

■ 4. Amend § 21.7640 by revising paragraph (b) to read as follows:

**§ 21.7640 Release of payments.**

\* \* \* \* \*

(b) *Payment for breaks, including intervals between terms.* In administering 10 U.S.C. chapter 1606, VA will apply the provisions of § 21.4138(f) when determining whether a reservist is entitled to payment for a break, including an interval between terms.

(Authority: 10 U.S.C. 16136(b), 38 U.S.C. 3680)

\* \* \* \* \*

[FR Doc. 07-3466 Filed 7-18-07; 8:45 am]

BILLING CODE 8320-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R08-OAR-2006-0502, FRL-8441-9]

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

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the State of North Dakota. The revision, 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), incorporates 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. This action is being taken under section 110 of the Clean Air Act. **DATES:** *Effective Date:* This final rule is effective August 20, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2006-0502. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. 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, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312-6416, [daly.carl@epa.gov](mailto:daly.carl@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 *North Dakota* mean the State of North Dakota, unless the context indicates otherwise.

**I. What Action Is EPA Taking?**

EPA is taking final action to approve revisions to the North Dakota SIP regarding North Dakota's PSD program. On December 18, 2006 (71 FR 75687), EPA published a notice of proposed rulemaking (NPR) to approve North Dakota's revisions to their Prevention of Significant Deterioration regulations (Chapter 33-15-15) that incorporated EPA's December 31, 2002 NSR Reforms. The formal SIP revision was submitted by North Dakota on February 10, 2005. The December 18, 2006 NPR provides more detailed information about the North Dakota SIP revisions being approved today. The public comment period for the proposed action ended on January 17, 2007. No comments, adverse or otherwise, were received on EPA's proposed action.

**II. Background**

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 included 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 February 10, 2005, North Dakota submitted revisions to Chapter 33-15-15 of the North Dakota Administrative Code (Prevention of Significant Deterioration of Air Quality). These revisions to Chapter 33-15-15 were adopted by the North Dakota Department of Health on February 1, 2005; and repealed 33-15-15-01 (General provisions), added 33-15-15-01.1 (Purpose) and 33-15-15-01.1 (Scope), and made reference and other non-substantive changes to 33-15-15-02 (Reclassification). 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 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 decision of the United States Court of Appeals for the District of Columbia Circuit. References to clean units and PCPs were subsequently removed by EPA from federal regulation on June 13, 2007 (see 72 FR 32526). North Dakota did withdraw 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. Final Action

EPA is taking final action 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 State's PSD construction permit program. These revisions to Chapter 33–15–15 were adopted by the North Dakota Department of Health on February 1, 2005, and supersede and replace the previous SIP-approved Chapter 33–15–15 PSD Regulations.

### 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 (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 approves a state rule implementing a Federal standard.

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 September 17, 2007. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 10, 2007.

**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. In § 52.1820 the table in paragraph (c) is amended by revising the entry under Chapter "33–15–15" to read as follows:

**§ 52.1820 [Amended]**

State citation	Title/subject	State effective date	EPA approval date and citation <sup>1</sup>	Explanations
* * * * *				
<b>33-15-15 Prevention of Significant Deterioration of Air Quality</b>				
33-15-15-01 .....	General Provisions (Repealed) .....	2/1/05	[Insert <b>Federal Register</b> page number where the document begins] 7/19/07.	
33-15-15-01.1 .....	Purpose .....	2/1/05	[Insert <b>Federal Register</b> page number where the document begins] 7/19/07.	
33-15-15-01.2 .....	Scope .....	2/1/05	[Insert <b>Federal Register</b> page number where the document begins] 7/19/07.	
33-15-15-02 .....	Reclassification .....	2/1/05	[Insert <b>Federal Register</b> page number where the document begins] 7/19/07.	
* * * * *				

<sup>1</sup> In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. E7-14005 Filed 7-18-07; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R05-OAR-2006-0772; FRL-8439-8]

**Approval and Promulgation of Air Quality Implementation Plans; Minnesota**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Minnesota State Implementation Plan (SIP) for sulfur dioxide (SO<sub>2</sub>) submitted on April 23, 2007.

Specifically, the revisions involve Continental Nitrogen & Resource Corporation (Continental Nitrogen) of Dakota County, Minnesota. The emission limits for the Continental Nitrogen steam boilers have been removed. Continental Nitrogen has physically disconnected its three boilers. The boilers cannot operate, thus there are no emissions.

**DATES:** This direct final rule will be effective September 17, 2007, unless EPA receives adverse comments by August 20, 2007. If adverse comments are 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-R05-

OAR-2006-0772, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: mooney.john@epa.gov.
3. *Fax*: (312) 886-5824.
4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2006-0772. 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-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.

**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 Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal