions, due to North Dakota’s incorporation of the Federal rules by reference. The revisions North Dakota made to 40 CFR 52.21 noted above were reviewed by EPA and found to be as stringent, or more stringent, than the Federal rules. EPA has, therefore, determined that the proposed revisions are consistent with the program requirements for the preparation, adoption and submittal of implementation plans for the Prevention of Significant Deterioration of Air Quality, as set forth at 40 CFR 51.166, and are approvable as part of the North Dakota SIP.

IV. What Action Is EPA Taking Today?

EPA is proposing to approve revisions to North Dakota Air Pollution Control Rules, Chapter 33–15–15, Prevention of Significant Deterioration of Air Quality. Per North Dakota’s request, EPA is taking no action on Clean Unit

Exemptions (40 CFR 52.21(x) and (y)) and Pollution Control Projects (40 CFR 52.21(z)).

V. Statutory and Executive Order Reviews

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 That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a “significant regulatory action” under Executive Order 12866 or a “significant energy action,” as that term is defined in Executive Order 13211, 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).

Regulatory Flexibility Act

This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed rule 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 (59 FR 22951, November 9, 2000).

Executive Order 13132 Federalism

This action 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 proposes to approve 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.

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

This proposed 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” under Executive Order 12866.

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 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.

Paperwork Reduction Act

This proposed 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.*).

List of Subjects in 40 CFR Part 52

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

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

Dated: December 1, 2006.

Kerrigan G. Clough,

Acting Regional Administrator, Region 8.

[FR Doc. E6-21502 Filed 12-15-06; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2006-0926; FRL-8257-6]

Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Excess Emissions Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing two actions related to excess emissions provisions that were previously approved by EPA into the Nevada Department of Conservation and Natural Resources portion of the Nevada State Implementation Plan. These proposed actions include approval of a State request for rescission of certain provisions related to excess emissions and correction of an error made by the Agency in approving another provision also related to excess emissions. We are proposing to correct the error by disapproving the previously approved provision and thereby deleting the provision from the plan. The proposed approval of the rescission request is contingent upon receipt of certain public notice and hearing documentation from the State of Nevada. EPA is proposing these actions under the Clean Air Act authority to correct errors in approving, and obligation to take action on, State submittals of revisions to state implementation plans. The intended effect is to correct a past error in approving a particular provision into the plan and to allow for the rescission of closely-related provisions. EPA is taking comments on this proposal and plans to follow with a final action.

DATES: Any comments must arrive by January 17, 2007.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2006-0926, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
2. *E-mail:* steckel.andrew@epa.gov.
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes