

language “apply § 1.904(b)-1 and this” in its place.

**Cynthia Grigsby,**

*Acting Chief, Regulations and Publications Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).*

[FR Doc. 04-23288 Filed 10-20-04; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 60**

[ND-001-0011; FRL-7823-2]

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

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

**ACTION:** Final rule and delegation of authority.

**SUMMARY:** EPA is approving certain revisions to the State Implementation Plan submitted by the Governor of North Dakota with a letter dated April 11, 2003. The revisions affect portions of air pollution control rules regarding general provisions and emissions of particulate matter and sulfur compounds. This action is being taken under section 110 of the Clean Air Act.

In addition, EPA is providing notice that on November 6, 2003, North Dakota was delegated authority to implement and enforce certain New Source Performance Standards, as of January 31, 2002.

**EFFECTIVE DATE:** This final rule is effective November 22, 2004.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. ND-001-0011. Some information in the docket is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available 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 docket. You may view the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays. Copies of the Incorporation by Reference material are also available at

the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460.

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

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

- I. Summary of State Implementation Plan Revision
- II. Delegation of Authority
- III. Section 110(l)
- IV. Final Action
- V. Statutory and Executive Order Reviews

**Definitions**

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

- (i) The word 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 *NDDH* mean or refer to the North Dakota Department of Health.
- (iv) The initials *SIP* mean or refer to the State Implementation Plan.
- (v) The word or initials *State* or *ND* mean the State of North Dakota, unless the context indicates otherwise.

**I. Summary of State Implementation Plan Revision**

On July 7, 2004, EPA published a notice of proposed rulemaking for the State of North Dakota (*see* 69 FR 40824). In that proposed rulemaking, we proposed approval of portions of the SIP revision submitted by the Governor of North Dakota on April 11, 2003. The portions of the SIP revision that we proposed approval of affect North Dakota Air Pollution Control Rules regarding general provisions and emissions of particulate matter and sulfur compounds. No comments were received on our July 7, 2004, notice of proposed rulemaking.

As we discussed in our July 7, 2004, notice of proposed rulemaking, we will handle separately the revisions in the April 11, 2003, submittal addressing North Dakota Air Pollution Control Rules Section 33-15-01-13, regarding shutdown and malfunction of an installation, Chapter 33-15-14, regarding construction and minor source permitting, and Chapter 33-15-15, regarding prevention of significant deterioration. In addition, we will handle separately the direct delegation requests for Chapter 33-15-13,

regarding emission standards for hazardous air pollutants, Chapter 33-15-21, regarding the State's Acid Rain Program, and Chapter 33-15-22, regarding emission standards for hazardous air pollutants for source categories. The submittal also included a direct delegation request for standards of performance for new stationary sources (*see* below).

The revisions in the April 11, 2003, submittal to be addressed in this document pertain to portions of the general provisions and the restriction of emissions of particulate matter and sulfur compounds, which involve sections of the following chapters of the North Dakota Administrative Code (N.D.A.C.): 33-15-01 General Provisions; 33-15-05 Emissions of Particulate Matter Restricted; and 33-15-06 Emissions of Sulfur Compounds Restricted. For a discussion of how the State met the necessary procedural requirements in the development of these revisions, please refer to our July 7, 2004 notice of proposed rulemaking (69 FR 40824).

*A. Chapter 33-15-01, N.D.A.C., General Provisions*

Revisions to Section 33-15-01-04, regarding definitions, included the addition of a definition for “pipeline quality natural gas” and an update to the baseline date for incorporating by reference the definition of volatile organic compounds to August 1, 2001. In addition, Sections 33-15-01-17 and 33-15-01-18, regarding enforcement and compliance certifications, were modified to indicate that information from compliance assurance monitoring protocols, which are in accordance with the requirements of the State's permitting chapter, is credible evidence of whether compliance is achieved. Because these revisions are consistent with Federal requirements, they are approvable.

*B. Chapter 33-15-05, N.D.A.C., Emissions of Particulate Matter Restricted*

Section 33-15-05-02, regarding emissions from fuel burning equipment used for indirect heating, was revised to exempt fuel burning equipment that burns gaseous fuels from the emissions limitation requirements of the chapter. Burning gaseous fuels results in very low particulate matter emissions. Using AP-42 emission factors for natural gas and propane, the State calculated emission rates of 0.01 lb/10<sup>6</sup> Btu and 0.006 lb/10<sup>6</sup> Btu, respectively. This is contrasted with the allowable emission rate of Chapter 33-15-05 of 0.6 lb/10<sup>6</sup> Btu for a boiler rated at 10 × 10<sup>6</sup> Btu/

hr. The State believes that, under normal operation, no unit burning gaseous fuels would ever exceed the limits of this chapter. The exempted sources will still be subject to the visible emission standards under Chapter 33-15-03, Restriction of Emission of Visible Air Contaminants, which allow the NDDH to take action should a malfunction occur. Since burning gaseous fuels results in very low particulate matter emissions, well below the emissions limitation requirements of the chapter, this revision to Section 33-15-05-02 is approvable.

In Subsection 33-15-05-03.3, Other Waste Incinerators, requirements for salvage waste incinerators and crematoriums were revised. Requirements were added for construction, operational, and recordkeeping standards for salvage incinerators. Requirements for installation and operation of a temperature recorder for the secondary chamber, as well as requirements for charging and operation, were added for crematoriums. Although there are no Federal requirements for crematoriums, the State believes that these revisions ensure that units are operating properly to protect human health and the environment. In addition, any new units will still be subject to the Ambient Air Quality Standards under Chapter 33-15-02, a visible emissions standard under Chapter 33-15-03, and prevention of significant deterioration increments under Chapter 33-15-15. Therefore, these revisions are approvable.

Finally, 33-15-05-04, Methods of Measurement, was revised to allow various alternative test methods for determining percent oxygen or carbon dioxide, and the reference for fuel factors (F factors) was updated. Since these revisions simply incorporated reference information from Federal rules, they are approvable.

### *C. Chapter 33-15-06, N.D.A.C., Emissions of Sulfur Compounds Restricted*

Section 33-15-06-01, Restriction of Emissions of Sulfur Dioxide (SO<sub>2</sub>) from Use of Fuel, was revised to provide an exemption from the requirements of the chapter for installations that burn pipeline quality natural gas or commercial-grade propane. However, sources that burn any fuel must still comply with the Ambient Air Quality Standards of Chapter 33-15-02 and the prevention of significant deterioration increments of Chapter 33-15-15. Since sources that burn pipeline quality natural gas or commercial grade propane are expected to emit far less

SO<sub>2</sub> than the emissions limitation requirements of the chapter, this revision is approvable. In addition, section 33-15-06-03, Methods of Measurement, was updated to incorporate by reference the Federal F factors. These revisions are approvable since they are consistent with Federal requirements.

## **II. Delegation of Authority**

### *A. New Source Performance Standards*

With the April 11, 2003, submittal, North Dakota requested delegation of authority for revisions to the New Source Performance Standards (NSPS), promulgated in Chapter 33-15-12, N.D.A.C. On November 6, 2003, delegation was given with the following letter:

Ref: 8P-AR

Honorable John Hoeven,  
Governor of North Dakota, State Capitol,  
Bismarck, North Dakota 58505-0001

Re: Delegation of Clean Air Act New Source Performance Standards

Dear Governor Hoeven: In an April 11, 2003, letter from you and an April 17, 2003, letter from David Glatt, North Dakota Department of Health (NDDH), the State of North Dakota submitted revisions to its Air Pollution Control Rules and requested direct delegation to implement and enforce the Federal New Source Performance Standards (NSPS). Specifically, North Dakota Administrative Code Chapter 33-15-12, Standards of Performance for New Stationary Sources, was revised to update the citation for the incorporated Federal NSPS in 40 CFR Part 60 as those in effect on January 31, 2002, with the exception of subpart Eb, which the State has not adopted.

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

(A) Responsibility for all sources located, or to be located, in the State of North Dakota subject to the standards of performance for new stationary sources promulgated in 40 CFR Part 60. The categories of new stationary sources covered by this delegation are all NSPS subparts in 40 CFR Part 60, as in effect on January 31, 2002, with the exception of subpart Eb, which the State has not adopted. Note this delegation does not include the emission guidelines in subparts Cb, Cc, Cd, Ce, BBBB, and DDDD. These subparts require state plans which are approved under a separate process pursuant to Section 111(d) of the Act.

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

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

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

(E) The State of North Dakota will at no time grant a variance or waiver from compliance with NSPS regulations. Should the NDDH grant such a variance or waiver, EPA will consider the source receiving such relief to be in violation of the applicable Federal regulation and initiate enforcement action against the source pursuant to section 113 of the Act. The granting of such relief by the NDDH shall also constitute grounds for revocation of delegation by EPA.

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

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

(H) Acceptance of this delegation of presently promulgated NSPS does not commit the State of North Dakota to accept delegation of future standards and requirements. A new request for delegation will be required for any standards not included in the State's requests of April 11, and 17, 2003.

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

(J) The State of North Dakota must require reporting of all excess emissions from any

NSPS source in accordance with 40 CFR 60.7(c).

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

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

(M) Alternatives to continuous monitoring procedures or reporting requirements, as outlined in 40 CFR 60.13(i), may be approved by the State with the prior concurrence of the Regional Administrator.

(N) If a source proposes to modify its operation or facility which may cause the source to be subject to NSPS requirements,

the State shall notify EPA Region 8 and obtain a determination on the applicability of the NSPS regulations.

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

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

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

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

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

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

Sincerely yours,  
Robert E. Roberts  
Regional Administrator

Enclosures  
cc:

David Glatt, NDDH  
Terry O'Clair, NDDH

Enclosure to Letter Delegating NSPS in 40 CFR Part 60, Effective Through January 31, 2002, to the State of North Dakota.

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

40 CFR subparts	Section(s)
A .....	60.8(b)(2) and (b)(3), and those sections throughout the standards that reference 60.8(b)(2) and (b)(3); 60.11(b) and (e).
Da .....	60.45a.
Db .....	60.44b(f), 60.44b(g) and 60.49b(a)(4).
Dc .....	60.48c(a)(4).
Ec .....	60.56c(i), 60.8.
J .....	60.105(a)(13)(iii) and 60.106(i)(12).
Ka .....	60.114a.
Kb .....	60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).
O .....	60.153(e).
S .....	60.195(b).
DD .....	60.302(d)(3).
GG .....	60.332(a)(3) and 60.335(a).
VV .....	60.482-1(c)(2) and 60.484.
WW .....	60.493(b)(2)(i)(A) and 60.496(a)(1).
XX .....	60.502(e)(6).
AAA .....	60.531, 60.533, 60.534, 60.535, 60.536(i)(2), 60.537, 60.538(e) and 60.539.
BBB .....	60.543(c)(2)(ii)(B).
DDD .....	60.562-2(c).
GGG .....	60.592(c).
III .....	60.613(e).
JJJ .....	60.623.
KKK .....	60.634.
NNN .....	60.663(f).
QQQ .....	60.694.
RRR .....	60.703(e).
SSS .....	60.711(a)(16), 60.713(b)(1)(i) and (ii), 60.713(b)(5)(i), 60.713(d), 60.715(a) and 60.716.
TTT .....	60.723(b)(1), 60.723(b)(2)(i)(C), 60.723(b)(2)(iv), 60.724(e) and 60.725(b).
VVV .....	60.743(a)(3)(v)(A) and (B), 60.743(e), 60.745(a) and 60.746.
WWW .....	60.754(a)(5).

Note that as a result of this latest NSPS delegation of authority to North Dakota, we are now revising the table entitled "Delegation Status of New Source Performance Standards [(NSPS) for Region VIII]" that is located in 40 CFR 60.4 to update the State's delegation status. In addition, since all the Region VIII states are delegated authority to implement and enforce the

Federal NSPS (as opposed to having SIP approved programs), we are also revising the table to delete an old footnote that denoted SIP approved programs.

*B. Error in November 6, 2003, NSPS Delegation of Authority*

Please note that in the November 6, 2003, delegation of authority to the State

of North Dakota, we made an error. We inadvertently omitted one of the authorities in 40 CFR Part 60 which cannot be delegated to the State. Specifically, in the enclosure to the delegation letter, the table entitled "Examples of Authorities in 40 CFR Part 60 Which Cannot Be Delegated" should have included the following entry: 40 CFR Subpart CCCC Section 60.2030(c).

Regardless, the Federal NSPS regulations, including those authorities which can and cannot be delegated, always take precedence. For a more detailed discussion, please refer to our July 7, 2004, notice of proposed rulemaking at 69 FR 40828.

### III. Section 110(l)

Section 110(l) of the Clean Air Act states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of the National Ambient Air Quality Standards (NAAQS) or any other applicable requirements of the Act. The North Dakota SIP revisions that are the subject of this document do not interfere with the attainment or maintenance of the NAAQS or any other applicable requirements of the Act. The SIP revisions to portions of N.D.A.C. Chapter 33–15–01, regarding the State's general provisions, simply added a definition, updated the baseline date for incorporating by reference the definition of volatile organic compounds, and added and/or clarified several administrative and reporting requirements. These changes are consistent with Federal requirements and rules. The SIP revisions to N.D.A.C. Chapter 33–15–05, regarding the control of particulate matter emissions, address sources that emit far lower emissions than the limitations of the chapter (because they burn gaseous fuels), provide requirements where there are no existing Federal requirements, and simply incorporate reference information from Federal rules. Finally, the SIP revisions to N.D.A.C. Chapter 33–15–06, regarding the control of sulfur compound emissions, address installations that are expected to emit far less SO<sub>2</sub> than the emissions limitations of the chapter (because they burn pipeline quality natural gas or commercial-grade propane) and simply incorporate reference information from Federal rules. These revisions do not interfere with the attainment or maintenance of the NAAQS or any other applicable requirements of the Act.

### IV. Final Action

EPA is approving certain rule revisions to the North Dakota SIP, as discussed in this document and submitted by the Governor with a letter dated April 11, 2003. The revisions in the April 11, 2003, submittal which we are approving in this document involve portions of the following chapters of the North Dakota Administrative Code: 33–15–01 General Provisions; 33–15–05 Emissions of Particulate Matter

Restricted; and 33–15–06 Emissions of Sulfur Compounds Restricted. We are not acting at this time on revisions to the shutdown and malfunction provisions, the construction and minor source permitting rules nor the prevention of significant deterioration rules. In addition, the requests for direct delegation of Chapter 33–15–13, Emission Standards for Hazardous Air Pollutants, Chapter 33–15–21, Acid Rain Program and Chapter 33–15–22, Emission Standards for Hazardous Air Pollutants for Source Categories, are being handled separately.

Finally, as requested by the State with its April 11, 2003, submittal, we are providing notice that we granted delegation of authority to North Dakota on November 6, 2003, to implement and enforce the NSPS promulgated in 40 CFR part 60, promulgated as of January 31, 2002 (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.

### 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 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175

(65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 20,

2004. 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: September 22, 2004.

**Kerrigan G. Clough,**

*Acting Regional Administrator, Region 8.*

■ 40 CFR part 52 is amended to read as follows:

**PART 52—[AMENDED]**

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

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

**Subpart JJ—North Dakota**

■ 2. Section 52.1820 is amended by adding paragraph (c)(33) to read as follows:

**§ 52.1820 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(33) Certain revisions to the North Dakota State Implementation Plan and Air Pollution Control Rules as submitted by the Governor with a letter dated April 11, 2003. The revisions affect portions of North Dakota Administrative Code (N.D.A.C.) regarding general provisions and

emissions of particulate matter and sulfur compounds.

(i) Incorporation by reference.

(A) Revisions to the North Dakota Air Pollution Control Rules as follows:

(1) Chapter 33–15–01, N.D.A.C., General Provisions, sections 33–15–01–04, 33–15–01–17, and 33–15–01–18, effective March 1, 2003.

(2) Chapter 33–15–05, N.D.A.C., Emissions of Particulate Matter Restricted, sections 33–15–05–02 and 33–15–05–04 and subsection 33–15–05–03.3, effective March 1, 2003.

(3) Chapter 33–15–06, N.D.A.C., Emissions of Sulfur Compounds Restricted, sections 33–15–06–01 and 33–15–06–03, effective March 1, 2003.

■ 40 CFR part 60 is amended to read as follows:

**PART 60—[AMENDED]**

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

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

**Subpart A—General Provisions**

■ 2. In § 60.4, amend the table in paragraph (c) by revising the entries for subparts “AAAA” and “CCCC” and by removing footnote 1 to read as follows:

**§ 60.4 Address.**

\* \* \* \* \*

(c) \* \* \*

**DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS [(NSPS) FOR REGION VIII]**

Subpart	CO	MT	ND	SD	UT	WY
AAAA—Small Municipal Waste Combustors .....		(*)	(*)			(*)
CCCC—Commercial and Industrial Solid Waste Incineration Units .....		(*)	(*)			(*)

(\*) Indicates approval of State regulation.

\* \* \* \* \*

[FR Doc. 04–23585 Filed 10–20–04; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[MD160–3113; FRL–7821–1]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Redesignation of Kent and Queen Anne’s Counties Ozone Nonattainment Area to Attainment and Approval of the Area’s Maintenance Plan**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a redesignation request and a State Implementation Plan (SIP) submitted by

the State of Maryland. The SIP revision establishes a maintenance plan for Kent and Queen Anne’s Counties that provides requirements for continued attainment of the one-hour ozone National Ambient Air Quality Standard (NAAQS) for the next 10 years. EPA is approving the revision to the Maryland SIP in accordance with the requirements of the Clean Air Act (CAA).

**EFFECTIVE DATE:** This final rule is effective on November 22, 2004.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and