(*1*) COC_{50}: $2,740.
(*2*) COC_{90}: $4,930.
(*3*) MC_{50}: $1,400 per gram per brake horsepower-hour.
(*4*) F: 1.3.
(*5*) UL: 4.5 grams per brake horsepower-hour; notwithstanding § 86.1104–91.

(B) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.004–11(a)(1)(i) in accordance with § 86.1113–87(h): 0.197.

(iii) For heavy heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):
(*1*) COC_{50}: $6,810.
(*2*) COC_{90}: $12,210.
(*3*) MC_{50}: $5,600 per gram per brake horsepower-hour.
(*4*) F: 1.3.
(*5*) UL: 6.0 grams per brake horsepower-hour; notwithstanding § 86.1104–91.

(B) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.004–11(a)(1)(i) in accordance with § 86.1113–87(h): 0.090.

(iv) For diesel urban bus engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113–87(a):
(*1*) COC_{50}: $3,930.
(*2*) COC_{90}: $6,660.
(*3*) MC_{50}: $3,800 per gram per brake horsepower-hour.
(*4*) F: 1.3.
(*5*) UL: 4.5 grams per brake horsepower-hour; notwithstanding § 86.1104–91.

(B) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.004–11(a)(1)(i) in accordance with § 86.1113–87(h): 0.155.

(2) [Reserved]

[FR Doc. 02–19981 Filed 8–7–02; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7256–8]

Delaware: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Delaware applied to EPA for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reached a final determination that these changes to the Delaware hazardous waste program satisfy all requirements necessary for final authorization. Thus, with respect to these revisions, EPA is granting final authorization to the State to operate its program subject to the limitations on its authority retained by EPA in accordance with RCRA, including the Hazardous and Solid Waste Amendments of 1984.

EFFECTIVE DATE: Final authorization for the revisions to Delaware's hazardous waste management program shall be effective on August 8, 2002.

FOR FURTHER INFORMATION CONTACT: Lillie Ellerbe, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, 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, States must revise their programs accordingly and ask EPA to authorize the revisions. Revisions to State programs may be necessary when Federal or State statutory or regulatory authority is changed. For example, most commonly, States must revise their programs when EPA promulgates changes to its regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

Delaware received final authorization on June 8, 1984, effective June 22, 1984 (53 FR 23837), to implement a hazardous waste management program in lieu of the Federal Program. EPA subsequently granted authorization for revisions to Delaware's program on August 8, 1996, effective October 7, 1996 (61 FR 41345); August 18, 1998, effective October 19, 1998 (63 FR 44152); and July 12, 2000, effective September 11, 2000 (65 FR 42871).

Please note that in the aforementioned authorization action effective September 11, 2000, Checklist 152 was listed in the program revision summary table. This checklist includes certain import/export provisions for which States cannot receive authorization. While Delaware adopted the provisions listed in Checklist 152, the revisions listed in 40 CFR 262, Subparts E and H, will continue to be administered by EPA.

On January 11, 2002, Delaware submitted to EPA a complete program revision application, in accordance with 40 CFR 271.21, seeking authorization of additional changes to its program. On February 27, 2002, EPA published both an immediate final rule (67 FR 8900–8902) granting Delaware final authorization for these revisions to its federally-authorized hazardous waste program, along with a companion proposed rule announcing EPA's proposal to grant such final authorization (67 FR 8925–8926). EPA announced in both notices that the immediate final rule and the proposed rule were subject to a thirty-day public comment period. The public comment period ended on March 29, 2002. Further, EPA stated in both notices that if it received adverse comments on its intent to authorize Delaware's program revisions that it would (1) withdraw the immediate final rule; (2) proceed with the proposed rule as the basis for the receipt and evaluation of such comments, and (3) subsequently publish a final determination responding to such comments and announce its final decision whether or not to authorize Delaware's program revisions. EPA did receive written comments from two commenters during the public comment period and on April 25, 2002, published a notice withdrawing the immediate final rule (67 FR 20446). Today's action responds to the comments EPA received and publishes EPA's final determination granting Delaware final authorization of its program revisions. Further background on EPA's immediate final rule and its tentative determination to grant authorization to Delaware for its program revisions appears in the aforementioned **Federal Register** notices. The issues raised by the commenters are summarized and responded to as follows.

B. What Were the Comments and Responses to EPA's Proposal?

Both commenters challenged Region III's process for authorizing revisions to Delaware's program in not providing for a public hearing, which, they state, is required by 40 CFR 271.20. EPA disagrees. The regulations relied upon by the commenters apply to initial program authorization, and not, as in the instant matter, to program revisions. Rather, EPA has proceeded in accordance with 40 CFR 271.21 pursuant to which public hearings are not required. On March 4, 1986, at 51 FR 7540–7542, EPA promulgated amendments to 40 CFR 271.21 that eliminated public hearing requirements

for program revisions. In this March 4, 1986 **Federal Register** EPA stated: ''As discussed in the proposal, the new procedures do not require public hearings to be held in conjunction with EPA's authorization decisions. Since there is no legal requirement to provide for hearings on revision decisions and little public interest has been shown to date in attending hearings on initial authorization of State programs, we think the opportunity to provide written comments is adequate. Only one comment was received on the elimination of routine public hearings, and that comment favored the rule change. However, while the regulatory requirement is deleted, a Regional Administrator, in his discretion, could decide to hold a hearing.'' (51 FR 7541).

Consequently, EPA Region III believes it adhered to the governing regulations regarding opportunities for public hearings during the EPA approval process for State program revisions. EPA Region III also believes that due to the nature and limited number of comments received, the opportunity to provide for written comments, in lieu of a public hearing, was an adequate process to obtain public comment.

Both commenters shared a concern about the ''use constituting disposal'' provisions of subpart C of 40 CFR part 266. They appear to have concerns about the provisions of Delaware regulations (which are identical to EPA's) that allow, under certain conditions, ''hazardous wastes,'' like lime-based slag, to be used as a ''fertilizer.'' They argue that Delaware's statute (like RCRA) does not allow the land application of hazardous wastes (beneficial or not) unless it occurs at a permitted disposal facility. For the reasons set forth below, EPA disagrees.

EPA's regulations accommodate the proper reuse, recycling and reclamation of as many resources destined for disposal as possible, while regulating hazardous wastes and hazardous waste residuals that must be discarded.

EPA's regulations at 40 CFR part 266, subpart C, place controls on the management of hazardous wastes before such wastes are made into a fertilizer. Producing fertilizer from an otherwise hazardous waste is a type of recycling which, in EPA's regulations, is referred to as ''use constituting disposal.'' Rather than prohibiting the use of waste-derived fertilizers, EPA promulgated regulations to require that hazardous wastes that are going to be made into fertilizers be managed in accordance with all applicable hazardous waste management requirements until the wastes are actually made into a fertilizer.

With regard to the ''use constituting disposal'' provisions of 40 CFR part 266—subpart C, in the context of fertilizer applications, these provisions in Delaware's program were authorized by EPA as part of Delaware's first program revision, which took effect on October 7, 1996—over five years ago. As is Delaware's practice, Delaware adopted EPA's rules verbatim. Therefore, in the State's revision authorization application, Delaware claimed its rules were equivalent to EPA's.

Delaware's current revision application, for which EPA recently published its tentative approval, with an opportunity for public comment, does not include any regulatory revisions to 40 CFR part 266—subpart C. Since the comment EPA has received on ''use constituting disposal'' is not part of Delaware's most recent program revision application, EPA believes the public comments on ''use constituting disposal'' are not within the scope of this Agency action.

One commenter raised a third issue and claimed that Delaware's EPA-delegated National Pollutant Discharge Elimination System (NPDES) program is not being effectively carried out. The commenter questioned why EPA would grant additional hazardous waste management authority to a State agency that is allegedly not performing well in another program area. EPA has determined that there is no basis in 40 CFR part 271 that requires EPA to evaluate the effectiveness of any other environmental program's management in Delaware before authorizing revisions to Delaware's hazardous waste program. Based on EPA's oversight of Delaware's hazardous waste program over the years, EPA has determined that DNREC implements an effective hazardous waste program, and EPA sees no reason not to proceed with authorizing Delaware's hazardous waste program revisions.

C. What Decisions Have We Made in This Rule?

Based on EPA's response to public comments, the Agency has determined that approval of Delaware's RCRA program revisions should proceed. EPA has made a final determination 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 changes described in its application for program revisions. 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 any such HSWA requirements and prohibitions in Delaware, including issuing HSWA permits, until the State is granted authorization to do so.

For further background on the scope and effect of today's action to approve Delaware's RCRA program revisions, please refer to the preambles of EPA's February 27, 2002 proposed and immediate final rules to grant authorization to Delaware for its program revisions, at 67 FR 8925–8926 and 67 FR 8900–8902, respectively.

D. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993); therefore, this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action 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 action authorizes 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). For the same reason, this action does not have tribal implications within meaning of Executive Order 13175 (65 FR 68249, November 6, 2000). This action does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This action will 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), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant and does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the Attorney General's ''Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. 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 document 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 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 August 8, 2002.

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: August 1, 2002.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 02–20096 Filed 8–7–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

49 CFR 1503

[Docket No. TSA–2002–12777]

RIN 2110–AA09

Investigative and Enforcement Procedures

AGENCY: Transportation Security Administration (TSA), DOT.

ACTION: Interim final rule.

SUMMARY: This rulemaking establishes the interim investigative and enforcement procedural rules that the TSA will use to address statutory and regulatory violations. It adopts, in large part, the Federal Aviation Administration's (FAA) investigative and enforcement procedures. In addition, this rulemaking adopts the FAA's adjustment of civil penalties for inflation.

DATES: This rule is effective August 8, 2002.

FOR FURTHER INFORMATION CONTACT: Quang Nguyen, Civil Enforcement Division, Office of the Chief Counsel (TSA–2), Transportation Security Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 493–1233; or e-mail: *quang.nguyen@tsa.dot.gov*.

SUPPLEMENTARY INFORMATION:

Availability of Final Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last digits of the docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page that contains the docket summary information for the docket you selected, click on the final rule.

You can also get an electronic copy using the Internet through the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140html*.

In addition, copies are available by writing the Transportation Security Administration, Attention: Enforcement Docket, Office of the Chief Counsel (TSA–2); 400 Seventh Street, SW., Washington, DC 20590. Such requests should identify the docket number of this rulemaking.

Abbreviations and Terms Used in This Document

ATSA—Aviation and Transportation Security Act
FSD—Federal Security Director
SSI—Sensitive Security Information
TSA—Transportation Security Administration
Under Secretary—The Under Secretary of Transportation for Security

Background

On November 19, 2001, the Aviation and Transportation Security Act (ATSA) (Public Law 107–71) became law. ATSA created the TSA, and transferred most aviation security functions from the FAA to the TSA. With some modifications, the civil aviation security rules have been transferred from the FAA (in title 14, Code of Federal Regulations) to the TSA (in title 49, Code of Federal Regulations) in a separate rulemaking (see docket number TSA–2002–11602). 67 FR 8340 (February 22, 2002). Under ATSA, the Under Secretary of Transportation for Security may impose a civil penalty for certain statutory violations of 49 U.S.C. chapter 449 or a regulation prescribed or order issued thereunder.

ATSA section 141 provides that all rules issued by the FAA continue in effect until modified or terminated by the TSA. However, part 13 of the FAA regulations includes references to FAA agency attorneys and the FAA decision