

EPA—APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
10–6.065	Operating Permits	4/30/03	September 12, 2003, FR page citation.	The state rule has sections (4)(A), (4)(B), and (4)(H)—Basic State Operating Permits. EPA has not approved those sections. Section (6), Part 70 Operating Permits, has been approved as an integral part of the operating permit program and has not been approved as part of the SIP. The “intermediate source” program in Section (5) is approved, along with other provisions of 10–6.065 on which it relies.

PART 70—[AMENDED]

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

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

Appendix A—[Amended]

■ 2. Appendix A to Part 70 is amended by adding paragraph (n) under Missouri to read as follows:

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

Missouri

(n) The Missouri Department of Natural Resources submitted Missouri rule 10 CSR 10–6.065, “Operating Permits,” on May 6, 2003, approval effective November 17, 2003.

[FR Doc. 03–23586 Filed 9–16–03; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[No. R803CISWI; FRL–7560–2]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming; Control of Emissions From Existing Commercial and Industrial Solid Waste Incinerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves the commercial and industrial solid waste

incinerator 111(d)/129 plan (the “plan”) submitted by North Dakota’s Department of Health on May 1, 2003. The plan was submitted to fulfill requirements of the Clean Air Act (CAA). The plan establishes emission limits, monitoring, operating, and recordkeeping requirements for commercial and industrial solid waste incinerator (CISWI) units for which construction commenced on or before November 30, 1999. This action also approves negative declarations submitted by Colorado’s Department of Public Health and Environment on May 6, 2002; Montana’s Department of Environmental Quality on January 28, 2002; South Dakota’s Department of Environment and Natural Resources on February 28, 2002; Utah’s Department of Environmental Quality on April 23, 2002; Wyoming’s Department of Environmental Quality on December 16, 2002.

DATES: This direct final rule is effective on November 17, 2003, without further notice, unless EPA receives adverse written comments by October 17, 2003. If EPA receives such comments, it 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 submitted by mail 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 80202–2466. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in (Part (I)(B)(1)(i) through (iii)) of the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Kathleen Paser, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency

(EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, 303–312–6526, *paser.kathleen@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* EPA has established an official public rulemaking file for this action under R803CISWI. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air and Radiation Program, EPA Region 8, 999 18th Street, Suite 300, Denver, CO. EPA requests that if at all possible, you contact the contact listed in the For Further Information Contact section to schedule your inspection. You may view the public rulemaking file at the Regional Office Monday through Friday,

8 a.m. to 4 p.m., excluding federal Holidays.

2. *Copies of the States' submittals are also available for public inspection during normal business hours, by appointment at the State Air Agency.* Copies of the documents relevant to each respective State action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530; Montana Department of Environmental Quality, Air and Waste Management Bureau, 1520 E. 6th Avenue, Helena, Montana 59620; North Dakota State Department of Health, Division of Environmental Engineering, 1200 Missouri Avenue, Bismarck, North Dakota 58506; South Dakota Department of Environmental and Natural Resources, Air Quality Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501; Utah Department of Environmental Quality, Division of Air Quality, 150 North 1950 West, Salt Lake City, Utah 84114; and Wyoming Department of Environmental Quality, Air Quality Division, 122 W. 25th Street, Cheyenne, WY 82002.

3. *Electronic Access.* You may access this **Federal Register** document electronically through the Regulation.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by

including the text "Public comment on proposed rulemaking No. R803CISWI" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *E-mail.* Comments may be sent by electronic mail (e-mail). Please send any comments to long.richard@epa.gov and paser.kathleen@epa.gov and include in the text "Public comment on proposed rulemaking No. R803CISWI" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulation.gov.* Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at <http://www.regulations.gov>, then select Environmental Protection Agency at the top of the page and use the go button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments 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 80202-2466. Please include the text "Public comment on proposed rulemaking No. R803CISWI" in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments 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 80202-2466. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding federal Holidays.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the For Further Information Contact section.

II. What Action Is Being Taken by EPA Today?

We are approving North Dakota's State Plan, as submitted on May 1, 2003 for the control of air emissions from CISWIs, except for those CISWIs located

in Indian Country. When we developed our New Source Performance Standard (NSPS) for CISWIs, we also developed Emissions Guidelines (EG) to control air emissions from older CISWIs as we were required to do by Section 129(a) of the CAA (42 U.S.C. Section 7429(a)). (See 65 FR 75337–75376, December 1, 2000). North Dakota developed a State Plan, as required by section 111(d) of the CAA (42 U.S.C. Section 7411(d)), to adopt the EG into their body of regulations, and we are acting today to approve the state plan as meeting all requirements of section 111(d) and 129 of the CAA and EPA regulations governing the adoption and approval of state plans for designated facilities (40 CFR part 60, subpart B). We are also approving negative declarations submitted by Colorado's Department of Public Health and Environment on May 6, 2002; Montana's Department of Environmental Quality on January 28, 2002; South Dakota's Department of Environment and Natural Resources on February 28, 2002; Utah's Department of Environmental Quality on April 23, 2002; Wyoming's Department of Environmental Quality on December 16, 2002. The EPA does not require States to develop plans or regulations to control emissions from sources for which there are none present in the State (40 CFR 62.06).

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in a separate document in this **Federal Register** publication, we are proposing to approve the revision should significant, material, and adverse comments be filed. This action is effective November 17, 2003, unless by October 17, 2003, adverse or critical comments are received. If we receive such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a 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. If no such comments are received, this action is effective November 17, 2003.

III. Why Do We Need To Regulate CISWI Emissions?

When burned, commercial and industrial solid waste emit various air pollutants, including organics (dioxins/furans), carbon monoxide, metals (lead, cadmium, and mercury), acid gases (hydrogen chloride, sulfur dioxide, and

nitrogen oxides) and particulate matter (including opacity). Mercury is highly toxic and is of particular concern because it persists in the environment and bioaccumulates through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Harmful effects in wildlife have also been reported; these include nervous system damage and behavioral and reproductive deficits. Human and wildlife exposure to mercury occur mainly through the ingestion of fish. When inhaled, mercury vapor attacks also the lung tissue and is a cumulative poison. Short-term exposure to mercury in certain forms can cause hallucinations and impair consciousness. Long-term exposure to mercury in certain forms can affect the central nervous system and cause kidney damage.

Exposure to particulate matter has been linked with adverse health effects, including aggravation of existing respiratory and cardiovascular disease and increased risk of premature death. Hydrochloric acid is a clear colorless gas. Chronic exposure to hydrochloric acid has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute exposure to high levels of chlorine in humans may result in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs.

Exposure to dioxin and furan can cause skin disorders, cancer, and reproductive effects such as endometriosis. These pollutants can also affect the immune system.

IV. What Is a State Plan?

Section 111(d) of the Act requires that pollutants, other than criteria pollutants, controlled under the NSPS must also be controlled at older sources in the same source category. Once an NSPS is promulgated for a non-criteria pollutant, we then publish an EG applicable to the control of the same pollutant from existing (designated) facilities. States with designated facilities must then develop a State Plan to adopt the EG into their body of regulations. States must also include in this State Plan other elements, such as inventories, legal authority, and public participation documentation, to demonstrate the ability to implement and enforce it.

V. What Does the North Dakota State Plan Contain?

North Dakota adopted the Federal NSPS and EG by reference into its State regulations at NDAC 33–15–12–02. The North Dakota State Plan contains:

1. A demonstration of the State's legal authority to implement the section 111(d) State Plan;

2. Incorporation by reference of the model rule (40 CFR 60.2575 through 60.2875) including tables 1 through 5 into NDAC 33–15–12 as the mechanism for implementing the emission guidelines. Section 23–25–10 of the North Dakota Century Code gives the North Dakota Department of Health the authority to enforce any properly adopted rule.

3. An inventory of approximately 9 known designated facilities in operation, along with estimates of their toxic air emissions and 11 known designated facilities that are shut down yet still capable of operating. The North Dakota Department of Health anticipates that nearly all of the active CISWIs will shut down rather than attempt to comply with this plan. The air curtain incinerator units operated by the City of Fargo and Markwed Excavating, and perhaps a few more units, will remain operational. Any units currently shut down are expected to remain shut down.

4. Emission limits that are as protective as the EG;

5. A compliance date of 3 years after Environmental Protection Agency approval of the state plan but not later than December 1, 2005.

6. Testing, monitoring, reporting and recordkeeping requirements for the designated facilities;

7. Records from the public hearing; and,

8. Provisions for progress reports to EPA.

The North Dakota State Plan was reviewed for approval with respect to the following criteria: 40 CFR 60.23 through 60.26, *Subpart B—Adoption and Submittal of State Plans for Designated Facilities*; and, 40 CFR 60.2500 through 60.2875, *Subpart DDDD—Emission Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999*.

VI. Is My CISWI Subject to These Regulations?

The EG for existing CISWIs affect any CISWI built on or before November 30, 1999. CISWI unit means any combustion device that combusts commercial and industrial waste as

defined at 40 CFR 60.2875. If your facility meets this criterion and does not qualify for exemption under 40 CFR 60.2555 (a)–(o), you are subject to these regulations.

VII. What Steps Do I Need To Take?

You must meet the requirements listed in NDAC 33–15–12–02 Subpart DDDD, summarized as follows:

A. Increments of Progress: If you plan to achieve compliance more than one year following the effective date of the State Plan approval, you must submit a final control plan by one year after EPA approval of the state plan or December 1, 2004, whichever comes first; and you must achieve final compliance by three years after EPA approval of the state plan or December 1, 2005, whichever comes first.

B. Waste Management Plan: You must submit a written plan that identifies both the feasibility and the methods used to reduce or separate certain components of solid waste from the waste stream in order to reduce or eliminate toxic emissions from incinerated waste. This written plan must be submitted no later than one year after EPA approval of the state plan or December 1, 2004, whichever comes first.

C. Operator Training and Qualification: Your CISWI unit can only be operated when a fully trained and qualified CISWI operator is accessible. Operator training and qualification must be obtained through a State-approved program or by completing the requirements included in 40 CFR 60.2635(c). The operator training course must be completed by the later of the three follow dates: Three years after EPA approval of the state plan or December 1, 2005, whichever comes first; six months after CISWI unit startup; or six months after an employee assumes responsibility for operating the CISWI unit or assumes responsibility for supervising the operation of the CISWI unit.

D. Emission Limitations and Operating Limits: You must meet the emission limitations specified in Table 2 of 40 CFR part 60, subpart DDDD, as adopted by the North Dakota Department of Health, on the date the initial performance test is required or completed (whichever is earlier). In addition, you must meet the operating limits specified in 40 CFR 60.2675, on the date the initial performance test is required or completed (whichever is earlier).

E. Performance Testing and Initial Compliance Requirements: You must conduct an initial performance test as required under 40 CFR 60.8, to

determine compliance with the emission limitations and to establish operating limits using the procedure in 40 CFR 60.2675 or 40 CFR 60.2680. The initial performance date must be conducted no later than 180 days after your final compliance date. Specifically, no later than three years after EPA approval of the state plan or December 1, 2005, whichever comes first.

F. Continuous Compliance Requirements: You must conduct an annual performance test for particulate matter, hydrogen chloride, and opacity for each CISWI unit as required under § 60.8 to determine compliance with the emission limitations. You must continuously monitor the operating parameters specified in § 60.2675 or established under § 60.2680. You must only burn the same types of waste used to establish operating limits during the performance test.

G. Monitoring: You must install monitoring equipment as specified in § 60.2730. Except for monitoring malfunctions, associated repairs, and required quality assurance or quality control activities, you must obtain all monitoring data at all times the CISWI unit is operating.

H. Recordkeeping and Reporting: You must maintain the thirteen items (as applicable) as specified in § 60.2740(a)–(m) for a period of at least five years. All records must be available onsite in either paper copy or computer-readable format that can be printed upon request. See Table 5 of 40 CFR part 60, subpart DDDD, as adopted by the North Dakota Department of Health, for summary of the reporting requirements.

I. Title V Operating Permits: Each CISWI unit must operate pursuant to a permit issued under section 129(e) and title V of the CAA by December 1, 2003, or the effective date of the title V permit program to which your unit is subject if your unit is subject to title V as a result of some triggering requirement(s) other than this plan (whichever is earlier). For example, your unit may trigger title V permitting requirements by virtue of being a major source and be required to obtain a title V permit prior to the December 1, 2003 deadline.

J. Air Curtain Incinerators: Air curtain incinerators that burn only 100 percent wood waste, 100 percent clean lumber, or 100 percent of a mixture of only wood waste, clean lumber, and/or yard waste are only required to meet the requirements of §§ 60.2245 through 60.2260.

VIII. What Is a Negative Declaration?

Provisions of sections 111(d) and 129 of the CAA require States to either develop plans to control emissions from

CISWIs or to report that there are no facilities in the State as described in the federal rule. EPA does not require States to develop plans or regulations to control emissions from sources for which there are none present in the State (40 CFR 62.06). If it is thought that this might be the case, the State carefully examines its emissions inventory and operating permits before initiating the planning and regulation development process. If a careful examination of the emissions inventory finds no source for a particular source category, then the State prepares and submits to EPA a negative declaration stating there are no sources in the State for that source category. This is done in lieu of submitting a control strategy.

IX. EPA Review of Colorado's, Montana's, South Dakota's, Utah's and Wyoming's Negative Declarations

A. Colorado: On May 6, 2002, the State of Colorado submitted to EPA a negative declaration regarding the need for a regulation covering CISWIs. The Colorado Department of Public Health and Environment evaluated the applicability criteria in the final emission guidelines (40 CFR part 60, subpart DDDD) and conducted a review of facilities in Colorado in conjunction with the Hazardous Material and Waste Management Division, Solid Waste Unit. EPA examined the State's negative declaration and agrees there are no unregulated CISWIs in Colorado which would require the adoption of rules to control this source category.

B. Montana: On January 28, 2002, the State of Montana submitted to EPA a negative declaration regarding the need for a regulation covering CISWIs. The Montana Department of Environmental Quality evaluated the applicability criteria in the final emission guidelines (40 CFR part 60, subpart DDDD) and reviewed their inventory of sources in the State. EPA examined the State's negative declaration and agrees there are no unregulated CISWIs in Montana which would require the adoption of rules to control this source category.

C. South Dakota: On February 28, 2002, the State of South Dakota submitted to EPA a negative declaration regarding the need for a regulation covering CISWIs. The South Dakota Department of Environment and Natural Resources evaluated the applicability criteria in the final emission guidelines (40 CFR part 60, subpart DDDD) and reviewed their inventory of sources located in the State. EPA examined the State's negative declaration and agrees there are no unregulated CISWIs in South Dakota which would require the

adoption of rules to control this source category.

D. *Utah*: On April 23, 2002, the State of Utah submitted to EPA a negative declaration regarding the need for a regulation covering CISWIs. The Utah Department of Environmental Quality (DEQ) evaluated the applicability criteria in the final emission guidelines (40 CFR part 60, subpart DDDD), searched existing source permitting files, and conducted a review of facilities in Utah in conjunction with the Division of Solid and Hazardous Waste. In addition, the DEQ examined the landfill sources in Utah and found that none are operating CISWI units. EPA examined the State's negative declaration and agrees there are no unregulated CISWIs in Utah which would require the adoption of rules to control this source category.

E. *Wyoming*: On December 16, 2002, the State of Wyoming submitted to EPA a negative declaration regarding the need for a regulation covering CISWIs. The Wyoming Department of Environmental Quality evaluated the applicability criteria in the final emission guidelines (40 CFR part 60, subpart DDDD) and reviewed their inventory of sources located in the State. EPA examined the State's negative declaration and agrees there are no unregulated CISWIs in Wyoming which would require the adoption of rules to control this source category.

If a new source chooses to locate in Colorado, Montana, North Dakota, South Dakota, Utah, or Wyoming, it would be required to comply with the New Source Performance Standard (NSPS) published for CISWIs on December 1, 2000 (65 FR 75338). If, at a later date, an existing CISWI unit is identified in a State for which a negative declaration has been made, a Federal Implementation Plan implementing the emission guidelines contained in subpart DDDD will automatically apply to that CISWI unit until a State plan is approved.

X. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by

state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing 111(d)/129 plan 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 111(d)/129 plan submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan submission, to use VCS in place of a 111(d)/129 plan 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. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of 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. section 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 November 17, 2003. 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 62

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: September 2, 2003.

Robert E. Roberts,

Regional Administrator, Region 8.

■ 40 CFR part 62 is amended as follows:

PART 62—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671.

Subpart G—Colorado

■ 2. Add a new undesignated center heading and § 62.1380 to subpart G to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incinerators

§ 62.1380 Identification of Plan—Negative Declaration.

Letter from the Department of Public Health and Environment submitted May 6, 2002 certifying that there are no existing commercial and industrial solid waste incinerators in the State of Colorado that are subject to part 60, subpart DDDD, of this chapter.

Subpart BB—Montana

- 3. Add a new undesignated center heading and § 62.6630 to subpart BB to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incinerators

§ 62.6630 Identification of Plan—Negative Declaration.

Letter from the Department of Environmental Quality submitted January 28, 2002 certifying that there are no existing commercial and industrial solid waste incinerators in the State of Montana that are subject to part 60, subpart DDDD, of this chapter.

Subpart JJ—North Dakota.

- 4. Add a new undesignated center heading and § 62.8630, 62.8631, and 62.8632 to subpart JJ to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incinerators

§ 62.8630 Identification of Plan.

Section 111(d)/129 Plan for Commercial and Industrial Solid Waste Incinerators and the associated State regulation in section 33–15–12–02 of the North Dakota Administrative Code submitted by the State on May 1, 2003.

§ 62.8631 Identification of Sources.

The plan applies to all existing commercial and industrial solid waste incinerators for which construction was commenced on or before November 30, 1999, as described in 40 CFR part 60, subpart DDDD.

§ 62.8632 Effective Date.

The effective date of the plan applicable to existing commercial and industrial solid waste incinerators is November 17, 2003.

Subpart QQ—South Dakota

- 5. Add a new undesignated center heading and § 62.10380 to subpart QQ to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incinerators

§ 62.10380 Identification of Plan—Negative Declaration.

Letter from the Department of Environment and Natural Resources submitted February 28, 2002 certifying that there are no existing commercial and industrial solid waste incinerators in the State of South Dakota that are subject to part 60, subpart DDDD, of this chapter.

Subpart TT—Utah

- 6. Add a new undesignated center heading and § 62.11140 to subpart TT to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incinerators

§ 62.11140 Identification of Plan—Negative Declaration.

Letter from the Department of Environmental Quality submitted April 23, 2002 certifying that there are no existing commercial and industrial solid waste incinerators in the State of Utah that are subject to part 60, subpart DDDD, of this chapter.

Subpart ZZ—Wyoming

7. Add a new undesignated center heading and § 62.12630 to subpart ZZ to read as follows:

Air Emissions From Existing Commercial and Industrial Solid Waste Incinerators

§ 62.12630 Identification of Plan—Negative Declaration

Letter from the Department of Environmental Quality submitted December 16, 2002 certifying that there are no existing commercial and industrial solid waste incinerators in the State of Wyoming that are subject to part 60, subpart DDDD, of this chapter.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[No. R803NDT5REV; FRL–7560–5]

Clean Air Act Approval of Revisions To the Operating Permits Program in North Dakota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving, as a revision to North Dakota's title V air operating permits program, a proposed amendment to North Dakota's definition of "major source" in response to recent amendments to the definition of "major source" in the operating permit regulations.

DATES: This direct final rule is effective on November 17, 2003, without further notice, unless EPA receives adverse written comments by October 17, 2003. If EPA receives such comments, it 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 submitted by mail 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 80202–2466. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in (Part (I)(B)(1)(i) through (iii)) of the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Kathleen Paser, Air and Radiation Program, Mailcode 8P–AR, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, 303–312–6526, paser.kathleen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* EPA has established an official public rulemaking file for this action under R803NDT5REV. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air and Radiation Program, EPA Region 8, 999 18th Street, Suite 300, Denver, CO. EPA requests that if at all possible, you contact the contact listed in the For Further Information Contact section to schedule your inspection. You may view the public rulemaking file at the