toxics program (Wis. Admin. Code NR 445) as enforceable by the state only, even when the requirements were established in a permit issued pursuant to a SIP-approved program. Wisconsin's failure to include the terms established in a permit issued pursuant to a SIP-approved program into the federally enforceable side of its title V permits is contrary to 40 CFR 70.6.

4. Insignificant Emission Unit Requirements

40 CFR 70.5(c) authorizes EPA to approve as part of a state program a list of insignificant activities and emission levels which need not be included in the permit application. An application may not omit, however, information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the EPA approved schedule. Moreover, nothing in part 70 authorizes a state to exempt insignificant emission units (IEUs) from the permit content requirements of 40 CFR 70.6. Furthermore, the July 21, 1992 preamble to the part 70 regulations provides that the IEU exemption does not apply to permit content. 57 FR 32273 (July 21, 1992).

Wisconsin's regulations contain criteria for sources to identify IEUs in their applications, (Wis. Admin. Code NR 407), and require that permit applications contain information necessary to determine the applicability of, or to impose, any applicable requirement. Although Wisconsin's regulations are consistent with EPA's regulations at 40 CFR part 70, the State is not properly implementing its regulations because it is not including these applicable requirements in its title V permits. Therefore, Wisconsin's implementation of its regulations is inconsistent with part 70.

III. Federal Oversight and Sanctions

40 CFR 70.10(b) and (c) provide that EPA may withdraw a part 70 program approval, in whole or in part, whenever the approved program no longer complies with the requirements of part 70, EPA has notified the state of the noncompliance, and the permitting authority fails to take corrective action. 40 CFR 70.10(c)(1) lists a number of potential bases for program withdrawal, including inadequate fee collection, failure to comply with the requirements of part 70 in administering the program, and failure to timely issue permits.

40 CFR 70.10(b), which sets forth the procedures for program withdrawal, requires as a prerequisite to withdrawal that the EPA Administrator notify the permitting authority of any finding of deficiency by publishing a notice in the **Federal Register.** Today's notice satisfies this requirement and constitutes a finding of program deficiency. If Wisconsin has not taken ''significant action to assure adequate administration and enforcement of the program'' within 90 days after issuance of this notice of deficiency, EPA may, among other things, withdraw approval of the program using procedures consistent with 40 CFR 70.4(e) and/or promulgate, administer, and enforce a Federal title V program. *See* 40 CFR 70.10(b)(2). Additionally, 40 CFR 70.10(b)(3) provides that if the state has not corrected the deficiency within 18 months after the date of the finding of deficiency and issuance of the NOD, then the state would be subject to the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act, 18 months after that notice. Upon EPA action, the sanctions will go into effect unless the State has corrected the deficiencies identified in this notice within 18 months after signature of this notice.[1] These sanctions would be applied in the same manner, and subject to the same deadlines and other conditions as are applicable in the case of a determination, disapproval, or finding under section 179(a) of the Act.

In addition, 40 CFR 70.10(b)(4) provides that, if the state has not corrected the deficiency within 18 months after the date of the finding of deficiency, EPA will promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding.

This document is not a proposal to withdraw Wisconsin's title V program. Consistent with 40 CFR 70.10(b)(2), EPA will wait at least 90 days, at which point it will assess whether the state has taken significant action to correct the deficiencies outlined in this notice. *See* 40 CFR 70.10(b)(2) (providing that 90 days after issuance of NOD, EPA may take certain actions).

IV. Administrative Requirements

Under section 307(b)(1) of the Act, petitions for judicial review of today's action may be filed with the United States Court of Appeals for the appropriate circuit within 60 days of March 4, 2004.

[1] Section 179(a) provides that unless such deficiency has been corrected within 18 months after the finding, one of the sanctions in section 179(b) of the Act shall apply as selected by the Administrator. If the Administrator has selected one of the sanctions and the deficiency has not been corrected within 6 months thereafter, then sanctions under both sections 179(b)(1) and 179(b)(2) shall apply until the Administrator determines that the state has come into compliance.

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

Dated: February 22, 2004.

Thomas V. Skinner,

Regional Administrator, Region 5.

[FR Doc. 04–4822 Filed 3–3–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7631–4]

Delaware: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Delaware has applied to EPA for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these revisions satisfy all requirements needed to qualify for final authorization and is authorizing Delaware's changes through this immediate final action. EPA is publishing this rule to authorize the revisions without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Delaware's revisions to its hazardous waste program will take effect. If we receive comments that oppose this action, or portions thereof, we will publish a document in the **Federal Register** withdrawing the relevant portions of this rule, before they take effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the revisions to Delaware's program that were the subject of adverse comment.

DATES: This final authorization will become effective on May 3, 2004, unless EPA receives adverse written comments by April 5, 2004. If EPA receives any such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization, or portions thereof, will not take effect as scheduled.

ADDRESSES: Send written comments to Lillie Ellerbe, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814–5454. Comments may also be submitted

electronically to: *ellerbe.lillie@epa.gov* or by facsimile at (215) 814–3163. Comments in electronic format should identify this specific notice. You may inspect and copy Delaware's application from 8 a.m. to 4:30 p.m., at the following addresses: Delaware Department of Natural Resources & Environmental Control, Division of Air & Waste Management, Solid and Hazardous Waste Management Branch, 89 Kings Highway, Dover, DE 19901, Phone number 302–739–3689 and EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814–5254.

FOR FURTHER INFORMATION CONTACT: Lillie Ellerbe, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814–5454.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes to become more stringent or broader in scope, States must revise their programs and apply to EPA to authorize the revisions. Authorization of changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Has EPA Made in This Rule?

EPA concludes that Delaware's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Delaware final authorization to operate its hazardous waste program with the revisions described in its application for program revisions, subject to the procedures described in section E, below. Delaware has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions for which Delaware has not been authorized, including issuing HSWA permits, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

This decision serves to authorize revisions to Delaware's authorized hazardous waste program. This action does not impose additional requirements on the regulated community because the regulations for which Delaware is being authorized by today's action are already effective and are not changed by today's action. Delaware has enforcement responsibilities under its state hazardous waste program for violations of its program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether Delaware has taken its own actions.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize Delaware's program revisions. If EPA receives comments which oppose this authorization, or portions thereof, that document will serve as a proposal to authorize the revisions to Delaware's program that were the subject of adverse comment.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, or portions thereof, we will withdraw this rule, or portions thereof, as appropriate, by publishing a document in the **Federal Register** before the rule would become effective. EPA will base any further decision on the authorization of Delaware's program changes on the proposal mentioned in the previous section. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose the authorization of a particular revision to the State's hazardous waste program, we will withdraw that part of this rule, but the authorization of the program revisions that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Delaware Previously Been Authorized for?

Initially, Delaware received final authorization to implement its hazardous waste management program effective June 22, 1984 (53 FR 23837). EPA granted authorization for revisions to Delaware's regulatory program effective October 7, 1996 (61 FR 41345); October 19, 1998 (63 FR 44152); September 11, 2000 (65 FR 42871); and August 8, 2002 (67 FR 51478).

G. What Changes Are We Authorizing With Today's Action?

On November 28, 2003, Delaware submitted a program revision application, seeking authorization of additional revisions to its program in accordance with 40 CFR 271.21. Delaware's revision application includes various regulations which are equivalent to, and no less stringent than, changes to the Federal hazardous waste program, as published in the **Federal Register** on November 8, 2000, June 28, 2001, November 20, 2001 and April 9, 2002. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Delaware's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Delaware's final authorization for the following program revisions:

Delaware seeks authority to administer the Federal requirements that are listed in Table 1. This Table lists the State analogs that are being recognized as no less stringent than the appropriate Federal requirements. Unless otherwise stated, the State's statutory references are to the Delaware Regulations Governing Hazardous Waste (DRGHW), amended and effective July 1, 2002 and July 11, 2002. The statutory references are to 7 Delaware Code Annotated (1991).

TABLE 1

Description of Federal Requirement (Revision Checklists [1])	Analogous Delaware Authority
Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes, 65 *FR* 67068–67133, 11/08/00 Revision Checklist 189.	RCRA Cluster IX, [2] HSWA 7 Delaware Code (7 Del. Code) Chapter 63, § 6305 Delaware Regulations Governing Hazardous Waste (DRGHW) 261.32, 261 Appendices VII and VIII, 268.33, 268.40/Table
Change of Official EPA Mailing Address, 66 *FR* 34374–34376, 06/28/01, Revision Checklist 193.	RCRA Cluster XI, non-HSWA 7 Del. Code, § 6305 DRGHW 260.11(a)(11)
Inorganic Manufacturing Chemical Manufacturing Wastes Identification and Listing, 66 FR 58258–58300; 67 FR 17119–17120, 11/20/01; 04/09/02, Revision Checklist 195.	RCRA Cluster XII, HSWA/non-HSWA 7 Del. Code, §§ 6304, 6305 DRGHW 261.4(b)(15), 261.32, 261 Appendix VII, 268.36 (New paragraph), 268.40/Table

[1] A Revision Checklist is a document that addresses the specific changes made to the Federal regulations by one or more related final rules published in the **Federal Register.** EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal Regulations. For more information see EPA's RCRA State Authorization Web page at *http://www.epa.gov/epaoswer/hazwaste/state.*

[2] A RCRA ''Cluster'' is a set of Revision Checklists for Federal rules, typically promulgated between July 1 and June 30 of the following year.

In addition, Delaware will be authorized to carry out, in lieu of the Federal program, State-initiated revisions to provisions of the State's Program. The following State-initiated revisions equivalent and analogous to the numerically-identical RCRA provisions found at Title 40 of the Code of Federal Regulations: DRGHW 254.53, 264.344(c)(1), 265.1085(i), Part 265 Appendix I, Part 268 Appendix VIII, 279.11 Table 1. Another State-initiated revision being authorized by this notice is DRGHW 122.1(c)(7), which is equivalent and analogous to 40 CFR 270.1(c)(7). Delaware will also be authorized to carry out, in lieu of the Federal program, State-initiated revisions to provisions of the State's Program which are more stringent than is required by the RCRA program and are presented in section H.

H. Where Are the Revised Delaware Rules Different From the Federal Rules?

The Delaware hazardous waste program contains some provisions which are more stringent than is required by the RCRA program. The more stringent provisions are being recognized as a part of the Federally-authorized program and include the following:

1. At DRGHW 261.21(a)(1) and (3) Delaware deleted outdated language that referred to the approval of equivalent test methods. The State does not allow alternative test methods and thereby still remains more stringent.

2. At DRGHW 264.1033(l)(3)(ii), 264.1052(c)(2), (d)(6)(iii), 264.1053(g)(2), 264.1057(d)(2), 264.1058(c)(2), 264.1084(k)(1), 264.1085(f)(1), and 264.1086(c)(4)(iii) Delaware is more stringent because it requires a facility to make a first effort at repair of a defective pollution control device or component to be within one calendar day after detection instead of five calendar days as EPA requires.

3. At DRGHW 265.37 Delaware is more stringent because it clarifies that an owner or operator must require written documentation of receipt to establish arrangements for emergency services. EPA states arrangements must be made but does not require written documentation.

4. At DRGHW 265.1033(k)(3)(ii), 265.1052(d)(6)(ii), 255.1053(g)(2), 265.1057(d)(2), 265.1058(c)(2), 265.1085(k)(1), 265.1086(f)(1), and 265.1087(c)(4)(iii) Delaware is more stringent because it requires a facility to make a first effort at repair of a defective pollution control device or component to be within one calendar day after detection instead of five calendar days as EPA requires.

5. At DRGHW 279.42(b) Delaware is more stringent because it only allows used oil transporters the use of the State's form when requesting EPA identification (ID) numbers. EPA allows the use of the form or a letter for EPA ID numbers.

I. Who Handles Permits After This Authorization Takes Effect?

After authorization, Delaware will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which it issued prior to the effective date of this authorization. Until such time as formal transfer of EPA permit responsibility to Delaware occurs and EPA terminates its permit, EPA and Delaware agree to coordinate the administration of permits in order to maintain consistency. EPA will not issue any additional new permits or new portions of permits for the provisions listed in section G after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Delaware is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Delaware?

Delaware is not seeking authorization to operate the program on Indian lands, since there are no Federally-recognized Indian lands in Delaware.

K. What Is Codification and Is EPA Codifying Delaware's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA reserves the amendment of 40 CFR part 272, subpart I, for this authorization of Delaware's program changes until a later date.

L. Statutory and Executive Order Reviews

This rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by State law (*see* Supplementary Information: section A. Why are Revisions to State Programs Necessary?). Therefore, this rule complies with applicable executive orders and statutory provisions as follows.

1. *Executive Order 12866: Regulatory Planning Review*—The Office of Management and Budget has exempted this rule from its review under Executive Order 12866. 2. *Paperwork Reduction Act*—This rule does not impose an information collection burden under the Paperwork Reduction Act. 3. *Regulatory Flexibility Act*—After considering the economic impacts of

today's rule on small entities under the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities. 4. *Unfunded Mandates Reform Act*—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. 5. *Executive Order 13132: Federalism*—Executive Order 12132 does not apply to this rule because it will not have federalism implications (*i.e.,* 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). 6. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*—Executive Order 13175 does not apply to this rule because it will not have tribal implications (*i.e.,* substantial direct effects 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). 7. *Executive Order 13045: Protection of Children from Environmental Health & Safety Risks*—This rule is not subject to Executive Order 13045 because it is not economically significant and it is not based on health or safety risks. 8. *Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*—This rule is not subject to Executive Order 13211 because it is not a significant regulatory action as defined in Executive Order 12866. 9. *National Technology Transfer Advancement Act*—EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, section 12(d) of the National Technology Transfer and Advancement Act does not apply to this rule. 10. *Congressional Review Act*—EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication 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 action will be effective on May 3, 2004.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: February 20, 2004.

James W. Newsom,

Acting Regional Administrator, EPA Region III.

[FR Doc. 04–4820 Filed 3–3–04; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Part 67

[USCG–2001–8825]

RIN 1625–AA28 (Formerly RIN 2115–AG08)

Vessel Documentation: Lease Financing for Vessels Engaged in the Coastwise Trade; Correction

AGENCY: Coast Guard, DHS.

ACTION: Final rule; correction.

SUMMARY: On February 4, 2004, the Coast Guard published a final rule in the **Federal Register**, which inadvertently contained errors in the preamble. This document corrects those errors.

DATE: Effective on March 4, 2004.

FOR FURTHER INFORMATION CONTACT: Patricia Williams, Deputy Director, National Vessel Documentation Center, Coast Guard, telephone 304–271–2506.

SUPPLEMENTARY INFORMATION: The Coast Guard published a final rule in the **Federal Register** of February 4, 2004 (69 FR 5390; FR Doc. 04–2230). The rule contained inadvertent errors in the preamble, under the heading, *List of Changes to the SNPRM.* These errors are nonsubstantive, but we are correcting them to prevent confusion.

In final rule FR Doc. 04–2230 published on February 4, 2004 (69 FR 5390), make the following corrections. On page 5392, in the third column, in item number 12, under the *List of Changes to the SNPRM*, remove the first paragraph which begins with the words, ''The grandfather provision * * *'' and ends with the words, ''* * * prohibited by this rule.'' In its place add the following paragraph:

''The grandfather provision in § 67.20(b) has one change. The date before which an endorsement must be issued to be eligible for the grandfather provision is changed from the effective date of this final rule to the date of publication of this rule. The purpose of the grandfather provision is to protect existing business arrangements. Changing the effective date (which, at the time the SNPRM was written, we expected to be 30 days after the publication date) of the rule to the date of publication prevents the establishment of new business arrangements that would be prohibited by this rule.''

The second and third paragraphs under item 12 remain unchanged.

Dated: February 26, 2004.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security, and Environmental Protection.

[FR Doc. 04–4782 Filed 3–3–04; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 031229327–4073–02; I.D. 121603B]

RIN 0648–AR58

Fisheries of the Northeastern United States; Atlantic Deep-Sea Red Crab Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final 2004 specifications for the Atlantic deep-sea red crab fishery.

SUMMARY: NMFS issues final specifications for the 2004 Atlantic deep-sea red crab (red crab) fishery. The target total allowable catch (TAC) and fleet days at sea (DAS) for fishing year (FY) 2004 are 5.928 million lb (2.69 million kg) and 780 fleet DAS, respectively. One qualified limited access vessel has opted out of the fishery for FY2004; therefore, the four remaining limited access vessels are each allocated 195 DAS. The intent of