

pursued. See § 775.12 for restrictions on the timing of this decision.

* * * * *

(b) * * *

(1) The environmental assessment of any action which involves the construction or acquisition of a new mail processing facility must include reasonable alternatives to the proposed action and not just consideration of contending sites for a facility. This process must be started early in the planning of the action. * * *

(2) When an environmental assessment indicates that an environmental impact statement may be needed for a proposed facility action, the responsible officer will make the decision whether to prepare an environmental impact statement for presentation to the Capital Investment Committee, and to the Board of Governors if the Board considers the proposal.

(3) If an environmental impact statement is presented to the Committee or the Board, and an analysis indicates that it would be more cost-effective to proceed immediately with continued control of sites, (including advance acquisition, if necessary, and where authorized by postal procedures), environmental impact statement preparation, and project designs, a budgetary request will include authorization of funds to permit:

(i) The preparation of an impact statement encompassing all reasonable alternatives and site alternatives,

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13. In newly redesignated § 775.10, paragraph (a)(4) is added to read as follows:

§ 775.10 Environmental assessments.

(a) * * *

(4) A list of applicable environmental permits necessary to complete the proposed action.

14. Newly redesignated § 775.11 is amended by revising the last sentence of paragraph (a)(1) and by revising paragraphs (b)(2)(ii), (c)(2), (c)(4), (c)(5) introductory text, (c)(5)(iv), and (d)(1) to read as follows:

§ 775.11 Environmental impact statements.

(a) * * *

(1) * * * Notice is given in accordance with § 775.13.

* * * * *

(b) * * *

(2) * * *

(ii) Contain discussions of impacts in proportion to their significance. Insignificant impacts eliminated during the process under § 775.11(a) to determine the scope of issues must be

discussed only to the extent necessary to state why they will not be significant.

* * * * *

(c) * * *

(2) Summary. The section should compare and summarize the findings of the analyses of the affected environment, the environmental impacts, the environmental consequences, the alternatives, and the mitigation measures. The summary should sharply define the issues and provide a clear basis for choosing alternatives.

* * * * *

(4) Proposed action. This section should clearly outline the need for the EIS and the purpose and description of the proposed action. The entire action should be discussed, including connected and similar actions. A clear discussion of the action will assist in consideration of the alternatives.

(5) *Alternatives and mitigation.* This portion of the environmental impact statement is vitally important. Based on the analysis in the Affected Environment and Environmental Consequences section (see § 775.11(c)(6)), the environmental impacts and the alternatives are presented in comparative form, thus sharply defining the issues and providing a clear basis for choosing alternatives. Those preparing the statement must:

* * * * *

(iv) Describe appropriate mitigation measures not considered to be an integral part of the proposed action or alternatives. See § 775.9(a)(7).

* * * * *

(d) * * *

(1) Any completed draft environmental impact statement which is made the subject of a public hearing, must be made available to the public as provided in § 775.12, of this chapter at least 15 days in advance of the hearing.

* * * * *

15. In newly redesignated § 775.13, paragraph (a)(4) is revised to read as follows:

§ 775.13 Public notice and information.

(a) * * *

(4) A copy of every notice of intent to prepare an environmental impact statement must be furnished to the Chief Counsel, Legislative, Law Department, who will have it published in the **Federal Register**.

* * * * *

16. In newly redesignated § 775.14, paragraph (b) is revised to read as follows:

§ 775.14 Hearings.

* * * * *

(b) The distribution and notice requirements of §§ 775.11(d)(1) and 775.13 must be complied with whenever a hearing is to be held.

17. A heading for Subchapter L is added to read as follows:

Subchapter L—Special Regulations

PARTS 777 AND 778— [REDESIGNATED TO SUBCHAPTER L]

18. Parts 777 and 778 are redesignated from Subchapter K to Subchapter L.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98-22936 Filed 8-26-98; 8:45 am]

BILLING CODE 7710-12-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[ND-001-0002a & ND-001-0004a; FRL-6150-6]

Clean Air Act Approval and Promulgation of State Implementation Plan 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 approves certain State implementation plan (SIP) revisions submitted by the North Dakota Governor with letters dated January 9, 1996 and September 10, 1997. The January 9, 1996 revisions are specific to a rule regarding emissions of sulfur compounds (the remainder of the State's January 9, 1996 submittal was handled separately). The September 10, 1997 revisions are specific to air pollution control rules regarding general provisions and emissions of particulate matter and organic compounds. Revisions to the minor source construction permit program will be handled separately. In addition, the September 10, 1997 submittal included direct delegation requests for emission standards for hazardous air pollutants (NESHAP) and emission standards for hazardous air pollutants for source categories, as well as the State's plan for existing municipal solid waste landfills, which were all handled separately.

Finally, EPA is providing notice that it granted delegation of authority to North Dakota on May 28, 1998, to implement and enforce the New Source

Performance Standards (NSPS) promulgated in 40 CFR Part 60, as of October 1, 1996 (excluding subpart Eb).

DATES: This direct final rule is effective on October 26, 1998 without further notice, unless EPA receives adverse comment by September 28, 1998. 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: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, suite 500, Denver, Colorado, 80202-2405. Copies of the State's submittal and other relevant documents are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, suite 500, Denver, Colorado, 80202-2405 and the North Dakota Department of Health, Division of Environmental Engineering, 1200 Missouri Avenue, Bismarck, North Dakota, 58506-5520.

FOR FURTHER INFORMATION CONTACT: Amy Platt, Environmental Protection Agency, Region VIII, (303) 312-6449.

SUPPLEMENTARY INFORMATION:

I. Background

The Governor of North Dakota submitted various revisions to the State's air pollution control rules with letters to EPA dated January 9, 1996, and September 10, 1997. These revisions were necessary, for the most part, to make the rules consistent with Federal requirements or for clarification purposes.

The bulk of the January 9, 1996 SIP revisions were approved by EPA on April 21, 1997 (62 FR 19224). That submittal also included a direct delegation request for emission standards for hazardous air pollutants for source categories, which was handled separately. Finally, action on one rule, regarding emissions of sulfur compounds, was delayed pending the State's provision of technical support documentation to justify EPA's approval of the revision. That documentation now has been provided to EPA's satisfaction and is discussed below in further detail.

II. This Action

A. Analysis of State Submissions

1. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and

plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action [see section 110(k)(1) and 57 FR 13565]. EPA's completeness criteria for SIP submittals are set out at 40 CFR part 51, appendix V. EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law if a completeness determination is not made by EPA six months after receipt of the submission.

To entertain public comment, the North Dakota Department of Health (NDDOH), after providing adequate notice, held public hearings on July 25, 1995 and January 14, 1997 to address the respective revisions to the SIP and Air Pollution Control Rules. Following the public hearings, public comment period, and completion of legal review by the North Dakota Attorney General's Office, the North Dakota State Health Council adopted the rule revisions, which became effective on January 1, 1996, and September 1, 1997, respectively.

The Governor of North Dakota submitted the revisions to the SIP with letters dated January 9, 1996, and September 10, 1997. The SIP revisions were reviewed by EPA to determine completeness in accordance with the completeness criteria set out at 40 CFR part 51, appendix V. The submittals were found to be complete and letters dated February 13, 1996, and November 5, 1997, were forwarded to the Governor indicating the completeness of the respective submittals and the next steps to be taken in the review process.

2. January 9, 1996 Revisions—Emissions of Sulfur Compounds

As discussed above, the January 9, 1996 submittal contained various revisions which were approved by EPA on April 21, 1997 (62 FR 19224), or handled separately. The one remaining revision regarding emissions of sulfur compounds is being addressed in this document and involves North Dakota Air Pollution Control Rule 33-15-06, Emissions of Sulfur Compounds.

a. Chapter 33-15-06 Emissions of Sulfur Compounds. Restricted.

Language was added to this chapter to allow the State to consider treaters at an oil or natural gas production facility, as defined in Chapter 33-15-20 (Control of Emissions from Oil and Gas Well Production Facilities), as "industrial process equipment." Prior to this revision, treaters were considered fuel burning equipment and were subject to a SO₂ emissions limit of three pounds per million Btu on a one hour block average basis (Chapter 33-15-06-01.2, Restrictions Applicable to Fuel Burning Installations). This revision is considered a SIP relaxation because treaters will now have a less stringent emissions limit than prior to the revision. Treaters will now be subject to Chapter 33-15-06-02.2, Concentration of Sulfur Compounds in Emissions Restricted, which directs the State to establish an emissions limit if it is determined that industrial process equipment is causing the ambient air quality standards for SO₂ in Chapter 33-15-02 or the prevention of significant deterioration increments for SO₂ of Chapter 33-15-15 to be exceeded.

In a March 28, 1997 letter from Richard Long, EPA, to Dana Mount, NDDOH, EPA advised the State that a demonstration was needed to determine if the National Ambient Air Quality Standards (NAAQS) and Prevention of Significant Deterioration (PSD) increments would be protected in light of this relaxation. In letters from the NDDOH dated April 8, July 30, and September 9, 1997, the State provided EPA with adequate technical support information to demonstrate that the NAAQS and PSD increments indeed would be protected. Some of the rationale follows.

The State's reason for changing the classification of the treater at oil wells from fuel burning equipment to industrial process equipment was to gain a beneficial use for sour gas produced at the well. In order to comply with the previous emissions limit, propane or sweet natural gas had to be brought into the treater and the sour gas burned in the flare. This practice did not make sense from an economic, energy conservation, or practical standpoint. Now, sour gas that was once burned in the flare can be used as fuel to operate the treater. Therefore, as a practical matter, there should be no increase in SO₂ emissions since the fuel is just being burned in a different place.

Given that oil wells contribute only minor SO₂ emissions in the State (approximately 3% of the total, of which 1.8% is contributed by treaters, and this percentage has been steadily declining and is expected to further decline in the future), that ambient air quality

monitoring has never detected a violation of the SO₂ NAAQS due to an oil production facility (the NDDOH currently operates two monitoring sites in "oil country" and requires industry to operate four additional sites), and that there are no oil wells that are major sources for SO₂ under the PSD regulations in North Dakota, the State believes that the change in classification for the treater will not adversely affect the NAAQS or PSD increments. It will, however, have the benefit of conserving energy.

Oil well SO₂ emissions have been decreasing since the major development of oil wells in North Dakota is in the southwest corner of the State where the H₂S content is less than that found in older wells which are going out of production. The NDDOH provided a 1996 SO₂ emissions inventory for the southwest counties where the most oil and gas well development is occurring. In addition, a commitment was provided to review the regulations should emissions of SO₂ from oil and gas well development increase significantly above the current emission rate.

The NDDOH tracks oil wells through a database which is shared with the State's Oil and Gas Division. From this database, the amount of SO₂ emissions from each production facility is determined. The NDDOH has provided a commitment to review relevant areas of the State if SO₂ emissions increases are noted from oil and gas production facilities. The reporting system for the above-mentioned database will be set up to provide emissions on a county-wide basis and an annual review of emissions from each county will be conducted to determine whether any significant increases have taken place.

Regarding SO₂ increment consumption, the State estimates that actual SO₂ emissions from oil wells on the minor source baseline date (*i.e.*, December 19, 1977) were approximately 12,000 tons per year. In 1997, emissions were less than 6000 tons per year. In areas where there is a significant amount of SO₂ emissions from oil wells, the State believes the decrease in emissions offsets most increment consumption.

Based on the information provided by the State in the three letters mentioned above, EPA agrees with the State's conclusion that the change to Chapter 33-15-06 is of minor significance and will not endanger the SO₂ NAAQS or PSD increments. Therefore, this revision is approvable. Please refer to the Technical Support Document (TSD) accompanying this action for a detailed discussion of the State's rationale.

3. September 10, 1997 Revisions

The September 10, 1997 submittal included revisions to certain chapters of the North Dakota Air Pollution Control Rules which will be handled separately. These revisions involved the minor source construction permit program (33-15-14) and direct delegation requests for emissions standards for hazardous air pollutants (33-15-13) and emission standards for hazardous air pollutants for source categories (33-15-22), as well as the State's plan for existing municipal solid waste landfills. The submittal also included a direct delegation request for standards of performance for new stationary sources (see below). Finally, the submittal addressed revisions to general provisions and emissions of particulate matter and organic compounds, which involve the following chapters of the North Dakota Air Pollution Control Rules to be addressed in this document: 33-15-01 General Provisions; 33-15-05 Emissions of Particulate Matter Restricted; and 33-15-07 Control of Organic Compound Emissions.

a. Chapter 33-15-01 General Provisions. Revisions to this chapter include administrative corrections to 33-15-01-13.2(b) and 33-15-01-15.2 and the addition of language to the enforcement requirements in 33-15-01-17.3 to clarify that no person may knowingly provide inaccurate information on required documents or regarding required monitoring and methods. These revisions are either minor in nature or consistent with Federal requirements, and therefore, approvable.

This chapter was also revised to update the definition of volatile organic compounds ("VOCs") in 33-15-01-04.49 to match the Federal definition. At the date of this submittal, the State's revision was consistent with federal requirements and, therefore, is being approved as submitted on September 10, 1997.

However, on April 9, 1998, EPA published a revised definition of volatile organic compounds (63 FR 17331), which became effective on May 11, 1998. EPA's revised definition excludes numerous compounds from the definition of VOC on the basis of negligible reactivity, and thus, no contribution to tropospheric ozone formation. The State's current definition does not exclude some of these compounds. Therefore, the State's definition of VOC provides for the regulation of some compounds which are no longer considered VOCs by EPA. North Dakota is advised of EPA's most

recent VOC definition and future SIP revisions should reflect it accordingly.

b. Chapter 33-15-05 Emissions of Particulate Matter. Restricted. The subsection regarding incinerator rules for crematoriums was modified to reduce the required temperature in the secondary chamber of a crematorium from 1800 degrees Fahrenheit to 1600 degrees Fahrenheit. The original requirements for opacity, temperature retention time, and monitoring were not changed with this revision. EPA believes that these parameters, along with a 1600 degree Fahrenheit temperature in the secondary chamber, allow for proper combustion to occur. The 1600 degree Fahrenheit temperature requirement is well above what is needed for good volatile organic compound emissions control.

Since there is no foreseeable increase in emissions resulting from this change in temperature requirement for the secondary chamber, EPA believes this revision is approvable.

c. Chapter 33-15-07 Control of Organic Compounds Emissions. This revision was simply an administrative correction to a referenced subsection under "Scope." It is minor in nature and approvable.

4. Delegation of Authority for NSPS

The original delegation of authority for NSPS to North Dakota was made by EPA on October 13, 1976 (41 FR 44859, 44884). Later, North Dakota submitted its NSPS regulations for approval by EPA through the SIP process (58 FR 5294, January 21, 1993). With the September 10, 1997 submittal, the State has indicated that it prefers to once more obtain authority for implementation and enforcement of the NSPS through the delegation of authority process pursuant to section 111(c) of the Clean Air Act, 42 U.S.C. § 7411(c), as amended. Pursuant to that request, on May 28, 1998, delegation was given with the following letter:

Honorable Edward T. Schafer
Governor of North Dakota, State Capitol,
Bismarck, North Dakota 58505-0001
Re: Delegation of Clean Air Act New Source Performance Standards

Dear Governor Schafer: In a September 10, 1997, letter from you and a September 11, 1997, letter from Francis Schwindt, North Dakota Department of Health, the State of North Dakota requested delegation of authority for the Clean Air Act New Source Performance Standards (NSPS) as in effect on October 1, 1996. The original delegation of authority for NSPS to North Dakota was made by EPA in 1976. Later, North Dakota submitted its NSPS regulations for approval by EPA through the State Implementation Plan (SIP) process. The above-mentioned letters indicate that the State prefers to once more obtain authority for implementation

and enforcement of the NSPS through the delegation of authority process pursuant to section 111(c) of the Clean Air Act, 42 U.S.C. § 7411(c), as amended. The State's NSPS regulations, promulgated in Chapter 33-15-12 of the North Dakota Administrative Code, incorporate by reference the Federal NSPS in 40 CFR part 60 as in effect on October 1, 1996, 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 standards, so long as the State's regulations are not less stringent than the Federal regulations. EPA has reviewed the pertinent statutes and regulations of the State of North Dakota and has determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of North Dakota. 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 include all NSPS subparts in 40 CFR part 60, as in effect on October 1, 1996 (with the exception of subpart Eb). Note that this delegation does not include the emission guidelines in subparts Ca, Cb, Cc, and Cd. 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. To the best of our knowledge, the following contain the authorities in 40 CFR part 60 that EPA cannot delegate to the State:

40 CFR part 60 subpart	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).
Da	60.45a.
Db	60.44b(f), 60.44b(g), 60.49b(a)(4).
Dc	60.48c(a)(4).
J	60.105(a)(13)(iii), 60.106(i)(12).
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).

40 CFR part 60 subpart	Section(s)
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(e).
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).

(C) 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.

This delegation is based upon and is a continuation of the same conditions as those stated in EPA's original delegation letter of August 30, 1976, to the Honorable Arthur A. Link, then Governor of North Dakota, except that condition 5, relating to Federal facilities, has been voided by the Clean Air Act Amendments of 1977. It is also important to note that EPA retains concurrent enforcement authority as stated in condition 2. In addition, if at any time there is a conflict between a State and a Federal NSPS regulation, the Federal regulation must be applied if it is more stringent than that of the State, as stated in condition 7. A copy of the August 30, 1976 letter was published in the notices section of the **Federal Register** on October 13, 1976 (41 FR 44884), along with the associated rulemaking notifying the public that certain reports and applications required from operators of new and modified sources shall be submitted to the State of North Dakota (41 FR 44859). Copies of the **Federal Register** notices are enclosed for your convenience.

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 have accepted all the terms of this delegation. An information notice will be published in the **Federal Register** in the near future informing the public of this delegation, in which this letter will appear in its entirety.

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

Sincerely,
William P. Yellowtail,
Regional Administrator.

Enclosures:

cc: Francis Schwindt, ND Department of Health; Dana Mount, ND Department of Health

Given that the State now has delegation of authority for NSPS, the State's NSPS regulations, promulgated in Chapter 33-15-12 of the North Dakota Administrative Code, are removed from the federally-approved SIP.

III. Final Action

EPA is approving North Dakota's SIP revisions, as submitted by the Governor with letters dated January 9, 1996, and September 10, 1997. The revision in the January 9, 1996 submittal which is being approved in this document is the revision to North Dakota Air Pollution Control Rule 33-15-06, Emissions of Sulfur Compounds Restricted. The remainder of the January 9, 1996 submittal was handled separately. The revisions of the September 10, 1997 submittal which are being approved in this document involve the following chapters of the North Dakota Air Pollution Control Rules: 33-15-01 General Provisions; 33-15-05 Emissions of Particulate Matter Restricted; and 33-15-07 Control of Organic Compounds Emissions.

In addition, the September 10, 1997 submittal included revisions to Chapter 33-15-14, Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate (section specific to minor source construction permit program), the State's 111(d) plan for existing municipal solid waste landfills, and requests for direct delegation of Chapters 33-15-13, Emission Standards for Hazardous Air Pollutants, and 33-15-22, Emission Standards for Hazardous Air Pollutants for Source Categories, which will all be handled separately.

Finally, as requested by the State with its September 10, 1997 submittal, EPA is providing notice that it granted delegation of authority to North Dakota on May 28, 1998, to implement and enforce the NSPS promulgated in 40 CFR Part 60, promulgated as of October 1, 1996 (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. Given that North Dakota now has delegation of authority for NSPS, EPA is removing Chapter 33-15-12, Standards of Performance for New Stationary Sources, from the federally-approved SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to a SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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 this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective October 26, 1998 without further notice unless the Agency receives adverse comments by September 28, 1998.

If EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 26, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866, entitled "Regulatory Planning and Review," review.

The final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small

entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the Comptroller General

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 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 House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. section 804(2).

E. Petitions for Judicial Review

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 October 26, 1998. 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

40 CFR Part 52

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

40 CFR Part 60

Air pollution control, Aluminum, ammonium sulfate plants, Beverages, Carbon monoxide, Cement industry, Coal, Copper, Dry cleaners, Electric power plants, Fertilizers, Fluoride, Gasoline, Glass and glass products, Grains, Graphic arts industry, Household appliances, Insulation, Intergovernmental relations, Iron, Lead, Lime, Metallic and nonmetallic mineral processing plants, Metals, Motor vehicles, Natural gas, Nitric acid plants, Nitrogen dioxide, Paper and paper products industry, Particulate matter, Paving and roofing materials, Petroleum, Phosphate, Plastics materials and synthetics, Reporting and recordkeeping requirements, Sewage disposal, Steel, Sulfur oxides, Tires, Urethane, Vinyl, Waste treatment and disposal, Wool, Zinc.

Dated: August 14, 1998.

Jack McGraw,

Acting Regional Administrator, Region VIII.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart JJ—North Dakota

2. Section 52.1820 is amended by adding paragraph (c)(30) to read as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(30) The Governor of North Dakota submitted revisions to the North Dakota State Implementation Plan and Air Pollution Control Rules with letters dated January 9, 1996 and September 10, 1997. The revisions address air pollution control rules regarding general provisions and emissions of particulate matter, sulfur compounds, and organic compounds. (i) Incorporation by reference.

(A) Revisions to the Air Pollution Control Rule Emissions of Sulfur Compounds Restricted, 33–15–06–01, effective January 1, 1996.

(B) Revisions to the Air Pollution Control Rules as follows: General Provisions 33–15–01–04.49, 33–15–01–13.2(b), 33–15–01–15.2, and 33–15–01–17.3; Emissions of Particulate Matter

Restricted 33–15–05–03.3.4; and Control of Organic Compound Emissions 33–15–07–01.1; effective September 1, 1997.

(ii) Additional material.

(A) An April 8, 1997 letter from Dana Mount, North Dakota Department of Health, to Richard Long, EPA, to provide technical support documentation regarding the revisions to Chapter 33–15–06, Emissions of Sulfur Compounds Restricted.

(B) A July 30, 1997 letter from Dana Mount, North Dakota Department of Health, to Amy Platt, EPA, to provide technical support documentation regarding the revisions to Chapter 33–15–06, Emissions of Sulfur Compounds Restricted.

(C) A September 9, 1997 letter from Dana Mount, North Dakota Department of Health, to Larry Svoboda, EPA, to provide technical support documentation regarding the revisions to Chapter 33–15–06, Emissions of Sulfur Compounds Restricted.

3. A new § 52.1835 is added to read as follows:

§ 52.1835 Change to approved plan.

North Dakota Administrative Code Chapter 33–15–12, Standards of Performance for New Stationary Sources, is removed from the approved plan. This change is a result of the

State's September 10, 1997 request for delegation of authority to implement and enforce the Clean Air Act New Source Performance Standards (NSPS) promulgated in 40 CFR Part 60, as in effect on October 1, 1996 (except subpart Eb, which the State has not adopted). EPA granted that delegation of authority on May 28, 1998.

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as follows:

Authority: 42 U.S.C. 7401, 7411, 7414, 7416, and 7601 as amended by the Clean Air Act Amendments of 1990, Pub. L. 101–549, 104 Stat. 2399 (November 15, 1990; 402, 409, 415 of the Clean Air Act as amended, 104 Stat. 2399, unless otherwise noted).

Subpart A—General Provisions

2. In § 60.4(c) the table entitled “Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]” is amended by revising the column heading for “ND” and by revising the entry for “WWW—Municipal Solid Waste Landfills” to read as follows:

§ 60.4 Address.

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(c) * * *

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS
[(NSPS) for Region VIII]

Subpart	CO	MT ¹	ND	SD ¹	UT ¹	WY
* * * * *						
WWW Municipal Solid Waste Landfills	*	*	*	*	*	*
* * * * *						

(*) Indicates approval of State regulation.

(¹) Indicates approval of New Source Performance as part of the State Implementation Plan (SIP).

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 62**

[MO 045–1045; FRL–6150–8]

Approval and Promulgation of Implementation Plans and Section 111(d) Plan; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action to approve certain portions of new

Missouri rule 10 CSR 10–6.020 as a revision to the State Implementation Plan (SIP). This rule consolidates the SO₂ requirements previously contained in eight separate rules into one statewide rule. The EPA is taking final action to rescind eight rules which are replaced by the new rule, and the EPA is taking final action to approve Missouri's Clean Air Act (CAA) section 111(d) plan for sulfuric acid mist plants which is now contained in the new rule.

DATES: This rule is effective on September 28, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and

Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Kim Johnson at (913) 551–7975.

SUPPLEMENTARY INFORMATION: Revisions were made to Missouri's SO₂ rules in response to an SO₂ rule enforceability review conducted by the EPA in 1991. A consolidated rule was presented at a public hearing on March 28, 1996. After addressing comments from the hearing and public comment period, the state adopted rule 10 CSR 10–6.260 which became effective on August 30, 1996.

On August 12, 1997, Missouri submitted a request to amend the SIP by