Cards issued at one NARA facility are valid at each facility, except as described in paragraph (b) of this section. They are not transferable and must be presented if requested by a guard or research room attendant.

* * * * *

Dated: July 1, 2002.

John W. Carlin,

Archivist of the United States.

[FR Doc. 02–17291 Filed 7–9–02; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 60

[SIP No. SD–001–0015; FRL–7243–8]

Approval and Promulgation of Air Quality Implementation Plans; State of South Dakota; New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and announcement of South Dakota NSPS delegation.

SUMMARY: On June 30, 2000, the State of South Dakota submitted a request for delegation of the New Source Performance Standards (NSPS) and requested that the NSPS be removed from the State Implementation Plan (SIP). Through this **Federal Register** notice, EPA is announcing that on April 2, 2002 we delegated to the State of South Dakota the authority to implement and enforce the NSPS program.

Since the State has been delegated the authority to implement and enforce the NSPS program, we are proposing to remove the NSPS sections from the SIP. EPA is also proposing updates to the NSPS ''Delegation Status of New Source Performance Standards'' table.

These actions are being taken under sections 110 and 111 of the Clean Air Act. Other parts of the June 30, 2000 submittal will be acted on in a separate notice.

DATES: Written comments must be received on or before August 9, 2002.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the South Dakota Department of Environmental and Natural Resources, Air Quality Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501.

FOR FURTHER INFORMATION CONTACT: Laurel Dygowski , EPA, Region 8, (303) 312–6144.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'' or ''our'' is used means EPA.

I. Announcment of South Dakota NSPS Delegation

EPA is announcing that on April 2, 2002, pursuant to section 111(c) of the Clean Air Act, the Agency delegated the authority to the State of South Dakota to implement and enforce the NSPS program for all areas within the State except for lands located within formal Indian reservations within or abutting the State of South Dakota, including the: Cheyenne River Indian Reservation, Crow Creek Indian Reservation, Flandreau Indian Reservation, Lower Brule Indian Reservation, Pine Ridge Indian Reservation, Rosebud Indian Reservation, Standing Rock Indian Reservation, Yankton Indian Reservation, any land held in trust by the United States for an Indian tribe; and any other areas which are ''Indian Country'' within the meaning of 18 U.S.C. 1151.

A. January 25, 2002, Letter of Delegation

Chapter 74:36:07 is the rule that the State uses to implement our NSPS promulgated at 40 CFR part 60. On January 25, 2002, we issued a letter delegating the authority to implement and enforce the NSPS. The categories of new stationary sources covered by this delegation are as follows: NSPS subparts A, D, Da, Db, Dc, Ea, XX, AAA, SSS and WWW in 40 CFR part 60, as in effect on July 1, 1999; NSPS subparts Eb, Ec, Kb, and OOO in 40 CFR part 60, as in effect on July 1, 1998; NSPS subparts F, VV, NNN, and RRR, in 40 CFR part 60, as in effect on July 1, 1996; and NSPS subparts E, I, K, Ka, O, Y, DD, GG, HH, LL, QQ, RR, JJJ and UUU as in effect on July 1, 1995.

The January 25, 2002 letter of delegation to the State follows:

Honorable Bill Janklow,
Governor of South Dakota, State Capitol, Pierre, South Dakota 57501

Dear Governor Janklow: On June 30, 2000 the State submitted revisions to the New Source Performance Standards (NSPS) rules in the Administrative Rules of South Dakota (ARSD) 75:36:07. Specifically, the State revised its NSPS to update the citation of the incorporated Federal NSPS, as appropriate. In addition, the State requested that the NSPS chapter, ARSD 75:36:07, which had been approved into the South Dakota State Implementation Plan (SIP), be removed from the SIP and delegated to the State.

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 South Dakota and determined that they provide an adequate and effective procedure for the implementation and enforcement of the NSPS by the State of South 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 South Dakota as follows:

(A) Responsibility for all sources located, or to be located, in the State of South 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 NSPS subparts A, D, Da, Db, Dc, Ea, XX, AAA, SSS and WWW in 40 CFR part 60, as in effect on July 1, 1999; NSPS subparts Eb, Ec, Kb, and OOO in 40 CFR part 60, as in effect on July 1, 1998; NSPS subparts F, VV, NNN, and RRR, in 40 CFR part 60, as in effect on July 1, 1996; and NSPS subparts E, I, K, Ka, O, Y, DD, GG, HH, LL, QQ, RR, JJJ and UUU as in effect on July 1, 1995.

(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 South Dakota.

(C) As 40 CFR part 60 is updated, South 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 March 25, 1976, to the Honorable Richard F. Kneip, then Governor of South Dakota, except that condition 3, relating to Federal facilities, was voided by the Clean Air Act Amendments of 1977. Please also note that EPA retains concurrent enforcement authority as stated in condition 1. In addition, if at any time there is a conflict between a State and Federal NSPS regulation, the Federal regulation must be applied if it is more stringent than that of the State, as stated in condition 6. EPA published its March 25, 1976 delegation letter in the notices section of the April 27, 1976 **Federal Register** (41 FR 17500), along with an associated rulemaking notifying the public

that certain reports and applications required from operators of new or modified sources shall be submitted to the State of South Dakota (41 FR 17549). Copies of the **Federal Register** notices are enclosed for your convenience.

EPA is approving South Dakota's request for NSPS delegation for all areas within the State except for land within formal Indian reservations located within or abutting the State of South Dakota, including the: Cheyenne River Indian Reservation, Crow Creek Indian Reservation, Flandreau Indian Reservation, Lower Brule Indian Reservation, Pine Ridge Indian Reservation, Rosebud Indian Reservation, Standing Rock Indian Reservation, Yankton Indian Reservation, any land held in trust by the United States for an Indian tribe; 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 South 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,

Jack W. McGraw,

Acting Regional Administrator.

Enclosures.

cc: Steve Pirner, Secretary, Department of Environment and Natural Resources.

Enclosure to Letter Delegating NSPS in 40 CFR part 60, to the State of South 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(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).

B. State's Response to January 25, 2002 Letter

On February 5, 2002, Charles McGuigan, South Dakota Assistant Attorney General, sent a letter to EPA regarding our January 25, 2002 NSPS delegation letter. The February 5, 2002 letter, sent on behalf of the Office of the Attorney General and the Department of Environment and Natural Resources, objected to EPA's approval of South Dakota's NSPS delegation for all areas within the State except for land within formal Indian reservations, ''any land held in trust by the United States for an Indian tribe'' and any other areas which are ''Indian Country'' defined by 18 U.S.C. 1151.'' Specifically, the State disagreed that all tribal trust lands in South Dakota are within the definition of Indian country. Additionally, the State's February 5, 2002 letter indicated that ''to the extent that your letter exceeds the definition of Indian country as determined by the Eighth Circuit Court of Appeals, South Dakota objects to your delegation letter.''

C. EPA's Response to the State's February 5, 2002 letter

On February 25, 2002, we responded to the State's February 5, 2002 letter indicating that since the State's February 5, 2002 letter was an objection to the NSPS delegation, the State was not delegated the authority to implement and enforce the NSPS regulations at that time and that EPA would address the delegation in a future letter.

In an April 2, 2002 letter to the State, EPA explained that tribal trust lands are Indian country as defined at 18 U.S.C. 1151 under the Clear Air Act and federal Indian law and that we properly excluded tribal trust and other Indian country lands from the delegation. In the April 2, 2002 letter, EPA again delegated the NSPS program to the State. The April 2, 2002 letter is as follows:

Mr. Steven M. Pirner

Secretary, Department of Environment and Natural Resources, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501,

Re: *South Dakota New Source Performance Standards*

Dear Secretary Pirner: On June 30, 2000 the State of South Dakota requested delegation of new New Source Performance Standards (NSPS) rules under the Clean Air Act (''CAA'' or ''Act''). On January 25, 2002, EPA delegated authority to the State, pursuant to section 111(c) of the Act, to implement and enforce the NSPS program for all areas within the State except for formal Indian reservations, any land held in trust by the United States for an Indian tribe and any other areas which are Indian country within the meaning of 18 U.S.C. 1151. The State's Office of the Attorney General sent a letter to EPA on February 5, 2002 objecting to the Agency's decision to exclude from the State's program ''any land held in trust by the United States for an Indian tribe.'' EPA responded on February 25, 2002 that due to the State's objection, the authority to implement and enforce the NSPS regulations was not currently delegated and that EPA would address the State's concern in future correspondence.

EPA has determined that it is appropriate to maintain the exclusionary language cited in the January 25, 2002 delegation of the South Dakota NSPS program because tribal trust lands are reservations under the CAA and Indian country under 18 U.S.C. 1151 and are thus properly excluded from the Section 111(c) delegation. The following is a discussion of the legal basis for EPA's position that lands held in trust for a tribe which are located outside the boundaries of a formally-designated Indian reservation are within the definition of ''reservation'' under the CAA and are Indian country under 18 U.S.C. 1151.

I. The Court of Appeals for the District of Columbia Has Upheld EPA's Position That Tribal Trust Lands are Within the Definition of ''Reservation'' Under the CAA.

On February 12, 1998, EPA promulgated a rule entitled, ''Indian Tribes: Air Quality Planning and Management'' (''Tribal Authority Rule'' or ''TAR''), 63 FR 7254 (Feb. 12, 1998). The Tribal Authority Rule set forth EPA's position that for purposes of Clean Air Act programs, the term ''reservation,'' in addition to formally designated Indian reservations, also includes trust lands that have been validly set apart for the use of a tribe even though the land has not been formally designated as a reservation. 63 FR at 7257–58. Under Section 307(b)(1) of the CAA, parties challenging the Tribal Authority Rule were required to raise their objections to the U.S. Court of Appeals for the DC Circuit within sixty days of EPA's final rulemaking decision.[1]

Several industry groups and the State of Michigan challenged EPA's Tribal Authority Rule in the U.S. Court of Appeals for the District of Columbia. *Arizona Public Service Company* v. *EPA,* 211 F.3d 1280 (D.C. Cir. 2000), *cert. denied sub nom., Michigan* v. *EPA,* 532 U.S. 970 (2001). One of the issues addressed by the D.C. Circuit was whether EPA properly construed the term ''reservation'' to include tribal trust lands and Pueblos.[2] The Court described both EPA's position that ''reservation'' includes tribal trust lands and Pueblos and EPA's decision that case-by-case determinations of whether lands fall within the Act's definition of ''reservation'' will be reserved for types of lands other than tribal trust lands and Pueblos. *Id.* at 1285,1294.

The D.C. Circuit noted that the CAA does not define ''reservation'' for the purposes of tribal regulation. In determining that the statute itself is ambiguous, the Court found support for EPA's position in both the plain meaning of the word ''reservation'' and the context in which the term is used.[3] The Court then held that EPA reasonably interpreted the term ''reservation'' to include formal reservations, Pueblos and tribal trust lands:

> In light of the ample precedent treating trust land as reservation land in other contexts, and the canon of statutory interpretation calling for statutes to be interpreted favorably towards Native American nations, we cannot condemn as unreasonable EPA's interpretation of ''reservations'' to include Pueblos and tribal trust land.

Id. at 1294.

The D.C. Circuit, which is the Court with the exclusive jurisdiction to review the Agency's national Tribal Authority Rulemaking, upheld EPA's position that the term ''reservation'' under the CAA includes tribal trust lands outside of formal reservations. The United States Supreme Court denied the petition for certiorari, thus leaving the D.C. Circuit decision intact. The State of South Dakota is bound to follow the decision of the Court in this matter and may not now challenge the very issue which has already been litigated on the merits in the D.C. Circuit and upon which EPA has already prevailed.

II. Federal Indian Law Supports EPA's Position That Lands Held in Trust by the United States for an Indian Tribe are Indian Country

The body of federal Indian law provides overwhelming support for EPA's position that tribal trust lands located outside of the boundaries of formal reservations are Indian country as defined at 18 U.S.C. 1151. The United States Supreme Court has addressed this issue on several occasions, consistently finding that tribal trust lands are Indian country. See, *Oklahoma Tax Commission* v. *Sac and Fox Nation,* 508 U.S. 114, 123 (1993) (Oklahoma argued that while it did not have authority to tax tribal members on the reservation, the State had jurisdiction to tax a tribal store located on trust land outside the reservation. The Court rejected the State's argument, stating, ''we have never drawn the distinction Oklahoma urged.'' The Court also noted, ''Congress has defined Indian country broadly to include formal and informal reservations * * *'' (emphasis added)); *Oklahoma Tax Commission* v. *Citizen Band Potawatomi Indian Tribe of Oklahoma,* 498 U.S. 505, 511 (1991) (the Court held that tribal trust land ''is validly set apart and thus qualifies as reservation for tribal immunity purposes.''); *United States* v. *John,* 437 U.S. 634, 649 (1978) (finding ''no apparent reason'' why lands held in trust should not be considered a ''reservation'' under 18 U.S.C. 1151(a)). *See also, United States* v. *McGowan,* 302 U.S. 535 (1938).

Aside from the D.C. Circuit *Arizona Public Service* case, there are numerous other Circuit Court decisions confirming that tribal trust lands located outside of formal reservations are Indian country under 18 U.S.C. 1151(a) or (b). See, *HRI, Inc.* v. *EPA,* 198 F.3d 1224, 1249–54 (10th Cir. 2000) (tribal trust land is Indian country under 18 U.S.C. 1151(a) and may qualify under 1151(b) as well); *United States* v. *Roberts,* 185 F.3d 1125, 1131 (10th Cir. 1999), *cert. denied,* 529 U.S. 1108 (2000) (''official ''reservation'' status is not dispositive and lands owned by the federal government in trust for Indian tribes are Indian country pursuant to 18 U.S.C. 1151''); *Buzzard* v. *Oklahoma Tax Commission,* 992 F.2d 1073, 1076 (10th Cir. 1993) (lands held in trust by the federal government for a tribe are Indian country); *United States* v. *Azure,* 801 F.2d 336, 339 (8th Cir. 1986) (tribal trust land is Indian country under either § 1151(a) as a ''*de facto*'' reservation or § 1151 (b) as a dependent Indian community); *United States* v. *Sohappy,* 770 F.2d 816, 822–23 (9th Cir. 1985) (tribal trust land is ''reservation'' land under § 1151(a)); *Cheyenne-Arapaho Tribe of Oklahoma* v. *Oklahoma,* 618 F.2d 665, 668

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[1] EPA notes that South Dakota did in fact comment on the Tribal Authority Rule on November 22, 1994. While the State objected to the Agency's position that the CAA is a delegation of federal authority to tribes approved by EPA to administer CAA programs over all air resources within a reservation, the State did not object to EPA's position that the definition of ''reservation'' includes tribal trust lands which have not been formally designated as a reservation. Having failed to petition for review of this issue in the manner required by section 307(b)(1) of the Act, South Dakota may not now challenge EPA's position that the definition of ''reservation'' includes trust lands that have been validly set apart for the use of a tribe even though the land has not been formally designated as a reservation.

[2] The Tribal Authority Rule set forth EPA's position that for CAA programs there are at least two categories of lands which, although not formally designated as reservations, nonetheless qualify as ''reservation'' lands: Pueblos and tribal trust lands. EPA also stated that it will consider on a case-by-case basis whether types of lands ''other than Pueblos and tribal trust lands may be considered 'reservations' under Federal Indian law even though they are not formally designated as such.'' 63 FR at 7258. In other words, EPA's position as set forth in the TAR, is that Pueblos and tribal trust lands outside of formally designated reservations are validly set apart for the use of tribes and fall within the definition of ''reservation'' under the CAA; thus the Agency will not engage in a case-by-case analysis to determine the status of these lands.

[3] With regard to the plain meaning of the term, the Court stated, ''[t]he dictionary defines 'reservation' to be a 'tract of public land set aside for a particular purpose (as schools, forest, or the use of Indians).' WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1930 (1993). This definition surely encompasses both trust lands and formally designated reservations.'' *Id.* at 1293. The Court also noted that a different statutory definition of ''reservation'' found at 25 U.S.C. 465 (1994) is not an exclusive definition and that ''if Congress had wanted to limit the term ''reservation'' as petitioners suggest, Congress could have done so. Indeed, Congress on many occasions has defined 'reservation' in terms of other statutes.'' *Id.*

(10th Cir. 1980) (''lands held in trust by the United States for the Tribes are Indian country within the meaning of § 1151(a)''); *Santa Rosa Band of Indians* v. *Kings County,* 532, F.2d 655, 666 (9th Cir. 1975) (tribal trust lands held to be Indian country).

South Dakota relies on *United States* v. *Stands,* 105 F.3d 1565, 1572 (8th Cir. 1997), *cert. denied,* 522 U.S. 841 (1997) to support its proposition that, ''[i]n the Eighth Circuit trust lands are Indian country only when they are within the boundaries of an Indian Reservation, qualify as a dependent Indian community, or are an allotment, the Indian title to which has not been extinguished. If trust lands do not fall within one of these three categories, it is not Indian country.''

The *Stands* Court itself rejects this argument, noting, ''[i]n some circumstances, off-reservation tribal trust land may be considered Indian country. *See, e.g., United Stated* v. *Azure,* 801 F.2d 336, 338–39 (8th Cir. 1986) (tribal trust land could be considered de facto reservation or dependent Indian community).'' *Id.* at 1571 n. 3. In the *Azure* case, the Court held that the tribal trust lands located outside of the boundaries of the Turtle Mountain Indian Reservation were de facto reservation lands and Indian country under 1151(a). The Court noted that the lands could also be considered dependent Indian community under 1151(b).

Furthermore, the *Stands* case involved individual allotted lands and the issue of whether the allotted lands were Indian country under 18 U.S.C. 1151(c). The Court specifically stated that the case did not involve the issue of whether tribal trust lands are Indian country under 18 U.S.C. 1151 (a) or (b). ''The government has not argued that Azure or similar cases apply here.'' *Id.* Thus, the Court's statement that ''tribal trust land beyond the boundaries of a reservation is ordinarily not Indian country'' is dicta with regard to 18 U.S.C. 1151 (a) and (b) since the issue was not directly before the Court.

Thus, the overwhelming Supreme Court and Circuit Court precedent supports EPA's position that tribal trust lands located outside of formal reservations are Indian country as defined at 18 U.S.C. 1151, and the holding in *Stands,* which did not involve an analysis of whether tribal trust lands are Indian country under sections 1151(a) or (b) is not to the contrary.

In conclusion, pursuant to section 111(c) of the Clean Air Act, EPA hereby delegates its authority to the State of South Dakota to implement and enforce the NSPS program as described in our January 25, 2002 approval with regard to all areas within the State except for lands located within formal Indian reservations within or abutting the State of South Dakota, including the: Cheyenne River Indian Reservation, Crow Creek Indian Reservation, Flandreau Indian Reservation, Lower Brule Indian Reservation, Pine Ridge Indian Reservation, Rosebud Indian Reservation, Standing Rock Indian Reservation, Yankton Indian Reservation; any land held in trust by the United States for an Indian tribe; and any other areas which are Indian country within the meaning of 18 U.S.C. 1151.

Sincerely,
Jack W. McGraw
Acting Regional Administrator.

cc: Mr. Charles D. McGuigan, Assistant Attorney General

II. Proposed Rule

EPA is proposing to update the table in 40 CFR 60.4(c), entitled ''Delegation Status of New Source Performance Standards [(NSPS for Region VIII]'', to indicate that the 40 CFR part 60 NSPS are now delegated to the State of South Dakota.

In addition, EPA is proposing to remove the NSPS from the SIP. In its January 30, 2000 submittal, the State requested that the NSPS be removed from the SIP. Since the State has been delegated the authority for the implementation and enforcement of the NSPS in 40 CFR part 60, we are proposing to remove the following sections from the South Dakota SIP: 74:36:07:01, 74:36:07:02, 74:36:07:03, 74:36:07:04, 74:36:07:05, 74:36:07:06, 74:36:07:07, 74:36:07:07.01, 74:36:07:09, 74:36:07:10, 74:36:07:12, 74:36:07:13, 74:36:07:14, 74:36:07:15, 74:36:07:16, 74:36:07:17, 74:36:07:18, 74:36:07:19, 74:36:07:20, 74:36:07:21, 74:36:07:22, 74:36:07:23, 74:36:07:24, 74:36:07:25, 74:36:07:26, 74:36:07:27, 74:36:07:28, 74:36:07:31, 74:36:07:32, 74:36:07:33, and 74:36:07:43.

EPA is soliciting public comments on the proposed revisions to 40 CFR 60.4(c) table and the removal of the NSPS from the South Dakota SIP. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking process by submitting written comments within thirty (30) days of publication of this notice to the EPA Regional office listed in the *ADDRESSES* section of this document.

A. Administrative Requirements for Proposed Rule

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed rule is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, the proposed rule 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 proposed rule merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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 proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead,

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

40 CFR Part 60

Environmental protection, 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, 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, Zinc.

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

Dated: July 1, 2002.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. 02–17358 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[MI79–01–7288b; FRL–7242–9]

Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to delete from the lists contained in 40 CFR part 81 the attainment status designations (attainment, unclassifiable and nonattainment) for Michigan affected by the original national ambient air quality standards for particulate matter measured as total suspended particulate (TSP). In accordance with section 107(d)(3)(B) of the Clean Air Act, the Administrator has determined that the selected area designations for TSP are no longer necessary for implementing the requirements for prevention of significant deterioration of air quality for particulate matter. In the final rules section of this **Federal Register**, we are deleting the TSP area designations for Michigan as a direct final rule without prior proposal, because we view this as a noncontroversial revision amendment and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If we receive adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before August 9, 2002.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353–8328 before visiting the Region 5 Office.)

Dated: June 24, 2002.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 02–17239 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[MN71–7296b; FRL–7242–7]

Designation of Areas for Air Quality Planning Purposes; Deletion of Total Suspended Particulate Designations in Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to delete from the lists contained in 40 CFR part 81 the attainment status designations (attainment, unclassifiable and nonattainment) for Minnesota affected by the original national ambient air quality standards for particulate matter measured as total suspended particulate (TSP). In accordance with section 107(d)(3)(B) of the Clean Air Act, the Administrator has determined that the selected area designations for TSP are no longer necessary for implementing the requirements for prevention of significant deterioration of air quality for particulate matter. In the final rules section of this **Federal Register**, we are deleting the TSP area designations for Minnesota as a direct final rule without prior proposal, because we view this as a noncontroversial revision amendment and anticipate no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse written comments are received in response to the direct final rule, no further activity is contemplated in relation to this proposed rule. If we receive adverse written comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received on or before August 9, 2002.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

FOR FURTHER INFORMATION CONTACT: Christos Panos, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328

SUPPLEMENTARY INFORMATION: For additional information, see the Direct final rule which is located in the Rules section of this **Federal Register**. Copies of the request and the EPA's analysis are available for inspection at the above address. (Please telephone Christos Panos at (312) 353–8328 before visiting the Region 5 Office.)

Dated: June 26, 2002.

Norman Niedergang,

Acting Regional Administrator, Region 5.

[FR Doc. 02–17242 Filed 7–9–02; 8:45 am]

BILLING CODE 6560–50–P