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

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

agencies for reducing beverage container waste. The guidelines were mandatory (although not enforceable) for federal facilities and recommended for adoption by state and local governments and private agencies. EPA intended these guidelines to achieve a reduction in beverage container solid waste and litter, resulting in savings in waste collection and disposal costs to the federal government. The Agency also intended these guidelines to achieve the conservation and more efficient use of energy and material resources through the development of effective beverage distribution and container collection systems. EPA hoped that the guidelines would achieve these goals by making all beverage containers on federal facilities returnable and encouraging reuse or recycling of the returned containers. To accomplish the return of a beverage container, a deposit of at least five cents on each returnable beverage container was to be paid upon purchase by the consumer and refunded to the consumer when the beverage container was returned for reuse or recycling. The guidelines allow federal agencies to cease implementation of the provisions in various situations where the requirements are not practical.

EPA believed these guidelines would be important because, when these guidelines were promulgated in 1976, there were few requirements for recycling beverage containers or other materials. In fact, EPA has found no evidence to suggest that federal agencies developed beverage container programs in response to the guidelines. Instead, federal agencies have met the challenge of recycling by implementing, in-house or by contract, programs for collection of a variety of recyclable materials, including beverage containers. Many state and local governments now require or encourage such collection programs. Under RCRA section 6001, federal facilities must meet such municipal or state recycling requirements. Furthermore, in 1993, President Clinton issued Executive Order 12873, ''Federal Acquisition, Recycling, and Waste Prevention'', which was amended in 1998 by Executive Order 13101, ''Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition.'' Section 705 of the Executive Order requires each Executive agency that has not already done so to initiate a program to promote cost effective waste prevention and recycling of reusable materials in all of its facilities. Recycling programs implemented pursuant to section 705 must be compatible with applicable state and local government programs to promote recycling and waste reduction in the community. Agencies must designate a recycling coordinator for each facility or installation. The recycling coordinator must implement or maintain waste prevention and recycling programs in the agencies' action plans. Executive agencies must also consider cooperative ventures with State and local governments to promote recycling and waste reduction in the community.

III. Analysis of and Response to Public Comments on Removal of 40 CFR Part 244

EPA invited public comment on the proposed removal of part 244 during a 60-day period and received 13 comments. Nine of the comments received opposed EPA's action, while four offered support for removing part 244. This section presents the findings of EPA's follow-up research pertinent to each major comment. General comments opposed to EPA's action are discussed first, followed by those in support.

A. Comments Opposed to Removal of Part 244

Most of the comments opposed to removal of 40 CFR part 244 focused on similar issues. In general, commenters felt that the beverage deposit guidelines for federal facilities should be continued and strengthened, rather than withdrawn. A summary of these comments and EPA's findings that address these comments are provided below.

Comment on Deposit Effectiveness: Nine commenters supported beverage deposit programs in general, while three commenters encouraged deposits as the most effective means of collecting beverage containers at federal facilities and encouraged EPA to strengthen, rather than withdraw, the guidelines.

Findings Addressing This Comment: 40 CFR part 244 does not establish beverage deposit programs in general, but focuses on federal facilities. EPA's decision to withdraw the part 244 beverage containers guidelines should not be viewed as reflecting any position on the adoption of beverage deposit programs by State or local governments. Therefore, this discussion will not cover the merits or drawbacks of beverage deposit programs (often called ''bottle bills'') in general.

EPA, however, has concluded that these specific federal guidelines are obsolete, primarily because they have been supplemented by more comprehensive federal recycling programs and by local and state requirements. When EPA issued part 244 in 1976, there was limited collection of beverage containers for recycling in federal facilities. Since that time, considerable progress has been made to collect and recycle many items, including beverage containers. Recycling collection programs are now required by many state and local governments around the country. Under RCRA Section 6001, federal facilities are required to meet these municipal and state recycling requirements. In addition, in 1993, President Clinton signed Executive Order 12873, ''Federal Acquisition, Recycling, and Waste Prevention'', which was amended in 1998 by Executive Order 13101, ''Greening the Government Through Waste Prevention, Recycling, and Federal Acquisition.'' Section 705 of the Executive Order requires each executive agency to initiate a program to promote cost effective waste prevention and recycling of reusable materials. These programs must be compatible with State and local requirements at all of its facilities. Agencies must designate a recycling coordinator for each facility to implement or maintain programs in the agencies' action plans and must also consider cooperative ventures with State and local governments to promote community programs.

In response to comments, EPA also attempted to gather more complete information on the current extent of collection of beverage containers at federal facilities. While there is no uniform, comprehensive database, there is information on some of the federal collection efforts.

EPA's research shows that, among these federal efforts, both the U.S. General Services Administration (GSA) and Department of Defense (DOD) service branches have active recycling efforts that are providing collection services to a large number of government employees. Facilities owned, operated, and leased by GSA and the military branches comprise the largest portion of federal facilities. In addition, many of these programs include comprehensive and integrated waste reduction and recycling programs, taking an approach that is broader than beverage container recycling alone. With the success of these programs, there is no need for a separate guideline on beverage container collection for federal facilities.

Although DOD does not separately track beverage containers, all military facilities are required to have a solid waste plan and a recycling collection program in place. It is our understanding that the armed services are near 100 percent in compliance with the DOD recycling policy. According to the 1995 DOD Defense Environmental

Quality Program annual report, the armed forces collected approximately 1.7 billion pounds of material for recycling in calender year 1994, exceeding its targeted goal. The report indicates the armed forces surpassed its targeted goal in 1993, as well. In addition, Navy and Marine Corps installations generating more than 1 ton of solid waste per day are required to report every year on the amount of material recycled at each facility. The 1995 Navy and Marine Corps Solid Waste Annual Report documents that the Navy and Marine Corps collected more than 1,800 tons of aluminum cans and more than 3,200 tons of glass for recycling in fiscal year 1995. Overall, the report indicates a steady increase in the amount of materials collected for recycling among the Navy and Marine Corps since fiscal year 1990.

GSA reported an active recycling program that includes each of the agency's 11 regions. More than 530,000 federal employees in more than 1,100 federal buildings nationwide participated in GSA's recycling program in fiscal year 1996. During that year, GSA collected 44,527 tons of recyclables, including beverage containers, mixed paper, plastics, newspaper, and corrugated cardboard. This includes 112 tons of used beverage containers and 359 tons of glass (primarily beverage containers). In addition, GSA received nearly $863,000 from the sale of recovered materials. Employee participation in recycling programs at GSA buildings averaged 60 percent, demonstrating widespread support for recycling.

In the direct final rule, which EPA published on December 31, 1996, the Agency concluded that the part 244 guidelines were obsolete because federal facilities were recycling beverage containers in compliance with E.O. 12873. In addition, EPA determined that the guidelines should be withdrawn because federal facilities were complying with state and local solid waste management statutes and regulations that relate to collection and recycling of beverage containers. 61 FR 69032, 69033. The reports that EPA has obtained from DOD and GSA discussed above verify the conclusions set forth in the direct final and proposed rules.

We have no indication that the beverage container recycling activities at federal facilities as described above are a result of the part 244 guidelines. In fact, after review of agency records described earlier and discussions with federal personnel, we have no information regarding any federal facility which is implementing the full deposit and refund system outlined in part 244.

EPA's research showed a general lack of awareness on the part of key facility personnel regarding the existence of part 244. This is largely the result of the guidelines being over twenty years old and largely superseded by more recent and comprehensive recycling mandates. Some personnel stated they did not feel the provision was necessary because they already have an adequate recycling collection program in place and are making steady progress toward their recycling goals.

EPA's research also found that the logistics of placing a deposit on beverage containers sold within a federal facility and returning that deposit to the consumer would be difficult. DOD recycling officials, for example, noted that implementing a container deposit system would result in complicated and burdensome accounting and management procedures. Returning the deposit may involve additional expenses or oversight on the part of the agency involved, as part 244 requires that the refund be provided at the point of sale whenever possible and, in any event, on the premises of the federal facility. In addition, beverage distributors would be required to place a label or sticker on beverage containers destined exclusively for sale at federal facilities; they might be reluctant to participate in this system without appropriate compensation.

In addition, 40 CFR part 244 exempts federal agencies from implementing the regulation in situations where the requirements are not practical. Therefore, any federal agency that considers the logistical issues mentioned above too difficult and burdensome to implement might consider themselves exempt under this provision given their current successful recycling programs.

For the reasons described above, EPA believes that cost-effective and efficient beverage container recycling programs have now been established at federal facilities. These programs are required by statute and by Executive Order. Thus, we have concluded that rather than seek a means for improving upon or strengthening the pre-existing management guidelines for beverage containers so that federal agencies would implement the guidelines, it is more efficient and will likely be more effective over the long term for federal facilities to seek to improve their current beverage container recycling programs consistent with statutory requirements and Executive Order 13101.

General Comments on Litter Reduction: Several commenters stated that deposits on beverage containers help to reduce litter, and that litter reduction should be a national goal.

Findings Addressing This Comment: EPA considers litter prevention to be a laudable goal and supports programs to educate and inform the public about the benefits of litter reduction and waste prevention. EPA's research shows that voluntary recycling programs at federal facilities have diverted significant quantities of beverage containers and other recyclables from the waste stream. These programs complement the efforts of litter reduction programs. While beverage container deposit systems may also help reduce litter, part 244 focuses on deposit systems at federal facilities, which are principally office buildings. EPA believes that the part 244 deposit requirements are unnecessary for federal facilities for this and the other reasons described in this section.

Comment Regarding Retention and Enforcement of Part 244: According to several commenters, there is a lack of enforcement of 40 CFR part 244.

Findings Addressing This Comment: RCRA section 4005(c)(2)(A) authorizes the Administrator to enforce the prohibition against open dumping in any state that the Administrator has determined has not adopted an adequate program for facilities receiving hazardous household waste (''HHW'') or conditionally exempt small quantity generator (''CESQG'') waste. However, the part 244 solid waste management guidelines pertaining to beverage containers at issue in this rulemaking are not federal criteria for facilities which may receive HHW or CESQG waste that EPA has issued under RCRA sections 4004 or 4010. Nor were the beverage container guidelines intended to be adopted by states as part of a permit program to ensure compliance with such federal criteria. The Agency issued the part 244 guidelines instead under RCRA sections 1008 and 6004. Thus, EPA has no explicit authority in RCRA subtitle D, RCRA sections 1008 and 6004, or part 244 itself to enforce administratively or judicially the beverage container guidelines against federal facilities.

Comment in Support of Retaining Part 244 and Increased Recycling Rates: A commenter stated that without ''bottle bill states,'' the recycling rate for beverage containers would be much less nationally, and that if part 244 was enforced, recycling rates for beverage containers would double and potentially triple current levels at federal facilities in states without bottle bills.

Findings Addressing This Comment: As noted earlier, part 244 does not address ''bottle bill'' programs in general. EPA's research did not find data to address the impact of a beverage deposit container system on beverage container recovery rates at federal facilities. Such an analysis would be complicated by the predominance of office building settings in federal agencies (plus some residences in military agencies). Thus, there is no evidence available that would show higher recycling rates for containers in office settings due to deposit systems relative to drop-off systems typically used in federal office buildings. The overall impact of beverage deposit systems in this context is impossible to determine. However, the principal objective of 40 CFR part 244 was to establish the federal government as a leader in the collection of materials for recycling and to provide the impetus for new programs nationwide. As described elsewhere in this preamble, actions taken by the federal government at the direction of the President through Executive Order 12873 and the recently issued Executive Order 13101 demonstrate that agencies have made substantive and sustained progress towards implementing and expanding recycling programs.

B. Comments in Support of Removing Part 244

Comment on Impractical Expenses: Several commenters supported the removal of 40 CFR part 244, citing its impracticality and possible expenses. Commenters also stated that the system is unnecessary, considering that other, more comprehensive recycling collection programs are already in place.

Findings Addressing These Comments: EPA's research was focused on identifying existing recycling collection programs at federal facilities and did not address the economics of deposit programs in general. EPA concurs that the recycling of materials has been successfully accomplished in many federal facilities via more comprehensive solid waste management programs that include a wider range of materials than those addressed by a beverage container deposit system alone. In addition, as described previously in this preamble, EPA's research indicated that personnel at federal facilities consider the provisions of 40 CFR part 244 to be impractical and difficult to implement which could be cited as a basis for not implementing a bottle deposit system. When the requirements of part 244 were explained, facility personnel expressed strong reservations regarding their ability to implement the deposit system, citing logistical issues and lack of personnel to implement the regulation. Facility personnel discussed practical barriers ranging from ensuring the redemption of collected materials to requiring that beverage containers carry a label or stamp indicating the deposit amount.

IV. EPA's Decision Based on Comments Received

With the implementation of federal collection programs, state and local recycling collection mandates and programs, RCRA section 6001 and E.O. 12873, as amended by E.O. 13101, the need for separate guidelines for federal facilities on beverage containers has passed. Therefore, EPA is removing 40 CFR part 244 from the Code of Federal Regulations.

V. Analysis Under Executive Order (E.O.) 12866

Under Executive Order 12866, EPA must determine whether a regulatory action is significant and, therefore, subject to OMB review and the other provisions of the Executive Order. A significant regulatory action is defined by Executive Order 12866 as one that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations or recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' within the meaning of E.O. 12866.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally requires an agency to prepare, and make available for public comment, a regulatory flexibility analysis that describes the impact of a proposed or final rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant adverse economic impact on a substantial number of small entities. Pursuant to 5 U.S.C. 605(b), the Agency certifies that today's final rule will not have a significant adverse impact on a substantial number of small entities. Today's rule is deregulatory in nature. The effect of today's final rule is to remove obsolete guidelines which are mandatory only for Federal facilities but that, for various reasons, have generally not been implemented. Therefore, EPA certifies that today's rule will not have a significant economic impact on a substantial number of small entities. As a result, no Regulatory Flexibility Analysis is needed.

VII. Paperwork Reduction Act

The removal of these guidelines from the CFR merely reflects their current obsolescence and thus has no significant regulatory impact. There is no affect on requirements under the Paperwork Reduction Act.

VIII. Executive Order 12875: Enhancing the Intergovernmental Partnership

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, Executive Order 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, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 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 Executive Order 12875 do not apply to this rule.

IX. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

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, Executive Order 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 affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

X. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

''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 is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

XI. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rule does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

XII. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The Agency's analysis of compliance with the Unfunded Mandates Reform Act (UMRA) of 1995 found that the proposed action imposes no enforceable duty on any State, local or tribal governments or the private sector; thus today's rule is not subject to the requirements of sections 202 and 205 of UMRA.

XIII. Executive Order 12898: Environmental Justice

Under Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' as well as through EPA's April 1995, ''Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report,'' and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities, and all people live in clean and sustainable communities. The Agency does not believe, however, that today's rule deleting these obsolete solid waste management guidelines for beverage containers will have an adverse environmental or economic impact on any minority or low-income group, or on any other type of affected community.

XIV. Submission to Congress and the General Accounting Office

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). This rule will be effective July 19, 1999.

List of Subjects in 40 CFR Part 244

Environmental protection, Beverages, Government property, Recycling.

Dated: June 10, 1999.

Carol M. Browner,

Administrator.

Under the authority of 42 U.S.C. sections 6907, 6912, 6961, and 6964, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 244—[REMOVED]

1. Part 244 is removed.

[FR Doc. 99–15436 Filed 6–16–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93–158, RM–8239, RM–8317]

FM Broadcasting Services; Hazlehurst, Utica, and Vicksburg, Mississippi

AGENCY: Federal Communications Commission.

ACTION: Final Rule; application for review.

SUMMARY: In MM Docket No. 93–158, the Chief, Policy and Rules Division, dismissed with prejudice, pursuant to a request for settlement filed jointly by Flinn Broadcasting Corporation and Donald B. Brady, an *Application for Review* filed by Brady. He had requested review of the Memorandum Opinion and Order, 61 FR 7999, published March 1, 1996, on reconsideration of the *Report and Order*, 59 FR 55,593, published November 8, 1994. The *Report and Order* had granted a counterproposal in this proceeding, substituting Channel 265C2 at Utica, Mississippi, and two accommodating channel substitutions. With this action, the proceeding is terminated.

DATES: Effective June 17, 1999.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Jr., Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the *Memorandum Opinion and Order*, MM Docket 93–158, adopted May 5, 1999, and released May 14, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Information Center (room CY–A257), 445 12th Street, S.W., Washington, DC 20554. The complete text of this decision may be also purchased from the Commission's copy contractor, International Transcription Service, 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Charles W. Logan,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–15335 Filed 6–16–99; 8:45 am]

BILLING CODE 6712–01–P