

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.

[FR Doc. 03–23749 Filed 9–16–03; 8:45 am]

BILLING CODE 6560–50–P

**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](mailto: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

Regional Office Monday through Friday, 8 a.m. to 4 p.m., excluding federal Holidays.

2. *Copies of the State's submittal are also available for public inspection during normal business hours, by appointment at the State Air Agency.* Copies of the 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 58506.

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. R803NDT5REV" 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](mailto:long.richard@epa.gov) and [paser.kathleen@epa.gov](mailto:paser.kathleen@epa.gov) and include in the text "Public comment on proposed rulemaking No. R803NDT5REV" 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. Background**

North Dakota has proposed to revise the definition of "major source" in response to recent amendments to the definition of "major source" in part 70. See 66 FR 59161 (November 27, 2001). EPA made two changes from the 1992 rule regarding when non-Hazardous Air Pollutant (HAP) fugitive emissions are included in determining major source status. The 1992 rule required that non-HAP fugitive emissions be counted for all industrial facilities in source categories covered by New Source Performance Standards (NSPS) or National Emission Standards for Hazardous Air Pollutants (NESHAP) standards, but only with regard to pollutants specifically regulated for the source category. The final amendment to part 70 changed this requirement: (1) To address only source categories covered by NSPS or NESHAP standards promulgated after August 7, 1980; and

(2) to delete the limitation that only pollutants specifically regulated by the standard be included. Consistent with this amendment, North Dakota is proposing to revise its rule to correspond with the part 70 definition of "major source." In doing so, North Dakota's rules are as stringent as part 70. Therefore, North Dakota's proposed change in the definition of "major source" is approvable.

### III. Final Action

EPA is approving, as a revision to North Dakota's title V air operating permits program, NDAC 33-15-14-06, the proposed amendment to the definition of "major source." Consistent with EPA's action granting North Dakota's full approval, this approval extends to all areas within the State except the following: Any sources 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 Reservation, or any other sources of air pollution over which an Indian Tribe has jurisdiction. See *e.g.*, 59 FR 55813, 55815-55818 (November 9, 1994). The term "Indian Tribe" is defined under the Clean Air Act (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 (August 25, 1994); 58 FR 54364 (October 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 the **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve North Dakota's proposed amendment to their title V air operating permits program. This rule will be effective November 17, 2003 without further notice unless the Agency receives adverse comments by October 17, 2003.

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.

### IV. 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 (Public Law 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 title V operating permit program 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 title V operating permit program submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a title V operating permit program submission, to use VCS in place of a title V operating permit program 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 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 70

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

Dated: September 3, 2003.

**Robert E. Roberts,**

*Regional Administrator, Region 8.*

■ 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 (c) to read as follows:

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

\* \* \* \* \*

North Dakota

\* \* \* \* \*

(c) The North Dakota Department of Health, Environmental Health Section submitted the following program revisions on May 1, 2003: NDAC 33–15–14–06.1(o)(2)(aa), effective November 17, 2003.

\* \* \* \* \*

[FR Doc. 03–23751 Filed 9–16–03; 8:45 am]

BILLING CODE 6560–50–P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 180**

[OPP–2003–0286; FRL–7325–1]

#### **Trifloxysulfuron; Pesticide Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a tolerance for residues of trifloxysulfuron in or on almond; almond, hulls; fruit, citrus, group 10; cotton, undelinted seed; cotton, gin byproducts; sugarcane; and tomato. Syngenta Crop Protection, Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective September 17, 2003. Objections and requests for hearings, identified by docket ID number OPP–2003–0286, must be received on or before November 17, 2003.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Jim Tompkins, Registration Division

(7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–5697; e-mail address: [tompkins.jim@epa.gov](mailto:tompkins.jim@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

###### *A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS

32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

###### *B. How Can I Get Copies of This Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0286. The official public docket 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 docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the “**Federal Register**” listings at <http://www.epa.gov/fedrgstr/>. A

frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.htm>.

An electronic version of the public docket is available through EPA’s electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select “search,” then key in the appropriate docket ID number.

##### **II. Background and Statutory Findings**

In the **Federal Register** of March 21, 2003 (68 FR 13924) (FRL–7296–6), EPA issued a notice pursuant to section 408 of FFDCA, 21 U.S.C. 346a, as amended by FQPA (Public Law 104–170), announcing the filing of a pesticide petition (PP 1F6280) by Syngenta Crop Protection, Inc., Greensboro, NC 27419. That notice included a summary of the petition prepared by Syngenta Crop Protection, Inc., the registrant. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180 be amended by establishing a tolerance for residues of the herbicide trifloxysulfuron-sodium, [N-[[[4,6-dimethoxy-2-pyrimidinyl)amino]carbonyl]-3-(2,2,2-trifluoroethoxy)-2-pyridinesulfonamide], in or on sugarcane at 0.01 part per million (ppm); cottonseed at 0.05 ppm; cotton byproducts at 1.0 ppm; citrus at 0.01 ppm; almond hulls at 0.01 ppm; almond nut meat at 0.01 ppm; and tomatoes at 0.01 ppm.

During the course of the review The Agency determined that based on available data and current commodity vocabulary that tolerances should be established for residues of the herbicide trifloxysulfuron N-[[[4,6-dimethoxy-2-pyrimidinyl)amino]carbonyl]-3-2,2,2-trifluoroethoxy)-2-pyridinesulfonamide in or on the commodities almond at 0.02 ppm; almond, hulls at 0.01 ppm; fruit, citrus, group 10 at 0.03 ppm; cotton, undelinted seed at 0.05 ppm; cotton, gin