

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R04-OAR-2005-NC-0002-200538(a); FRL-8049-2]

**Approval and Promulgation of Implementation Plans; North Carolina: Charlotte, Raleigh-Durham, and Winston-Salem Areas Second 10-Year Maintenance Plan for the Carbon Monoxide National Ambient Air Quality Standard****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a revision to the North Carolina State Implementation Plan (SIP) submitted in final form on March 23, 2005. The SIP revision provides the second 10-year maintenance plan for the Charlotte, Raleigh-Durham, and Winston-Salem Carbon Monoxide Maintenance Areas, which are composed of the following four counties: Mecklenburg (Charlotte Area); Durham and Wake (Raleigh-Durham Area); and Forsyth (Winston-Salem Area). The second 10-year maintenance plan includes new motor vehicle emission budgets (MVEBs) for carbon monoxide for the year 2015. EPA is approving this SIP revision, including the new 2015 MVEBs for carbon monoxide, because it satisfies the requirement of the Clean Air Act (CAA) for the second 10-year maintenance plan for the Charlotte, Raleigh-Durham, and Winston-Salem Areas.

In addition, in this rulemaking, EPA is providing information on its transportation conformity adequacy determination for new MVEBs for the year 2015 that are contained in the second 10-year carbon monoxide maintenance plan for the Charlotte, Raleigh-Durham, and Winston-Salem Areas. EPA determined that the 2015 MVEBs are adequate through a previous action.

**DATES:** This direct final rule is effective May 23, 2006 without further notice, unless EPA receives adverse comment by April 24, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No EPA-R04-OAR-2005-NC-0002, by one of the following methods:

1. <http://www.regulations.gov>: Follow the online instructions for submitting comments.

2. E-mail: [wood.amanetta@epa.gov](mailto:wood.amanetta@epa.gov).

3. Fax: (404) 562-9019.

4. Mail: "EPA-R04-OAR-2005-NC-0002", Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.

5. Hand Delivery or Courier: Amanetta Wood of the Air Quality Modeling and Transportation Section at the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**Instructions:** Direct your comments to Docket ID No. : "EPA-R04-OAR-2005-NC-0002". 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 through

<http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <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 the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. 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 <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person 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:** Amanetta Wood of the Air Quality Modeling and Transportation Section at the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9025. Ms. Amanetta Wood can also be reached via electronic mail at [wood.amanetta@epa.gov](mailto:wood.amanetta@epa.gov).

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**I. What Is the Background for This Action?**

In 1994, based on measured air quality data, the Charlotte, Raleigh-Durham, and Winston-Salem Areas were able to demonstrate attainment with the carbon monoxide National Ambient Air Quality Standard (NAAQS) due to numerous control measures implemented in each of the respective Areas. As a result of the measured air quality data, North Carolina petitioned

EPA for redesignation of these three Areas to attainment for carbon monoxide. In 1994, EPA redesignated the Winston-Salem Area to attainment based on the measured air quality data and a 10-year maintenance plan submitted for the Winston-Salem Area (59 FR 48399). In 1995, EPA redesignated both the Charlotte Area and the Raleigh-Durham Area to attainment based on the measured air quality data and the 10-year maintenance plan submitted for these areas (60 FR 39258).

The air quality maintenance plan is a requirement of the 1990 CAA amendments for nonattainment areas that come into compliance with the NAAQS to assure their continued maintenance of that standard. Eight years after redesignation to attainment, section 175A(b) of the CAA requires the state to submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the 10 years following

the initial 10-year period (this is known as the second 10-year maintenance plan). The second 10-year maintenance plan updates the original 10-year carbon monoxide maintenance plan for the next 10-year period. Thus, pursuant to the CAA section 175A(b), North Carolina was required to submit the second 10-year maintenance plan for the Charlotte, Raleigh-Durham, and Winston-Salem Areas demonstrating that it would continue to attain the carbon monoxide NAAQS in those Areas through 2015.

**II. What Is EPA's Analysis of the Charlotte, Raleigh-Durham, and Winston-Salem Areas' Second 10-Year Maintenance Plan?**

On March 23, 2005, the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR), submitted a SIP revision to EPA that provided for the second 10-year maintenance plan for the Charlotte, Raleigh-Durham, and Winston-Salem Areas as required by section 175A(b) of the CAA. This

second 10-year maintenance plan for the Charlotte, Raleigh-Durham, and Winston-Salem Areas includes a new carbon monoxide emission inventory for 2000 which reflects emission controls applicable for the Charlotte, Raleigh-Durham, and Winston-Salem Areas, and actual and projected emissions for 2000, 2005, 2010, and 2015. The SIP revision also establishes new MVEBs for carbon monoxide for 2015 for the Charlotte, Raleigh-Durham, and Winston-Salem Areas.

The emission reduction measures for carbon monoxide emissions implemented in the Charlotte, Raleigh-Durham, and Winston-Salem Areas from 1995 to 2005, and control measures that are projected to occur between 2005 and 2015, are accounted for in the 2000 emission inventory and projected emissions estimates. The following three tables provide emissions data and projections for carbon monoxide. The on-road mobile portion of the data was calculated with Mobile 6.2.

**TABLE 1.—CHARLOTTE CARBON MONOXIDE AREA—MECKLENBURG COUNTY EMISSION INVENTORY AND PROJECTED CO EMISSIONS (2000–2015)**  
[Calculated in tons per day]

|            | Area  | Non-road mobile | On-road mobile | Point | Total  |
|------------|-------|-----------------|----------------|-------|--------|
| 2000 ..... | 24.97 | 142.23          | 522.39         | 5.58  | 695.17 |
| 2005 ..... | 29.42 | 160.64          | 431.03         | 6.43  | 627.52 |
| 2010 ..... | 32.42 | 171.27          | 357.99         | 7.45  | 569.13 |
| 2015 ..... | 34.96 | 181.77          | 328.79         | 8.27  | 553.79 |

**TABLE 2.—RALEIGH-DURHAM CARBON MONOXIDE AREA—DURHAM AND WAKE COUNTY EMISSION INVENTORY AND PROJECTED CO EMISSIONS (2000–2015)**  
[Calculated in tons per day]

|                | Area  | Non-road mobile | On-road mobile | Point | Total  |
|----------------|-------|-----------------|----------------|-------|--------|
| Durham County: |       |                 |                |       |        |
| 2000 .....     | 13.45 | 31.98           | 178.79         | 0.86  | 225.08 |
| 2005 .....     | 15.44 | 34.12           | 152.32         | 0.91  | 202.79 |
| 2010 .....     | 16.73 | 31.52           | 118.71         | 0.98  | 167.94 |
| 2015 .....     | 17.99 | 28.82           | 105.30         | 1.05  | 153.16 |
| Wake County:   |       |                 |                |       |        |
| 2000 .....     | 35.21 | 87.26           | 419.46         | 1.36  | 543.29 |
| 2005 .....     | 41.45 | 97.02           | 362.51         | 1.44  | 502.42 |
| 2010 .....     | 45.36 | 102.61          | 300.12         | 1.57  | 449.66 |
| 2015 .....     | 49.21 | 108.12          | 282.39         | 1.69  | 441.41 |

**TABLE 3.—WINSTON-SALEM CARBON MONOXIDE AREA—FORSYTH COUNTY EMISSION INVENTORY AND PROJECTED CO EMISSIONS (2000–2015)**  
[Calculated in tons per day]

|            | Area  | Non-road mobile | On-road mobile | Point | Total  |
|------------|-------|-----------------|----------------|-------|--------|
| 2000 ..... | 25.13 | 40.35           | 259.88         | 2.56  | 327.92 |
| 2005 ..... | 29.58 | 44.07           | 211.02         | 2.49  | 287.16 |
| 2010 ..... | 32.10 | 43.50           | 168.17         | 2.61  | 246.38 |
| 2015 ..... | 34.51 | 43.00           | 145.05         | 2.76  | 225.32 |

The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. The Charlotte, Raleigh-Durham, and Winston-Salem Areas continued to attain the carbon monoxide NAAQS based on air quality data for the year 2000. Therefore, in this SIP revision, the emissions from the year 2000 are used to calculate a new attainment emissions level for the Charlotte, Raleigh-Durham, and Winston-Salem Areas. The emissions from point, area, nonroad, and mobile sources in 2000 equal 695.17 tons per day (tpd) of carbon monoxide for Mecklenburg County, 225.08 tpd for Durham County, 543.29 tpd for Wake County, and 327.92 tpd for Forsyth County. The projected carbon monoxide emissions for the year 2015 equal 553.79 tpd for Mecklenburg County, 153.16 tpd for Durham County, 441.41 tpd for Wake County, and 225.32 tpd for Forsyth County. These emission calculations were made using the MOBILE6.2 model and the most recent version of the nonroad model. The

projected emissions are lower than the attainment level of emissions, thus demonstrating continued maintenance of the carbon monoxide NAAQS.

The safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin is for the entire Charlotte, Raleigh-Durham, and Winston-Salem Areas and is sub-allocated by county. The safety margin credit, or a portion thereof, can be allocated to the transportation sector, however, the total emission level must stay below the attainment level. The safety margin for carbon monoxide is the difference between these amounts or, in this case, 141.39 tpd for Mecklenburg County for 2015, 71.92 tpd for Durham County for 2015, 101.88 tpd for Wake County for 2015, and 102.59 tpd for Forsyth County for 2015. The emissions are projected to maintain the Charlotte, Raleigh-Durham, and Winston-Salem Areas' air quality

consistent with the carbon monoxide NAAQS.

Maintenance plans and other control strategy SIPs create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. The MVEB is the portion of the total allowable emissions that is allocated to highway and transit vehicle use and emissions. The MVEB serves as a ceiling on emissions from an area's planned transportation system.

The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish and revise MVEBs in a SIP. In this SIP revision, the Charlotte, Raleigh-Durham, and Winston-Salem Areas used MOBILE6.2 to establish MVEBs for carbon monoxide for the year 2015. The State of North Carolina has chosen to allocate the entire safety margin to the transportation section. These MVEBs are listed in Tables 4.1, 4.2, and 4.3.

TABLE 4.1.—MECKLENBURG COUNTY 2015 MVEB WITH SAFETY MARGIN INCLUDED

|          | 2015 projected on-road emissions (tons per day) | Safety margin | 2015 MVEB with safety margin |
|----------|---|---------------|------------------------------|
| CO ..... | 328.79  | 141.39        | 470.18                       |

TABLE 4.2.—DURHAM COUNTY 2015 MVEB WITH SAFETY MARGIN INCLUDED

|          | 2015 projected on-road emissions (tons per day) | Safety margin | 2015 MVEB with safety margin |
|----------|---|---------------|------------------------------|
| CO ..... | 105.30  | 71.92         | 177.22                       |

TABLE 4.3.—WAKE COUNTY 2015 MVEB WITH SAFETY MARGIN INCLUDED

|          | 2015 projected on-road emissions (tons per day) | Safety margin | 2015 MVEB with safety margin |
|----------|---|---------------|------------------------------|
| CO ..... | 282.39  | 101.88        | 384.27                       |

TABLE 4.4.—FORSYTH COUNTY 2015 MVEB WITH SAFETY MARGIN INCLUDED

|          | 2015 on-road emissions (tons per day) | Safety margin | MVEB with safety margin |
|----------|---------------------------------------|---------------|-------------------------|
| CO ..... | 145.05                                | 102.59        | 247.64                  |

The MVEBs presented in Table 4.5 are directly reflective of the combined onroad (or "highway") emissions for the Charlotte, Raleigh-Durham, and Winston-Salem Areas for carbon monoxide, plus allocation from the

available safety margin. After allocation of the safety margin to the MVEBs there is no available safety margin for future allocation. In summary, the new carbon monoxide MVEBs for the year 2015 are 470.18 tpd for Mecklenburg County;

177.22 tpd for Durham County; 384.27 tpd for Wake County; and 247.64 tpd for Forsyth County. The MVEBs for the Charlotte, Raleigh-Durham, and Winston-Salem Areas that the

transportation partners must use are provided in the table below.

TABLE 4.5.—2015 MVEBS FOR CO  
(Tons per day)

|                          |        |
|--------------------------|--------|
| Mecklenburg County ..... | 470.18 |
| Durham County .....      | 177.22 |
| Wake County .....        | 384.27 |
| Forsyth County .....     | 247.64 |

### III. What Is EPA's Action on the Charlotte, Raleigh-Durham, and Winston-Salem Areas' Second 10-Year Maintenance Plan?

EPA is approving North Carolina's SIP revision pertaining to the Charlotte, Raleigh-Durham, and Winston-Salem Areas' second 10-year maintenance plan, including the new 2015 MVEBs for carbon monoxide.

### IV. What Is an Adequacy Determination and What Are EPA's Adequacy Determinations for the Charlotte, Raleigh-Durham, and Winston-Salem Areas' New MVEBs for the Year 2015?

Under Section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must "conform" to (*i.e.* be consistent with) the part of the State's air quality plan that addresses pollution from cars and trucks. "Conformity" to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. Under the transportation conformity rule, at 40 CFR part 93, projected emissions from transportation plans and programs must be equal to or less than MVEBs for the area. If a transportation plan does not "conform," most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria and procedures for demonstrating and assuring conformity of such transportation activities to a SIP.

Until MVEBs in a SIP submittal are approved by EPA, they cannot be used for transportation conformity purposes unless EPA makes an affirmative finding that the MVEBs contained therein are "adequate." Once EPA affirmatively finds the submitted MVEBs adequate for transportation conformity purposes, those MVEBs can be used by the State and Federal agencies in determining whether proposed transportation projects "conform" to the SIP even though the approval of the SIP revision containing those MVEBs has not yet been finalized. EPA's substantive criteria for determining "adequacy" of MVEBs in submitted SIPs are set out in

EPA's Transportation Conformity Rule at 40 CFR 93.118(e)(4).

Through this rulemaking, EPA is providing information on the status of its transportation conformity adequacy determination for new MVEBs for the year 2015 that are contained in the second 10-year maintenance plan for the Charlotte, Raleigh-Durham, and Winston-Salem Areas. The adequacy comment period for the 2015 MVEBs began on March 29, 2005, with EPA's posting of availability of this submittal on EPA's Adequacy Web site (at <http://www.epa.gov/otaq/transp.htm>). The adequacy comment period for these MVEBs closed on April 28, 2005. No comments on this submittal were received during EPA's adequacy comment period.

In a letter dated April 29, 2005, to B. Keith Overcash, Director of the Division of Air Quality NCDENR, EPA informed the State of its intention to find the new 2015 MVEBs for carbon monoxide adequate for transportation conformity purposes. Subsequently, in a Final **Federal Register** notice dated May 6, 2005, (70 FR 24037) EPA found the Charlotte, Raleigh-Durham, and Winston-Salem Areas' 2015 carbon monoxide MVEBs adequate. These MVEBs meet the adequacy criteria contained in the Transportation Conformity Rule. The 2015 MVEBs for the Charlotte, Raleigh-Durham, and Winston-Salem Areas are currently being used for transportation conformity determinations. For regional emission analysis years that involve the year 2015 or beyond, the applicable budget for the purposes of conducting transportation conformity analysis will be the following 2015 MVEBs for carbon monoxide: 470.18 tpd for Mecklenburg County; 177.22 tpd for Durham County; 384.27 tpd for Wake County; and 247.64 tpd for Forsyth County.

### V. 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 affects the status of a geographical area, does not impose any new requirements on sources or allow a state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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. section 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. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 23, 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, Reporting and recordkeeping requirements, Intergovernmental relations, Ozone.

Dated: March 14, 2006.

**A. Stanley Maiburg,**

*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52, 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 II—North Carolina**

■ 2. Section 52.1770 (e) is amended by adding a new entry at the end of the table for "Charlotte, Raleigh-Durham, and Winston-Salem Carbon Monoxide Second 10-Year Maintenance Plan" to read as follows:

**§ 52.1770 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS**

| Provision   | State effective date | EPA approval date    | Federal Register citation          |
|---|----------------------|----------------------|------------------------------------|
| Charlotte, Raleigh-Durham, and Winston-Salem Carbon Monoxide Second 10-Year Maintenance Plan. | March 18, 2005 ..... | March 24, 2006 ..... | [Insert first page of publication] |

[FR Doc. 06–2870 Filed 3–23–06; 8:45 am]  
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**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Part 3100**

[WO–310–1310–PP–241A]

RIN 1004–AD83

**Oil and Gas Lease Acreage Limitation Exemptions and Reinstatement of Oil and Gas Leases**

**AGENCY:** Bureau of Land Management, Department of the Interior.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Land Management (BLM) is issuing this final rule to amend its regulations to conform to provisions of the Energy Policy Act of 2005 (EPAc) that changed oil and gas lease acreage limitations and oil and gas lease reinstatement provisions. Section 352 of the EPAc expands the types of lease holdings that are exempt from the lease acreage holding limitations. Section 371 of the EPAc extends the time to file a lease reinstatement petition from 15 months to 24 months.

**DATES:** This final rule is effective March 24, 2006.

**FOR FURTHER INFORMATION CONTACT:** Jay Douglas in the Fluid Minerals Group at (202) 452–0336. For assistance in reaching Mr. Douglas, persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Discussion of the Final Rule
- III. Procedural Matters

**I. Background**

Section 184(d) of the Mineral Leasing Act of 1920 limited the amount of acreage a Federal oil and gas lessee may hold in any one state to 246,080 acres. That section also provides that certain types of acreage holdings are exempt from those limitations. Section 352 of the EPAc amended the Mineral Leasing Act to expand the types of acreage holdings that are exempt from the limitations imposed by the Act.

Section 188(d) of the Mineral Leasing Act of 1920 provides for reinstatement, under certain circumstances, of Federal oil and gas leases that were terminated for nonpayment of rental. Section 371 of the EPAc amended that section of the

Act by extending the maximum time for a lessee to submit a petition for reinstatement to the BLM.

The BLM finds good cause to omit the general notice of proposed rulemaking required by 5 U.S.C. 553(b). The notice and comment are unnecessary because the terms of the EPAc are very clear and provide no room for interpretation. Both changes are required by the EPAc, are not discretionary on the part of the Secretary of the Interior, and would implement clear and mandatory provisions of a recently enacted statute. For all the reasons noted above, the BLM further finds good cause to waive the delay in effectiveness in 5 U.S.C. 553(d). In addition, the provisions of the revised regulations do not require any change in conduct by the public and have been known to the public since the EPAc's enactment in August 2005.

**II. Discussion of the Final Rule**

This final rule will implement the changes to the 43 CFR Part 3100 regulations that are required because of amendments Sections 352 and 371 of the EPAc made to the Mineral Leasing Act. A section-by-section discussion of the changes follows:

*Section 3101.2–3 Exempted Acreage*

This section is revised to add the following to the list of acreage that will