governments, or to the private sector, result from this action.

*G. Submission to Congress and the Comptroller General*

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. The 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 can not 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). This rule will be effective August 16, 1999.

*H. Petitions for Judicial Review*

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 16, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

**List of Subjects in 40 CFR Part 60**

Environmental protection, Administrative practice and procedure, Air pollution control, Hospital/medical/infectious waste incineration, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: June 7, 1999.

**Gregg A. Cooke,**

*Regional Administrator, Region 6.*

40 CFR part 62 of the Code of Federal Regulations is amended as follows:

## PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

**Authority:** 42 U.S.C. 7401±7642

## Subpart T—Louisiana

2. Section 62.4620 is amended by revising paragraph (b)(4) and adding paragraphs (b)(5), (c)(5), and (c)(6) to read as follows:

**§ 62.4620 Identification of plan.**

* * * * *

(b) * * *

(4) Control of landfill gas emissions from existing municipal solid waste landfills, submitted on December 9, 1996 (LAC 33.III.3003.B, Table 2), and revised on December 20, 1998 (LAC 33.III.3003.C.4).

(5) Control of air emissions from designated hazardous/medical/infectious waste incinerators, submitted by the Louisiana Department of Environmental Quality on December 30, 1998 (LAC 33.III.3003.C.5).

(c) * * *

(5) Municipal solid waste landfills.

(6) Hazardous/medical/infectious waste incinerators.

3. Subpart T is amended by adding a new ß 62.4633 and a new undesignated center heading to read as follows:

**Air Emissions From Hazardous/Medical/Infectious Waste Incinerators**

**§ 62.4633 Identification of sources.**

The plan applies to existing hazardous/medical/infectious waste incinerators for which construction, reconstruction, or modification was commenced before June 20, 1996, as described in 40 CFR part 60, subpart Ce.

4. Subpart T is amended by adding anew ß 62.4634 and a new undesignated center heading to read as follows:

**Effective Date**

**§ 62.4634 Effective date.**

The effective date for the portion of the plan applicable to existing hazardous/medical/infectious waste incinerators is August 16, 1999.

[FR Doc. 99±15263 Filed 6±16±99; 8:45 am]

BILLING CODE 6560–50–M

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 70

**[ND–001a; FRL–6360–3]**

## Clean Air Act Full Approval of Operating Permit Program; State of North Dakota

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is promulgating full approval of the operating permit program submitted by the State of North Dakota. North Dakota's operating permit program was submitted for the purpose of meeting the federal Clean Air Act directive that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the states' jurisdiction.

**DATES:** This direct final rule is effective on August 16, 1999, without further notice, unless EPA receives adverse comment by July 19, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments may be mailed to Richard R. Long, Director, Air and Radiation Program, Mail Code 8P± AR, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202± 2466. 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 VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202±2466. Copies of the State documents relevant to this action are available for public inspection at the North Dakota State Department of Health, Division of Environmental Engineering, 1200 Missouri Avenue, Bismarck, North Dakota 58504±5264.

**FOR FURTHER INFORMATION CONTACT:** Patricia Reisbeck, EPA, Region 8, (303) 312±6435.

**SUPPLEMENTARY INFORMATION:**

### I. Background

As required under Title V of the Clean Air Act (``the Act'') as amended (42 U.S.C. 7401 *et seq.*), EPA has promulgated rules that define the minimum elements of an approvable state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permit programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 Code of Federal Regulations (CFR) part 70 (part 70). Title V directs states to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources.

The Act directs states to develop and submit operating permit programs to EPA by November 15, 1993, and requires that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. ß 7661a) and the part 70 regulations, which together outline criteria for

approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval. If EPA has not fully approved a program by two years after the November 15, 1993 date, or before the expiration of an interim program approval, it must establish and implement a federal program. The State of North Dakota was granted final interim approval of its program on July 7, 1995 (see 60 FR 35335) and the program became effective on August 7, 1995. Interim approval of the North Dakota program expires on June 1, 2000.

**II. Final Action**

*A. Analysis of State Submission*

The Governor of North Dakota submitted an administratively complete Title V operating permit program for the State of North Dakota on May 11, 1994. This program, including the operating permit regulations (Chapter 33±15±14±06 of the North Dakota Administrative Code (NDAC)), substantially met the requirements of part 70. EPA deemed the program administratively complete in a letter to the Governor dated June 28, 1994. The program submittal included a legal opinion from the Attorney General of North Dakota stating that the laws of the State provide adequate legal authority to carry out all aspects of the program, and a description of how the State would implement the program. The submittal additionally contained evidence of proper adoption of the program regulations, application and permit forms, and a permit fee demonstration.

EPA's comments noting deficiencies in the North Dakota program were sent to the State in a letter dated December 22, 1994. The deficiencies were segregated into those that require corrective action prior to interim program approval, and those that require corrective action prior to full program approval. The State committed to address the program deficiencies that require corrective action prior to interim program approval in a letter dated January 5, 1995. The State submitted these corrective actions in letters dated February 22, March 20, and June 13, 1995. EPA reviewed these corrective actions and determined them to be adequate to allow for interim program approval.

In letters dated September 28, 1998 from the Governor of North Dakota and October 6, 1998 from the Chief of the Environmental Health Section, North Dakota Department of Health, the State submitted revisions to its Air Pollution Control Rules, including its operating permit program regulations (Chapter 33±15±14±06) that were effective January 1, 1996, September 1, 1997, and September 1, 1998. On March 11, 1999, the State submitted a copy of an amendment to section 23±25±10 of the North Dakota Century Code (NDCC) related to air pollution penalties. The effective date of the March 11, 1999 statutory amendment is August 1, 1999. The revised program regulations and statutory amendment adequately address the problems identified in the July 7, 1995 **Federal Register** notice as requiring corrective action prior to full program approval. The State also submitted evidence of proper adoption of the revisions to its program regulations.

Areas in the North Dakota program that were identified by EPA as deficient and the State's corrective actions for full program approval consist of the following:

(1) EPA required the State to revise NDAC ß 33±15±14±06.4.c to lower the insignificant emission unit threshold for criteria pollutants to more reasonable levels. The correction was completed in the revised North Dakota Air Pollution Control Rules, effective January 1, 1996.

(2) EPA advised the State that, in order to implement NDAC ß 33±15±14±06.5.a.(1)(c), the State must adopt specific provisions to determine that an alternative emission limit is equivalent to a limit in North Dakota's state implementation plan (SIP), and EPA must approve the provisions as part of the SIP. Until a SIP revision could be accomplished, EPA requested the State to delete the words ``or this article'' from the first line of NDAC ß 33±15±14±06.5.a.(1)(c). This request was met when the State revised the North Dakota Air Pollution Control Rules, effective January 1, 1996.

(3) EPA required the State to revise NDAC ß 33±15±14±06.5.a.(11) to allow changes in emissions provided that they are not modifications under Title I of the Act and the changes do not exceed the emissions allowed under the permit. This correction was completed in the revised North Dakota Air Pollution Control Rules, effective January 1, 1996.

(4) EPA required the State to revise NDAC ß 33±15±14±06.5.f(1) to read ``* * * the department shall include in a title V permit to operate a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance. * * *'' This correction was completed in the revised North Dakota Air Pollution Control Rules, effective January 1, 1996.

(5) EPA required the State to delete ``or this article'' from NDAC ß 33±15±14±06.5.a.(8), and ``this article'' from ß 33±15±14±06.5.a.(10) and ß 33±15±14±06.6.e.(1)(a)[2], to clarify that, in order to implement those provisions, the State must have an economic incentive, marketable permits, or a generic emissions trading program approved in its SIP. This correction was completed in the revised North Dakota Air Pollution Control Rules, effective January 1, 1996.

(6) EPA required the State to augment the Attorney General's opinion to show that the provisions for judicial review in North Dakota Century Code (NDCC), Sections 28±32±14 and 15 and in NDAC Article 33±22 are the exclusive means for obtaining judicial review of the terms and conditions of permits and that petitions for judicial review must be filed within the 90-day periods discussed in 40 CFR 70.4(b)(3)(xii). Or, if such an opinion could not be rendered, the State was required to change its statutes or regulations to ensure that the requirements of 40 CFR 70.4(b)(3)(xii) are met. This correction was completed in Section 33±15±14±06.8. of the revised North Dakota Air Pollution Control Rules, effective September 1, 1998.

(7) The State was required to augment the Attorney General's opinion to show how, under State law, applicants may obtain judicial review in cases of State inaction, consistent with the requirements of 40 CFR 70.4(b)(3)(xi). Or, if such an opinion could not be rendered, the State was required to change its statutes or regulations to ensure that the requirements of 40 CFR 70.4(b)(3)(xi) are met. This correction was completed in 33±15±14±06.8 of the revised North Dakota Air Pollution Control Rules, effective September 1, 1998.

(8) EPA raised the issue that North Dakota's Title V program did not appear to be consistent in all respects with 40 CFR 70.11, in particular with the requirement of maximum fines of not less than $10,000 per day per violation. Specifically, North Dakota's statutory penalty provision for violation of air pollution control requirements set the penalty at ``not more than ten thousand dollars (or imprisonment for not more than six months, or both) for knowingly making a false statement, representation or certification in any application or report required under the state air pollution control statute (chapter 23±25), or for falsifying, tampering with, or knowingly rendering inaccurate any monitoring device or method'' (NDCC ß 23±25±10.3). It was not clear that the penalty was authorized per day of

violation. To address this ambiguity, North Dakota enacted amendments to NDCC ß 23±25±10 to specifically prohibit the making of false statements or the falsifying of monitoring device or methods required to be maintained under the State statute or under any permit condition, rule, order, limitation, or other applicable requirement implementing the State statute. Section 23±25±10, as amended, states that, upon conviction, a violator is subject to a fine of not more than ten thousand dollars per day per violation or by imprisonment for not more than six months, or both. The amended Section 23±25±10 is effective August 1, 1999.

*C. Final Action*

The EPA is granting full approval of the North Dakota operating permit program.

In the North Dakota Title V program submittal of May 11, 1994, Section II.B. (Program Description: Organizational Structure) states ``At this time, the Department will operate the program for the entire State, excluding Indian Reservations.'' In this notice, EPA is approving North Dakota's part 70 program for all areas within the State except the following: any sources of air pollution located in ``Indian Country'' as defined in 18 U.S.C. 1151, including the Fort Berthold, Fort Totten, Standing Rock, Sisseton and Turtle Mountain Indian Reservations, or any other sources of air pollution over which an Indian Tribe has jurisdiction. See, e.g., 59 FR 55813, 55815±55818 (Nov. 9, 1994). The term ``Indian Tribe'' is defined under the Act as ``any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village, which is Federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.'' See section 302(r) of the Act; see also 59 FR 43955, 43962 (Aug. 25, 1994); 58 FR 54364 (Oct. 21, 1993).

The EPA is publishing this rule without prior proposal because the State is currently implementing its part 70 program and the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to grant full approval of the operating permit program submitted by the State of North Dakota should adverse comments be filed. This rule will be effective August 16, 1999, without further notice unless the Agency receives adverse comments by July 19, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this rule must do so at this time.

## III. Administrative Requirements

*A. Executive Order 12866*

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ``Regulatory Planning and Review.''

*B. Executive Order 12875*

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ``to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

*C. Executive Order 13045*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ``economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

*D. Executive Order 13084*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ``to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

*E. Regulatory Flexibility Act*

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

This final rule will not have a significant impact on a substantial number of small entities because part 70 approvals under section 502 of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore,

because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

*F. Unfunded Mandates*

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

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

*G. Submission to Congress and the Comptroller General*

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 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**. This rule is not a ``major rule'' as defined by 5 U.S.C. section 804(2).

*H. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 16, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 70**

Environmental Protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Dated: June 2, 1999.

**Carol Rushin,**

*Acting Regional Administrator, Region VIII.*

40 CFR part 70, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. In appendix A to part 70 the entry for North Dakota is amended by adding paragraph (b) to read as follows:

**Appendix A to Part 70– Approval Status of State and Local Operating Permits Programs**

* * * * *

North Dakota

* * * * *

(b) The North Dakota Department of Health, Environmental Health Section, submitted an operating permits program on May 11, 1994; interim approval effective on August 7, 1995; revised January 1, 1996, September 1, 1997, September 1, 1998, and August 1, 1999; full approval effective on August 16, 1999.

* * * * *

[FR Doc. 99±15269 Filed 6±16±99; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 244

**[FRL–6362–4]**

## Solid Waste Programs; Management Guidelines for Beverage Containers; Removal of Obsolete Guidelines

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

**ACTION:** Final rule.

**SUMMARY:** EPA is removing 40 CFR part 244, Solid Waste Management Guidelines for Beverage Containers, from the Code of Federal Regulations (CFR) because it is obsolete. The activities addressed in these 1976 guidelines have been included in numerous state and local statutes and regulations and other federal rules, or have been superseded by such Presidential actions as Executive Order 12873 as amended by Executive Order 13101. Deleting these guidelines from the CFR will have no measurable impact on solid waste management.

**EFFECTIVE DATE:** This final rule takes effect on July 19, 1999.

**FOR FURTHER INFORMATION CONTACT:** Deborah Gallman (703) 308±7276, U.S. EPA, Office of Solid Waste and Emergency Response, 401 M Street, SW, (5306W), Washington, DC 20460.

**SUPPLEMENTARY INFORMATION:**

### I. Introduction

On March 4, 1995, the President directed all federal agencies and departments to conduct a comprehensive review of the regulations they administer and, by June 1, 1995, to identify those rules that are obsolete or unduly burdensome. The Environmental Protection Agency (EPA) conducted a review of all its rules, including rules issued under the Resource Conservation and Recovery Act (RCRA). Based on the review, EPA is today removing 40 CFR part 244 guidelines from the CFR.

On December 31, 1996, EPA published a direct final rule (61 FR 69032) removing from the CFR two guidelines pertaining to solid waste management which are obsolete, 40 CFR parts 244 and 245. EPA noted at that time that if adverse comments were received, it would withdraw the direct final rule and address the comments received in a subsequent final rule. Because EPA received adverse comments with respect to the removal of 40 CFR part 244, Solid Waste Management Guidelines for Beverage Containers, the direct final rule for part 244 was withdrawn on May 2, 1997 (62 FR 24051). EPA subsequently reviewed all comments and is addressing them in this final rule. No adverse comments were received on the removal of part 245 and that final rule was effective on December 31, 1997 (63 FR 683).

### II. Background

On September 21, 1976, EPA issued guidelines, 40 CFR part 244 (Solid Waste Management Guidelines for Beverage Containers), for federal