$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 this final approval action 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.

(h) 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 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 31, 2002.

(i) National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

(j) 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 July 31, 2002. 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) of the Clean Air Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 20, 2002.

Jack McGraw,

Acting Regional Administrator, Region VIII.

Title 40, chapter I, part 52 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart TT—Utah

2. Section 52.2320 is amended by adding paragraph (c)(51) to read as follows:

§ 52.2320 Identification of plan.

* * * * *

(c) * * *

(51) On May 13, 2002, the Governor of Utah submitted a revision to Utah's SIP involving a new rule R307-310 ''Salt Lake County: Trading of Emission Budgets for Transportation Conformity.'' R307–310 allows trading from the motor vehicle emissions budget for primary Particulate Matter of 10 microns or less in diameter (PM_{10}) in the Salt Lake County PM_{10} SIP to the motor vehicle emissions budget for Nitrogen Oxides (NO_X) in the Salt Lake County PM_{10} SIP. This trading mechanism allows Salt Lake County to increase their NO_X budget in the Salt Lake County PM_{10} SIP by decreasing their PM_{10} budget by an equivalent amount. These adjusted budgets in the Salt Lake County PM_{10} SIP would then be used for transportation conformity purposes.

(i) Incorporation by reference.

(A) Rule R307–310 ''Salt Lake County: Trading of Emission Budgets for Transportation Conformity'', as adopted on May 13, 2002, by the Utah Air Quality Board, and State effective on May 13, 2002.

[FR Doc. 02–16458 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7239–7]

Idaho: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Idaho applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has reached a final determination that these changes to the Idaho hazardous waste management program satisfy all of the requirements necessary to qualify 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 (HSWA).

EFFECTIVE DATE: Final authorization for the revisions to the hazardous waste program in Idaho shall be effective at 1 p.m. on July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, WCM–122, U.S. EPA Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM–122, Seattle, Washington, 98101, phone (206) 553–0256.

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 and consistent with the Federal program. States are required to have enforcement authority which is adequate to enforce compliance with the requirements of the hazardous waste program. Under RCRA Section 3009, States are not allowed to impose any requirements which are less stringent

than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. 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 change their programs because of changes to EPA's regulations in Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

Idaho initially received final authorization on March 26, 1990, effective April 9, 1990 (55 FR 11015), to implement the State's hazardous waste management program. EPA also granted authorization for changes to Idaho's program on April 6, 1992, effective June 5, 1992 (57 FR 11580), June 11, 1992, effective August 10, 1992 (57 FR 24757), April 12, 1995, effective June 11, 1995 (60 FR 18549), and October 21, 1998, effective January 19, 1999 (63 FR 56086).

On May 1, 2001, Idaho submitted a final program revision application to EPA in accordance with 40 CFR 271.21 seeking authorization of changes to the State program. On August 22, 2001, EPA published proposed and immediate final rules announcing its intent to grant Idaho final authorization for revisions to Idaho's hazardous waste program. The proposed rule can be found at 66 FR 44107, August 22, 2001. The immediate final rule appears at 66 FR 44071, August 22, 2001.

B. What Were the Comments to EPA's Proposed and Immediate Final Rule?

Along with its intent to immediately authorize revisions to the Idaho hazardous waste management program, EPA announced the availability of the authorization revision application and rulemaking for public comment. EPA received one adverse comment during the comment period in the form of a ''Petition to the United States Environmental Protection Agency to Commence Proceedings for Withdrawal of the Idaho Department of Environmental Quality (IDEQ) as the RCRA Authority for the State of Idaho'' (Petition) challenging the administration and enforcement of the hazardous waste program by the State of Idaho and seeking withdrawal of authorization. EPA withdrew its Immediate Final Rule on October 5, 2001, 66 FR 50833, in order to respond to the adverse comment. EPA's proposed rule, 66 FR 44107, was not withdrawn and was retained for later consideration. EPA has taken into consideration comments in the Petition relating to the Idaho hazardous waste management program in taking today's action. The significant issues raised by the Commentors for purposes of this revision authorization and EPA's responses follow below.

Today's action is not a determination on the merits of the Petition to withdraw federal authorization for environmental programs in Idaho. In response to the Petition, EPA initiated an informal investigation of the authorized hazardous waste program in Idaho. Based on the results of that investigation, on March 7, 2002, the Regional Administrator for Region 10 found no basis to commence withdrawal proceedings and denied the Petition. That response is included in the administrative record for this rulemaking. The Petition raised many issues not relevant to the revision authorization. EPA considered those issues fully in its response to the Petition.

This rulemaking considers and responds to the comments relevant to the revision authorization. Commentors raised issues in the following areas: (1) IDEQ's compliance with the permitting requirements for authorized hazardous waste programs; (2) IDEQ's enforcement of the authorized hazardous waste program; (3) IDEQ's compliance with the Memorandum of Agreement (MOA) for the authorized hazardous waste program; and (4) IDEQ's funding and staffing of the authorized program.

Comment area #1: EPA received comment relating to IDEQ's implementation of RCRA permitting. The comments generally asserted that the IDEQ was not issuing permits as required but was allowing facilities to operate under interim status without permits, and was for those permits issued, not issuing permits which conformed to the requirements of 40 CFR part 271. Commentors specifically focused on permitting issues involving the Idaho National Environmental and Engineering Laboratory (''INEEL'') facility, a mixed (radioactive and hazardous) waste facility in Idaho. Commentors claimed that IDEQ had not issued permits to units at INEEL and had allowed units to illegally operate without permits. Commentors also claimed that permits issued by IDEQ to the INEEL facility were incomplete and failed to provide for full public participation.

Response: To meet EPA approval standards for authorization, State programs must include requirements for permitting. See 40 CFR 271.1(c). States with authorized hazardous waste programs under 40 CFR part 271 must have legal authority to implement permitting provisions as set forth in 40 CFR 271.13 ''Requirements with respect to permits and permit applications.'' 40 CFR 270.13(a) provides: ''State law must require permits for owners and operators of all hazardous waste management facilities required to obtain a permit under 40 CFR part 270 and prohibit the operation of any hazardous waste management facility without such a permit, except that States may, if adequate legal authority exists, authorize owners and operators of any facility which would qualify for interim status under the Federal program to remain in operation until a final decision is made on the permit application, * * * .'' Idaho's legal authorities are reviewed with each revision to the authorized program and were reviewed prior to EPA's issuance of the August 22, 2001 immediate final rule. EPA's review of Idaho legal authorities did not disclose any lack of authority in Idaho law to require hazardous waste management facilities to obtain a permit or to operate as an interim status facility.

40 CFR 271.14, ''Requirements for permitting,'' mandates that: ''All State programs under this subpart must have legal authority to implement each of the following provisions and must be administered in conformance with each; except that States are not precluded from omitting or modifying any provisions to impose more stringent requirements * * * .'' The regulation then specifies that 40 CFR 270.1(c)(1), 270.4, 270.5, 270.10 through 33; 270.40, 270.41, 270.43, 270.50, 270.60, 270.61, 270.64 are mandatory. Idaho incorporates the federal regulations by reference and as a consequence of that incorporation, each of these requisite provisions is included in Idaho's hazardous waste regulations. Idaho's authority to compel permitting is established. EPA next turns to Idaho's implementation of that authority.

Idaho's authorized hazardous waste program contains a small universe of facilities subject to the requirement to obtain a final RCRA permit and of this universe the INEEL facility represents the largest and most complex facility subject to RCRA permitting requirements in the State. EPA's database shows that all facilities subject to the hazardous waste permitting requirements of the authorized program in Idaho have been issued final RCRA permits with the exception of the INEEL facility, which has been partially permitted. The federal program allows a facility to receive a partial permit. 40 CFR 270.1(c)(4) provides: ''EPA may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility.

The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.'' Idaho's hazardous waste program, which incorporated the federal regulation at 40 CFR 270.1(c)(4) by reference, has been authorized to allow partial permitting, replacing ''EPA may issue'' with ''IDEQ may issue.'' See IDAPA 16.01.05.012.

The Commentors maintain permitting less than all units at a facility results in an incomplete permit and is consequently non-compliant with the requirement to obtain a RCRA permit for the facility. The regulations clearly allow for the use of partial permitting and such use is in compliance with the RCRA permitting requirements. At a complex federal facility, such as INEEL with 137 hazardous waste management units, partial permitting is an appropriate and compliant approach to permitting the facility. Those units which have not yet been permitted are required to comply with the interim status standards until permitted, thus there is no regulatory gap in managing hazardous wastes at a facility where partial permits have been issued.

The Commentors also generally asserted that the IDEQ did not allow full public participation in permit decision making. Those requirements are found at 40 CFR part 124. Idaho incorporated 40 CFR part 124 subparts A and B by reference and is authorized for those regulations. Public participation requirements are applicable at the time of permitting and are applicable to partial permits. Commentors will have an opportunity to comment on units not addressed in a partial permit when those units are themselves permitted.

EPA does not agree that IDEQ failed to comply with the Expanded Public Participation Rule for certain permitting activities at the INEEL facility. The permitting activities occurred before the State of Idaho enacted the rule as part of its hazardous waste program. Idaho enacted the Expanded Public Participation Rule on July 2, 1997; the Idaho hazardous waste program was authorized for the rule on October 21, 1998. Prior to the 1997 enactment, the rule was not a requirement of the hazardous waste program in Idaho and the State could not require compliance with the federal rule. The rule is applicable to permit applications in Idaho currently and must be complied with. Information provided by Commentors on related matters shows that Commentors have availed themselves of the opportunity to comment on permits issued by the IDEQ as allowed under the Expanded Public Participation Rule.

Comment area #2: EPA received comment relating to the IDEQ's enforcement of the authorized hazardous waste program. The Commentors generally asserted that the IDEQ failed to act on violations of permits or program requirements, failed to seek adequate penalties, failed to inspect and monitor hazardous waste activities and failed to initiate closure for non-complaint facilities. The Commentors enforcement concerns focused on enforcement at the INEEL facility.

Response: IDEQ provided EPA with a statistical summary of enforcement actions taken by IDEQ since 1990 at INEEL. IDEQ issued INEEL Notices of Violation at least eight times and assessed cash penalties of $906,031.89 and Supplemental Environmental Projects valued at $342,606.00. EPA, in two separate program reviews, did not find IDEQ's enforcement of its hazardous waste program at INEEL to be problematic and has not found the State's enforcement of the authorized hazardous waste program at INEEL to be inadequate. The Commentors contention that IDEQ failed to close non-compliant facilities is inaccurate and is based on the Commentors' belief that a full permit for all units is required for a facility to be compliant with RCRA. As has been discussed, partial permitting of certain units, while allowing others to remain subject to the interim status standards, does not result in non-compliance for those units not addressed by the partial permit.

Comment area #3: The Commentors asserted that IDEQ was not in compliance with the MOA, a required element of the authorized hazardous waste program.

Response: States are required, for purposes of administering an authorized hazardous waste program, to execute an MOA with EPA. See 40 CFR 271.8. The MOA includes, among others, mandatory provisions to coordinate enforcement and inspection efforts between the state and EPA, including the sharing of information on facilities and permits. The Commentors did not point to any specific area of the MOA where IDEQ was out of compliance with the agreement but discussed concerns with IDEQ's permitting activities at the INEEL facility.

EPA has not found any failure on the part of IDEQ to comply with the currently authorized MOA. Nor, as discussed above, does EPA have cause to find that IDEQ failed to implement the authorized program at the INEEL facility. Although Commentors may disagree with the issuance of partial permits at INEEL, partial permitting is allowed under the federal regulations and is an authorized part of the Idaho hazardous waste program and is not inconsistent with the MOA.

EPA notes that IDEQ submitted a revised MOA as a part of the application package for this rulemaking. The revised MOA will become part of the authorized program as a result of this final rule.

Comment area #4: The Commentors expressed concern over IDEQ's funding and staffing levels and generally asserted that the IDEQ was underfunded and understaffed to carry out an authorized hazardous waste program.

Response: In response to this concern, EPA looked at OSWER Directive 9540.00–10 ''Capability Assessment Guidance,'' January 30, 1992 for ''Resources and Skills Mix'' used in assessing overall state capability. The guidance specifies that EPA look at the demonstrated ability of the State to bring sufficient and appropriate resources to the program, regardless of short-term staffing shortages, unpredictable legislative activities regarding appropriations for the state program, and regardless of competing demands for resources available for program priorities. OSWER Directive 9540.00–10. Unacceptable capability would be identified where, for example, a State was significantly understaffed, had a high turnover rate of staff resulting in poor work product and had not made an effort to correct the situation. EPA's review of IDEQ's program description and attachments, which were submitted as part of the authorization package for this revision to the authorized hazardous waste program, did not find the program to be understaffed or to be experiencing a high turnover rate of staff. Rather, the full time equivalent (FTE) personnel devoted to the IDEQ hazardous waste management program adequately meet the staffing component of skills and personnel necessary for an authorized hazardous waste program.

With respect to funding resources available, EPA reviewed funding guidance issued by the Office of Solid Waste (OSW) in 1996. This guidance was issued in the context of providing federal grant money to the states pursuant to Section 3011 of RCRA. The guidance established a minimum funding requirement of $466,666 for maintaining hazardous waste programs in small states , such as Idaho, and with small universes of hazardous waste activities. Idaho's authorization application package for this rulemaking included information indicating that Idaho's contribution to the minimum

funding requirement was $943,900, well above the minimum level set by EPA's own guidance.

C. What Decisions Have We Made in this Rule?

EPA has made a final determination that Idaho's application for authorization of the revisions to the Idaho authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, with respect to the revisions, we are granting Idaho final authorization to operate its hazardous waste program as described in the revision authorization application. Idaho's authorized program will be responsible for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of RCRA, including the Hazardous and Solid Waste Amendments of 1984 (HSWA). Idaho's authorized program does not extend to Indian country. EPA retains jurisdiction and authority to implement and enforce RCRA in Indian country within the State boundaries.

New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA are implemented by EPA and take effect in States with authorized programs before such programs are authorized for the requirements. Thus, EPA will implement those HSWA requirement and prohibitions in Idaho, including issuing permits or portions of permits, until the State is granted authorization to do so.

D. What Will Be the Effect of Today's Action?

The effect of today's action is that a facility in Idaho subject to RCRA must comply with the authorized State program requirements and with any applicable Federally-issued requirement, such as, for example, the federal HSWA provisions for which the State is not authorized, and RCRA requirements that are not supplanted by authorized State-issued requirements, in order to comply with RCRA. Idaho has enforcement responsibilities under its State hazardous waste program for violations of its currently authorized program and will have enforcement responsibilities for the revisions which are the subject of this final rule. EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

—Do inspections, and require monitoring, tests, analyses or reports;

—Enforce RCRA requirements, including State program requirements that are authorized by EPA and any applicable Federally-issued statutes and regulations, and suspend or revoke permits; and

—Take enforcement actions regardless of whether the State has taken its own actions.

This final action approving these revisions will not impose additional requirements on the regulated community because the regulations for which Idaho's program is being authorized are already effective under State law.

E. What Rules Are We Authorizing With Today's Action?

EPA is granting final authorization for the revisions to Idaho's federally authorized program described in Idaho's final complete program revision application, submitted to EPA on May 1, 2001. We have made a final determination that Idaho's hazardous waste program revisions, as described in this rule, satisfy the requirements necessary for final authorization. Therefore, we grant Idaho final authorization for all delegable hazardous waste regulations promulgated as of July 1, 1998, as incorporated by reference in IDAPA 16.01.05.(002)-(016) and 16.01.05.997. [1] Any subsequent changes to the Federal program or to State law that occurred after July 1, 1998 are not part of Idaho's authorized RCRA program. EPA is not authorizing IDAPA 16.01.05.000; 16.01.05.001; 16.01.05.006(02); 16.01.05.016(02)(a),(b); 16.01.05.017–996; 16.01.05.998; and 16.01.05.999.

F. Who Handles Permits After This Authorization Takes Effect?

Idaho will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits or portions of permits issued by EPA Region 10 prior to final authorization of this revision will continue to be administered by EPA Region 10 until the issuance or re-issuance after modification of a State RCRA permit and until EPA takes action on its permit or portion of permit. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit or portion of permit. EPA will continue to issue permits or portions of permits for HSWA requirements for which Idaho is not yet authorized.

[1] Sections of the Federal hazardous waste program are not delegable to the states. These sections are 40 CFR part 262 subparts E, F, & H; 40 CFR 268.5; 40 CFR 268.42(b); 40 CFR 268.44(a)-(g); and 40 CFR 268.6. Authority for implementing the provisions contained in these sections remains with EPA.

G. What Is Codification and Is EPA Codifying Idaho'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's authorized rules in 40 CFR part 272. EPA is reserving the amendment of 40 CFR part 272, subpart F for codification of Idaho's program at a later date.

H. How Does Today's Action Affect Indian Country (18 U.S.C. Section 1151) in Idaho?

EPA's decision to authorize the Idaho hazardous waste program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' as defined in 18 U.S.C. 1151. This includes: (1) All lands within the exterior boundaries of Indian reservations within or abutting the State of Idaho; (2) Any land held in trust by the U.S. for an Indian tribe; and (3) Any other land, whether on or off an Indian reservation that qualifies as Indian country. Therefore, this action has no effect on Indian country. EPA retains jurisdiction over ''Indian Country'' as defined in 18 U.S.C. 1151.

I. 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), and 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 also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationships 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 it 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 28344, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. This action does not include environmental justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

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) 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, 1988) 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 final 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.*).

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: June 20, 2002.

L. John Iani,

Regional Administrator, Region 10.

[FR Doc. 02–16465 Filed 6–28–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 412 and 413

[CMS–1069–F2]

RIN –0938–AL40

Medicare Program; Prospective Payment System for Inpatient Rehabilitation Facilities; Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correcting amendment.

SUMMARY: In the August 7, 2001 issue of the **Federal Register** (66 FR 41316), we published a final rule establishing a prospective payment system (PPS) for Medicare payment of inpatient hospital services provided by a rehabilitation hospital or rehabilitation unit of a hospital. The effective date was January 1, 2002. This correcting amendment corrects a limited number of technical and typographical errors identified in the August 7, 2001 final rule. It also corrects an example related to the Inpatient Rehabilitation Facility Patient Assessment Instrument contained within the final rule.

EFFECTIVE DATE: This correcting amendment is effective July 31, 2002.

FOR FURTHER INFORMATION CONTACT: Robert Kuhl, (410) 786–4597.

SUPPLEMENTARY INFORMATION:

Need for Corrections

In our August 7, 2001 final rule (66 FR 41316), referred to as the final rule throughout this correcting amendment, we provided an extensive discussion of the inpatient rehabilitation facility (IRF) patient assessment instrument and its implementation that employed various examples to illustrate essential points of the patient assessment process. A number of those examples contain technical errors. In addition, we are making technical corrections to the regulations text where the regulations text inadvertently fails to reflect the policies set forth in the preamble of the final rule.

Summary of Technical Corrections to the Preamble to the August 7, 2001 Final Rule

In section IV of the final rule, we describe the process of using the IRF patient assessment instrument to collect patient data that are the basis of payments made under the IRF prospective payment system. Beginning on page 41330 of the final rule, we describe the schedule for completing, encoding (computerizing), and transmitting data contained in the IRF patient assessment instrument. The rules associated with the assessment schedule are codified at §§ 412.610 and 412.614.

Interruption of the Stay During the Admission Assessment

After the patient is admitted, the IRF has a time period to observe the patient's functional status/clinical condition that is then recorded on the patient assessment instrument. This time period is referred to in the final rule as the admission assessment time period. Section 412.610(b) states that ''The first day that the Medicare Part A fee-for-service inpatient is furnished Medicare-covered services during his or her current inpatient rehabilitation facility hospital stay is counted as day one of the patient assessment schedule.'' Section 412.610(c)(1)(i) specifies the general rule that the admission assessment time period is a span of time that covers calendar days 1 through 3 of the patient's current Medicare Part A fee-for-service hospitalization. The patient's IRF admission day is the first day of the admission assessment time period. For example, Chart 1 on page 41330 illustrates the assessment schedule for an inpatient stay in an IRF; the admission assessment time period is the first 3 days of the patient's IRF hospitalization, with day 3 being the admission assessment reference date, day 4 being the admission assessment completion date, and day 10 being the encoded by date. Chart 2 on page 41331 illustrates the application of the general rule for a patient who is admitted on July 3, 2002. The admission assessment