

Dated: September 12, 2002.

**Jack McGraw,**

*Acting Regional Administrator, Region VIII.*

Chapter I, title 40, part 52, of the Code of Federal Regulations 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 BB—Montana**

2. Section 52.1370 is amended by adding paragraph (c)(56) to read as follows:

**§ 52.1370 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(56) On August 26, 1999, the Governor of Montana submitted Administrative Rules of Montana Sub-Chapter 14, "Conformity of General Federal Actions" that incorporates conformity of general federal actions to state or federal implementation plans, implementing 40 CFR part 93, subpart B into State regulation.

(i) Incorporation by reference.

(A) Administrative Rules of Montana 17.8.1401, and 17.8.1402 effective June 4, 1999.

[FR Doc. 02-25287 Filed 10-4-02; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 61**

[ND-001-0005a & 0007a; FRL-7379-8]

**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 and National Emission Standards for Hazardous Air Pollutants**

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

**ACTION:** Direct final rule and delegation of authority.

**SUMMARY:** EPA approves revisions to the State Implementation Plan (SIP) submitted by the Governor of North Dakota with a letter dated June 21, 2001. The revisions affect air pollution control rules regarding general provisions, emissions of particulate matter and fugitives, exclusions from Title V permit to operate requirements, and prevention of significant deterioration. EPA will

handle separately direct delegation requests for emission standards for hazardous air pollutants for source categories and the State's Acid Rain Program.

In addition, EPA is providing notice that on January 3, 2002, North Dakota was delegated authority to implement and enforce certain New Source Performance Standards (NSPS), as of August 1, 2000. Finally, given that on July 7, 1995 EPA delegated authority to North Dakota to implement and enforce the Clean Air Act section 112 requirements, including, among other things, the National Emission Standards for Hazardous Air Pollutants (NESHAPs), EPA is now removing the State's part 61 regulations from the federally-approved SIP.

**DATES:** This direct final rule is effective on December 6, 2002, without further notice, unless EPA receives adverse comment by November 6, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Mail written comments to Richard R. Long, Director, Air and Radiation Program, Mailcode 8P-AR, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202-2405. Documents relevant to this action can be perused during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, Denver, Colorado, 80202-2405. Copies of the incorporation by reference material are available at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-108, 1301 Constitution Avenue, (Mail Code 6102T) NW., Washington DC 20460. Copies of the State documents relevant to this action are available at the North Dakota Department of Health, Division of Environmental Engineering, 1200 Missouri Avenue, Bismarck, North Dakota, 58504-5264.

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

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever "we," "us," or "our" are used we mean EPA.

**I. Background**

*A. Procedural Background*

The Act requires States to follow certain procedures in developing implementation plans and plan

revisions for submission to EPA. Sections 110(a)(2) and 110(l) of the Act provide that each implementation plan a State submits must be adopted after reasonable notice and public hearing.

We also must determine whether a submittal is complete and therefore warrants further review and action [see section 110(k)(1) of the Act and 57 FR 13565]. EPA's completeness criteria for SIP submittals can be found in 40 CFR part 51, appendix V. EPA attempts to determine completeness within 60 days of receiving a submission. However, the law considers a submittal complete if we don't determine completeness within six months after we receive it.

To provide for public comment, the North Dakota Department of Health (NDDH), after providing adequate notice, held a public hearing on September 28, 2000 to address the revisions to the SIP and Air Pollution Control Rules. Following the public hearing, public comment period, and legal review by the North Dakota Attorney General's Office, the North Dakota State Health Council adopted the rule revisions, which became effective on June 1, 2001.

The Governor of North Dakota submitted the SIP revisions to EPA with a letter dated June 21, 2001. We reviewed them to determine completeness under the completeness criteria in 40 CFR part 51, appendix V. We found the submittal complete and so notified the Governor in a letter dated July 26, 2001. That letter also described the next steps to be taken in our review.

*B. June 21, 2001 Revisions*

As noted above, we will handle separately the revisions in the June 21, 2001 submittal regarding Chapter 33-15-21 (the State's Acid Rain Program) and a direct delegation request for North Dakota Air Pollution Control Rules 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 June 21, 2001 submittal to be addressed in this document pertain to general provisions, emissions of particulate matter and fugitives, exclusions from Title V permit to operate requirements, and prevention of significant deterioration, which involve 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; 33-15-14 Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate

(subsection specific to exclusions from Title V permit to operate requirements only); 33–15–15 Prevention of Significant Deterioration; and 33–15–17 Restriction of Fugitive Emissions.

1. Chapter 33–15–01, N.D.A.C., General Provisions

The definition for “public nuisance” was removed from this chapter because the State believes it is covered under the definition of “air pollution.” In addition changes were made to clarify reporting requirements when stack testing for air contaminant emissions. The requirements are consistent with 40 CFR parts 60, 61, 63, and 75. Because these revisions are consistent with Federal requirements, they are approvable.

2. Chapter 33–15–05, N.D.A.C., Emissions of Particulate Matter Restricted

In Section 33–15–05–04, Methods of Measurement, the State deleted the F factors for various fuels and replaced them with a reference to 40 CFR part 60, Appendix A, Method 19. This revision simply incorporated reference information from Federal rules and is approvable.

3. Chapter 33–15–14, N.D.A.C., Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate (New subsection entitled Source Exclusions from Title V Permit to Operate Requirements)

Subsection 33–15–14–07 was added to provide an exemption from the Title V permitting requirements for certain gasoline service stations, bulk gasoline plants, coating sources, printing, publishing and packaging operations, degreasers using volatile organic solvents, and hot mix asphalt plants. The sources that qualify for this exemption will be required to maintain certain records which demonstrate that they are minor sources and in some instances, report to the State.

This exclusionary rule creates generic potential-to-emit (PTE) limits for specific source categories, and thereby clarifies which of the sources within the specific categories are minor with respect to the Title V operating permit requirements. The rule is only intended to exclude certain sources from the requirements of Title V, but not from North Dakota’s construction or minor source operating permit programs. EPA’s authority for approval of exclusionary rules, generally, is Section 110 of the Clean Air Act, which allows us to approve preconstruction permit programs and rules and non-title V operating permit programs and rules.

Therefore, we are approving this new exclusionary subsection, 33–15–14–07, as part of the federally-approved SIP.

4. Chapter 33–15–15, N.D.A.C., Prevention of Significant Deterioration

The definition of “significant” was updated to match the Federal definition. In addition, a provision was removed that did not allow a PSD source to consume more than one-half of the available increment in another state unless approved by the North Dakota Health Department after consultation with the other state. The removal of this provision was made to make the State rules more consistent with Federal requirements (40 CFR 51.166 and 40 CFR 52.21 do not include this requirement). Although there is no longer a consultation requirement, there are still requirements under ND’s PSD program for notice to an affected state and an affected Federal Land Manager of any source which may significantly impact their land. This notification usually takes the form of a copy of the public notice, a copy of the related analyses, and a copy of the draft permit. The affected parties then have the opportunity during the public comment period to provide comments to the NDDH. Since the revisions to this chapter are consistent with Federal requirements, they are approvable.

5. Chapter 33–15–17, N.D.A.C., Restriction of Fugitive Emissions

The revisions to this chapter involved deleting a reference to nuisances and replacing it with a requirement that a source cannot cause air pollution as defined in the general provisions chapter (to be consistent with the changes made to Chapter 33–15–01, discussed above). These revisions are approvable because the State believes that nuisances are covered under its definition of “air pollution.”

*C. Delegation of Authority*

1. NSPS

With the June 21, 2001 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 January 3, 2002 delegation was given with the following letter:

Ref: 8P–AR

Honorable John Hoeven,  
Governor of North Dakota, State Capitol, 600  
E Boulevard Avenue, Bismarck, North  
Dakota 58505–0001.

Re: Delegation of Clean Air Act New Source  
Performance Standards

Dear Governor Hoeven:  
In a June 21, 2001, letter from you and a  
June 26, 2001, letter from Francis Schwindt,

North Dakota Department of Health, the State of North Dakota requested delegation of authority for revisions to the New Source Performance Standards (NSPS), promulgated in Chapter 33–15–12 of the North Dakota Administrative Code. The State’s NSPS regulations incorporate by reference the Federal NSPS in 40 CFR Part 60 as in effect on August 1, 2000, with the exception of subpart Eb, which the State has not adopted. In the above-mentioned letters, the State requests 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.

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 one 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 as in effect on August 1, 2000, with the exception of subpart Eb, which the State has not adopted.

(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. For the NSPS categories previously delegated to North Dakota, our May 28, 1998 and May 7, 1999, delegation letters list those sections which can’t be delegated to the State. Those letters are enclosed for your use.

(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 delegated authority.

This delegation is based upon and is a continuation of the conditions 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 objection 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 and Radiation Program, at 303-312-6005.

Sincerely yours,  
Jack W. McGraw,  
*Acting Regional Administrator.*

Enclosures.

cc: Francis Schwindt, ND Department of Health, Terry O'Clair, ND Department of Health.

## 2. Part 61 NESHAPs

EPA is providing notice that with the July 7, 1995 interim approval of North Dakota's Title V Operating Permit program (see 60 FR 35335), it granted delegation of authority to North Dakota to implement and enforce Clean Air Act section 112 requirements. This delegation of authority includes, among other things, the NESHAPs promulgated in 40 CFR part 61 ("part 61 NESHAPs"). The State's part 61 NESHAPs regulations are contained in Chapter 33-15-13, N.D.A.C.

With a September 10, 1997 submittal, the State revised Chapter 33-15-13 to incorporate all Federal part 61 NESHAPs (except 40 CFR part 61, subparts B, H, K, Q, R, T, and W, pertaining to radionuclides) promulgated as of October 1, 1996.

However, the State's NESHAPs authorities do not include those authorities which cannot be delegated to the states, as defined in 40 CFR part 61.

In addition, EPA cannot act on the State's request for delegation of authority for 40 CFR part 61, subpart I (regarding radionuclide emissions from facilities licensed by the Nuclear Regulatory Commission and other Federal facilities not covered by subpart H) because EPA rescinded subpart I (see 61 FR 68972-68981, December 30, 1996) subsequent to the State's adoption of these revisions.

Given that the State has had delegation of authority for part 61 NESHAPs for many years, EPA is removing "Emission Standards for

Hazardous Air Pollutants, Chapter 33-15-13, N.D.A.C., from the federally-approved SIP.

## II. 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 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 maintenance of the NAAQS or any other applicable requirements of the Act. The SIP revision amends the State's General Provisions and Methods of Measurement and these changes are consistent with Federal requirements and rules. The new rules that provide for source exclusions from the title V permit to operate requirements are consistent with EPA's authority to approve exclusionary rules under section 110 of the Clean Air Act and the rules do not interfere with the maintenance of the NAAQS or any other applicable requirements of the Act because they are consistent with the April 14, 1998, EPA guidance from John Seitz, Director of the Office of Air Quality Planning and Standards, entitled "Potential to Emit (PTE) Guidance for Specific Source Categories." The update to the State's PSD rules mirror the Federal rules. Finally, the State's removal of the term "nuisance" does not interfere with the maintenance of the NAAQS or any other applicable requirements of the Act since nuisances can still be addressed under the State's definition of "air pollution."

## III. Final Action

EPA is approving North Dakota's SIP revision, as submitted by the Governor with a letter dated June 21, 2001. The revisions in the June 21, 2001 submittal which are being approved in this document involve the following chapters of the North Dakota Administrative Code: 33-15-01 General Provisions; 33-15-05 Emissions of Particulate Matter Restricted; 33-15-14 Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate (specifically, subsection 33-15-14-07, Source Exclusions from Title V Permit to Operate Requirements); 33-15-15 Prevention of Significant Deterioration; and 33-15-17 Restriction of Fugitive Emissions. The June 21, 2001 submittal also included requests for direct delegation of Chapter 33-15-21, Acid Rain Program and Chapter 33-15-22, Emission Standards for

Hazardous Air Pollutants for Source Categories, which are being handled separately.

In addition, as requested by the State with its June 21, 2001 submittal, EPA is providing notice that it granted delegation of authority to North Dakota on January 3, 2002, to implement and enforce the NSPS promulgated in 40 CFR part 60, promulgated as of August 1, 2001 (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.

Finally, EPA is providing notice that with the July 7, 1995 interim approval of North Dakota's Title V Operating Permit program (see 60 FR 35335), it granted delegation of authority to North Dakota to implement and enforce Clean Air Act section 112 requirements. This delegation of authority includes, among other things, the NESHAPs promulgated in 40 CFR part 61 ("part 61 NESHAPs"). The State's part 61 NESHAPs regulations are contained in Chapter 33-15-13 of the North Dakota Administrative Code. With a September 10, 1997 submittal, the State revised Chapter 33-15-13 to incorporate all Federal part 61 NESHAPs (except 40 CFR part 61, subparts B, H, K, Q, R, T, and W, pertaining to radionuclides) promulgated as of October 1, 1996. However, the State's NESHAPs authorities do not include those authorities which cannot be delegated to the states, as defined in 40 CFR part 61. Given that the State has had delegation of authority for part 61 NESHAPs for many years, EPA is removing Emission Standards for Hazardous Air Pollutants, Chapter 33-15-13 of the North Dakota Administrative Code, from the federally-approved SIP.

## IV. Administrative Requirements

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 6, 2002. 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.

##### 40 CFR Part 61

Environmental protection, Air pollution control, Arsenic, Asbestos, Benzene, Beryllium, Hazardous substances, Mercury, Vinyl chloride.

Dated: September 3, 2002.

**Robert E. Roberts,**

*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)(32) to read as follows:

##### § 52.1820 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(32) The Governor of North Dakota submitted revisions to the North Dakota State Implementation Plan and Air

Pollution Control Rules with a letter dated June 21, 2001. The revisions address air pollution control rules regarding general provisions, emissions of particulate matter and fugitives, exclusions from Title V permit to operate requirements, and prevention of significant deterioration.

(i) Incorporation by reference.

(A) Revisions to the Air Pollution Control Rules as follows: General Provisions 33-15-01-04, 33-15-01-12, and 33-15-01-15; Emissions of Particulate Matter Restricted 33-15-05-04.1; Designated Air Contaminant Sources, Permit to Construct, Minor Source Permit to Operate, Title V Permit to Operate 33-15-14-02.13.b.1, 33-15-14-03.1.c, and 33-15-14-07; Prevention of Significant Deterioration of Air Quality 33-15-15-01.1.hh and 33-15-15-01.2; and Restriction of Fugitive Emissions 33-15-17-01, effective June 1, 2001.

(B) Revisions to the Air Pollution Control Rules as follows: Emissions of Particulate Matter Restricted 33-15-05-03.1, repealed effective July 12, 2000.

3. A new § 52.1836 is added to read as follows:

##### § 52.1836 Change to approved plan.

North Dakota Administrative Code Chapter 33-15-13, National Emission Standards for Hazardous Air Pollutants, is removed from the approved plan. This change is a result of EPA's July 7, 1995 interim approval of North Dakota's Title V Operating Permit program, in which it granted delegation of authority to North Dakota to implement and enforce Clean Air Act section 112 requirements. That delegation of authority includes, among other things, the NESHAPs promulgated in 40 CFR part 61 ("part 61 NESHAPs"). With a September 10, 1997 submittal, the State requested delegation of authority to implement and enforce the Clean Air Act part 61 NESHAPs (except subparts B, H, K, Q, R, T, and W, pertaining to radionuclides), as in effect on October 1, 1996. EPA did not act on the State's request for delegation of authority for 40 CFR part 61, subpart I (regarding radionuclide emissions from facilities licensed by the Nuclear Regulatory Commission and other Federal facilities not covered by subpart H) because EPA rescinded subpart I subsequent to the State's adoption of these revisions.

#### PART 61—[AMENDED]

1. The authority citation for part 61 continues to read as follows:

**Authority:** 42 U.S.C. 7401, 7412, 7414, 7416, and 7601.

**Subpart A—General Provisions**

2. In § 61.04(c), the table entitled “Region VIII. Delegation Status of

National Emission Standards for Hazardous Air Pollutants<sup>1</sup>” is amended by revising the table heading for “ND” as follows:

**§ 61.04 Address.**  
\* \* \* \* \*  
(c) \* \* \*

**REGION VIII.—DELEGATION STATUS OF NATIONAL EMISSION STANDARDS FOR HAZARDOUS AIR POLLUTANTS<sup>1</sup>**

Subpart	CO	MT <sup>2</sup>	ND	SD <sup>2</sup>	UT <sup>2</sup>	WY
* * * * *						

<sup>1</sup> Authorities which may not be delegated include 40 CFR 61.04(b), 61.12(d)(1), 61.13(h)(1)(ii), 61.112(c), 61.164(a)(2), 61.164(a)(3), 61.172(b)(2)(ii)(B), 61.172(b)(2)(ii)(C), 61.174 (a)(2), 61.174(a)(3), 61.242–1(c)(2), 61.244, and all authorities listed as not delegable in each subpart under Delegation of Authority.

<sup>2</sup> Indicates approval of National Emission Standards for Hazardous Air Pollutants as part of the State Implementation Plan (SIP) with the exception of the radionuclide NESHAP Subparts B, Q, R, T, W which were approved through section 112(l) of the Clean Air Act.

\* \* \* \* \*

[FR Doc. 02–25289 Filed 10–4–02; 8:45 am]

BILLING CODE 6560–50–P

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[DA 02–2288, MB Docket No. 02–142, RM–10436]

**Digital Television Broadcast Service; Galveston, TX**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Telemundo of Galveston-Houston License Corporation, licensee of station KTMD-TV, NTSC channel 49 and permittee of DTV station KTMD-DT, DTV channel 47, Galveston, Texas, substitutes TV channel 48 for TV channel 47; and DTV channel 48c for DTV channel 47 at Galveston, Texas. See 67 FR 41363, June 18, 2002. TV channel 47 can be allotted to Galveston with a zero offset at coordinates 29–30–24 N. and 94–30–48 W. DTV channel 48c can be allotted to Galveston in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 29–34–15 N. and 95–30–37 W. with a power of 1000, HAAT of 599 meters and with a DTV service population of 3899 thousand. With this action, this proceeding is terminated.

**DATES:** Effective November 7, 2002.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission’s Report and Order, MB Docket No. 02–142, adopted September 16, 2002, and released September 23, 2002. The full

text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission’s duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

**List of Subjects in 47 CFR Part 73**

Digital television broadcasting, Television.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

**PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.606 [Amended]**

2. Section 73.606(b), the Table of Television Allotments under Texas, is amended by removing TV channel 48 and adding TV channel 47 at Galveston.

**§ 73.622 [Amended]**

3. Section 73.622(b), the Table of Digital Television Allotments under Texas, is amended by removing DTV channel 47 and adding DTV channel 48c at Galveston.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 02–25353 Filed 10–4–02; 8:45 am]

BILLING CODE 6712–01–P

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[DA 02–2366, MB Docket No. 02–132, RM–10374]

**Digital Television Broadcast Service; Montgomery, AL**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Alabama Educational Television Commission and LibCo, Inc., substitutes DTV channel \*27 for DTV channel \*14; and DTV channel 14 for DTV channel 57 at Montgomery, Alabama. See 67 FR 38924, June 6, 2002. DTV channels \*27 and 14 can be allotted to Montgomery, Alabama, for stations WAIQ–DT and WSFA–DT, respectively, in compliance with the principle community coverage requirements of Section 73.625(a). DTV channel \*27 can be allotted at coordinates 32–22–55 N. and 86–17–33 W. with a power of 750, HAAT of 183 meters and with a DTV service population of 522 thousand. DTV channel 14 can be allotted at coordinates 31–58–28 N. and 86–09–44 W. with a power of 600, HAAT of 530 meters and with a DTV service population of 714 thousand. With this action, this proceeding is terminated.

**DATES:** Effective November 12, 2002.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission’s Report and Order, MB Docket No. 02–132, adopted September 23, 2002, and released September 27, 2002. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II,