

US EPA ARCHIVE DOCUMENT

be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

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, Volatile organic compounds.

Dated: April 15, 2009.

William C. Early,
Acting Regional Administrator, Region III.

■ 40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

Subpart NN—Pennsylvania

■ In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry for Transportation Conformity Requirements at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *
(e)(1)* * *

EPA-APPROVED NON-REGULATORY AND QUASI-REGULATORY MATERIAL

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Transportation Conformity Requirements.	Entire State	5/29/08	4/29/09 [Insert page number where the document begins].	Memoranda of Understanding between EPA, FHWA, FTA, Pennsylvania, Virginia, and eighteen Metropolitan and Rural Planning Organizations.

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[FR Doc. E9-9846 Filed 4-28-09; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R03-RCRA-2009-0916; FRL-8898-7]

Pennsylvania: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Pennsylvania 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 Pennsylvania's revisions 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 that oppose this authorization during the comment period, the decision to authorize Pennsylvania's revisions to its hazardous waste program will take effect. If we receive comments that oppose this action 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 revisions to Pennsylvania's program that were the subject of adverse comments. Today's document also corrects errors made in the authorization history that was published in the January 20, 2004 **Federal Register** authorization document for Pennsylvania.
DATES: This final authorization will become effective on June 29, 2009, unless EPA receives adverse written comments by May 29, 2009. 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 will not take effect as scheduled.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-RCRA-2009-0916, by one of the following methods:

1. **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
 2. **E-mail:** bentley.pete@epamail.epa.gov
 3. **Mail:** Charles Bentley, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.
 4. **Hand Delivery:** At the previously listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.
- You may inspect and copy Pennsylvania's application from 8 a.m.

to 4:00 p.m., Monday through Friday at the following locations: Pennsylvania Department of Environmental Protection, Environmental Education and Information Center, 1st Floor, Rachel Carson State Office Building, 400 Market St., Harrisburg, PA 17105, Phone number (717) 772-1828; Pennsylvania Department of Environmental Protection, Southwest Regional Office, 400 Waterfront Drive, Pittsburgh, PA 15222, Phone number: (412) 442-4097; and EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814-5254. Persons with a disability may use the AT&T Relay Service to contact Pennsylvania Department of Environmental Protection by calling (800) 654-5984 (TDD users), or (800) 654-5988 (voice users).

Instructions: Direct your comments to Docket ID No. EPA-R03-RCRA-2009-0916. EPA's policy is that all comments received will be included in the public file without change and may be made available on line at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The Federal <http://www.regulations.gov> Web site is an "anonymous access" system which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail

comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and be free of any defects or viruses.

FOR FURTHER INFORMATION CONTACT:

Charles Bentley, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone number: (215) 814-3379.

SUPPLEMENTARY INFORMATION:

I. Corrections to January 20, 2004 (69 FR 2674) Authorization Document

The January 20, 2004 authorization document for Pennsylvania (69 FR 2674, column 2) contains an erroneous paragraph at Section F. The existing paragraph should be replaced with the following language:

“Initially, Pennsylvania received final authorization to implement its hazardous waste management program effective January 30, 1986 (51 FR 1791). EPA granted authorization for changes to Pennsylvania’s regulatory program on September 26, 2000, effective November 27, 2000 (65 FR 57734).”

II. Authorization of Revisions to Pennsylvania’s Hazardous Waste Program

A. Why Are Revisions to State Programs Necessary

States that 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. Authorization of revisions to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other revisions occur. Most commonly, States must revise their programs because of revisions to EPA’s regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule

EPA concludes that Pennsylvania’s application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Pennsylvania final authorization to operate its hazardous waste program with revisions described in its application for program revisions, subject to the procedures described in section E, below. Pennsylvania 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 Pennsylvania has not been authorized, including issuing HSWA permits, until the State is granted authorization to do so.

C. What Is the Effect of This Authorization Decision

This decision serves to authorize revisions to Pennsylvania’s authorized hazardous waste program. This action does not impose additional requirements on the regulated community because the regulations for which Pennsylvania is being authorized by today’s action are already effective and are not changed by today’s action. Pennsylvania 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 Pennsylvania has taken its own actions.

D. Why Wasn’t There a Proposed Rule Before This 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 Pennsylvania’s program revisions. If EPA receives comments that oppose this authorization, or portions thereof, that document will serve as a proposal to authorize the revisions to Pennsylvania’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, by publishing a document in the **Federal Register** before the rule would become effective. EPA will base any further decision on the authorization of Pennsylvania’s program revisions 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 Commonwealth’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 Pennsylvania Previously Been Authorized for

Initially, Pennsylvania received final authorization to implement its hazardous waste management program effective January 30, 1986 (51 FR 1791). EPA granted authorization for revisions to Pennsylvania’s regulatory program on September 26, 2000, effective November 27, 2000 (65 FR 57734); and on January 20, 2004, effective March 22, 2004 (69 FR 2674).

G. What Revisions Are We Authorizing With This Action

On May 31, 2007, Pennsylvania submitted an initial program revision application, seeking authorization of additional revisions to its program in accordance with 40 CFR 271.21. Subsequently, on January 2, 2009, the Commonwealth submitted a revised program revision application. Pennsylvania’s revision application includes various regulations that are equivalent to, and no less stringent than, revisions to the Federal hazardous waste program, as published in the **Federal**

Register on September 30, 1999, November 19, 1999, July 10, 2000, May 14, 2001 and from June 29, 2001 through October 12, 2005, as well as miscellaneous changes to its previously authorized program. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Pennsylvania's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants

Pennsylvania's final authorization for the following program revisions:

1. Program Revision Changes for Federal Rules

Pennsylvania seeks authority to administer the Federal requirements that are listed in Table 1. This Table lists the Commonwealth analogs that are being recognized as no less stringent than the analogous Federal requirements.¹ Unless otherwise stated, the Commonwealth's regulatory references are to Title 25, Pennsylvania Code (25 Pa. Code), Chapters 260a

through 266a, 266b, 268a, and 270a, effective May 1, 1999, as amended December 14, 2002. Pennsylvania's authority to incorporate subsequent changes to the Federal program is found at Pa. Code Section 260a.3(e). The Commonwealth's statutory authority has not changed since August 10, 2000. For additional information on the Commonwealth's statutory authority please consult the Commonwealth's authorization revision **Federal Register** document (65 FR 57734) published on September 26, 2000.

TABLE 1—PENNSYLVANIA'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of federal requirement and Federal Register reference (revision checklists ²)	Federal requirement	Analogous Pennsylvania authority
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (MACT Rule) (09/30/99, 64 FR 52828; as amended 11/19/99, 64 FR 63209; Revision Checklist 182).	40 CFR 260.10 "dioxins and furans (D/F)"; 260.10 "TEQ"; 261.38/1 Table 1; 264.340(b)–(e); 264.601 introductory paragraph; 265.340(b) & (c); 266.100(b)–(h); 266.101(c) introductory paragraph & (c)(1); 266.105(c) & (d); 266.112(b)(1) introductory paragraph; 266.112(b)(2)(i) and Note; 266, Appendix VIII; 270.19 introductory paragraph; 270.19(e); 270.22 introductory paragraph; 270.42, Appendix I; 270.62 introductory paragraph; and 270.66 introductory paragraph.	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code Sections 260a.1(a), 261a.1, 264a.1(a), 265a.1(a), 266a.20 (as modified at 266a.100), 270a.1(a), and 270a.41(6).
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (07/10/00, 65 FR 42292; as amended 05/14/01, 66 FR 24270 and 07/03/01, 66 FR 35087; Revision Checklist 188).	40 CFR 261.38(c)(2)(iv); 264.340(b)(1) & (3); and 270.42(j)(2).	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Sections 261a.1, 264a.1(a), and 270a.1(a).
Mixture and Derived From Rules Revision II (10/3/01, 66 FR 50332; as amended 12/3/01, 66 FR 60153; Revision Checklist 194).	40 CFR 261.3(a)(2)(iv); and 261.3(g)(4)	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Section 261a.1.
Inorganic Chemical Manufacturing (11/20/01, 66 FR 58258; as amended 04/09/02, 67 FR 17119; Revision Checklist 195).	40 CFR 261.4(b)(15); 261.32; 261, Appendix VII; 268.36(a)–(c); and 268.40, Table.	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Sections 261a.1 and 268a.1(a).
CAMU Amendments (01/22/02, 67 FR 2962; Revision Checklist 196).	40 CFR 260.10; 264.550(a) & (b); 264.551(a) introductory paragraph; 265.552; 264.554(a); and 264.555.	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Sections 260a.1(a) and 264a.1(a).
Hazardous Air Pollutant Standards for Combustors: Interim Standards (02/13/02, 67 FR 6792; Revision Checklist 197).	40 CFR 264.340(b)(1); 264.340(b)(4); 265.340(b)(1); 265.340(b)(3); 266.100(b)(2)(i)–(v); 270.19(e); 270.22 introductory paragraph; 270.62 introductory paragraph; 270.66 introductory paragraph; and 270.235.	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Sections 264a.1(a), 265a.1(a), 266a.20 and 270a.1(a).
Hazardous Air Pollutant Standards for Combustors: Corrections (02/14/02, 67 FR 6968; Revision Checklist 198).	40 CFR 266.100(a); 266.100(b)(1); 266.100(d)(1)(i) (B); 266.100(d)(2); 266.100(d)(3) introductory paragraph; 266.100(d)(3)(i) introductory paragraph; 266.100(d)(3)(i) (D); and 270.42(j)(1).	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Sections 266a.20 (as modified at 266a.100) and 270a.1(a).
Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste (03/13/02, 67 FR 11251; Revision Checklist 199).	40 CFR 261.2(c)(3); 261.4(a)(17); and 261.24(a).	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Section 261a.1.
Zinc Fertilizers Made from Recycled Hazardous Secondary Materials (07/24/02, 67 FR 48393; Revision Checklist 200).	40 CFR 261.4(a)(20); 261.4(a)(21); 266.20(b); 266.20(d); and 268.40.	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Sections 261a.1, 266a.20 and 268a.1(a).
National Treatment Variance for Radioactively Contaminated Batteries (10/0702, 67 FR 62618; Revision Checklist 201).	40 CFR 268.40/Table	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Section 268a.1(a).

¹ In its revision application Pennsylvania also sought authorization for the National Environmental Performance Track Program. On March 16, 2009, EPA announced its intention to

halt and review the National Performance Track Program. Therefore, EPA is not granting Pennsylvania final authorization for "The National Environmental Performance Track Program (4/22/

04, 69 FR 21737; as amended 10/25/04, 69 FR 62217; Revision Checklist 204)."

TABLE 1—PENNSYLVANIA’S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of federal requirement and Federal Register reference (revision checklists ²)	Federal requirement	Analogous Pennsylvania authority
NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors—Corrections (12/19/02, 67 FR 77687; Revision Checklist 202).	40 CFR 270.19(e); 270.22 introductory paragraph; 270.62 introductory paragraph and 270.66 introductory paragraph.	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Section 270a.1(a).
NESHAP: Surface Coating of Automobiles and Light-Duty Trucks (04/26/04, 69 FR 22602; Revision Checklist 205).	40 CFR 264.1050(h); and 265.1050(g)	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Sections 264a.1(a) and 265a.1(a).
Nonwastewaters from Productions of Dyes, Pigments, and Food, Drug, and Cosmetic Colorants (02/24/05, 70 FR 9138, as amended 06/16/05, 70 FR 35032; Revision Checklist 206).	40 CFR 261.4(b)(15); 261.32(a); 261.32, Table; 261.32(b) through (d); 261, Appendix VII; 261, Appendix VIII; 268.20; 268.21 through 268.29; 268.40 Table; and 268.48(a) Table.	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Sections 261a.1 and 268a.1(a).
Testing and Monitoring Activities: Methods Innovation Rule and SW-846 Update IIIB (06/14/05, 70 FR 34538; as amended 08/01/05, 70 FR 44150; Revision Checklist 208).	40 CFR 260.11; 260.21(d); 260.22(d)(1)(i); 261.3(a)(2)(v) introductory paragraph; 261.21(a)(1); 261.22(a)(1) & (a)(2); 261.35(b)(2)(iii)(A) & (B); 261.38(c)(7) introductory paragraph; 261, Appendices I, II and III; 264.190(a); 264.314(c); 264.1034(c)(1)(ii), (c)(1)(iv), (d)(1)(iii) and (f); 264.1063(d)(2); 264, Appendix IX; 265.190(a); 265.314(d); 265.1034(c)(1)(ii), (c)(1)(iv), (d)(1)(iii) and (f); 265.1063(d)(2); 265.1081 “Waste stabilization process”; 265.1084(a)(3)(ii)(C), (a)(3)(iii), (b)(3)(ii)(C), (b)(3)(iii) and (c)(3)(i); 266.100(d)(1)(ii) and (g)(2); 266.102(b)(1); 266.106(a); 266.112(b)(1) introductory paragraph and (b)(2)(i); 266, Appendix IX; 268.40(b); 268.40 Table; 268.48 Table; 268, Appendix IX; 270.19(c)(1)(iii) and (iv); 270.22(a)(2)(ii)(B); 270.62(b)(2)(i)(C), (b)(2)(i)(D), (c)(2)(i) and (c)(2)(ii).	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Sections 260a.1(a), 261a.1, 264a.1(a), 265a.1(a), 266a.20, 268a.1(a) and 270a.1(a).
Project XL Site-Specific Rulemaking for the Ortho-McNeil Pharmaceutical, Inc. Facility in Spring House, PA Involving On-Site Treatment of Mixed Waste (06/27/05, 70 FR 36850).	40 CFR 261.4(b)(17)	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Section 261a.1.
Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (10/04/05, 70 FR 57769; Revision Checklist 211).	40 CFR 261.3(a)(2)(iv)(A), (a)(2)(iv)(B), (a)(2)(iv)(D), (a)(2)(iv)(F) and (a)(2)(iv)(G).	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Section 261a.1.
National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (10/12/05, 70 FR 59401; Revision Checklist 212).	40 CFR 260.11(a) first sentence and (c)(1); 264.340(b)(1) first sentence and (b)(5); 265.340(b)(1) first sentence; 266.100(b)(1) first sentence, (b)(3) and (b)(4); 270.6; 270.10(l); 270.19(e) ; 270.22 introductory paragraph; 270.24(d)(3); 270.25(e)(3); 270.32(b)(3); 270.42(j)(1), (j)(2), (j)(3) and (k); 270.42 Appendix I, Section L; 270.62 introductory paragraph; 270.66 introductory paragraph; 270.235 section heading, (a)(1) introductory paragraph, (a)(2) introductory paragraph, (b)(1) introductory paragraph, (b)(2) and (c).	25 Pa. Code, Section 260a.3(e); Incorporated by reference at 25 Pa. Code, Sections 260a.1(a), 264a.1(a), 265a.1(a), 266a.20 and 270a.1(a).

The Commonwealth is not seeking authorization for the following RCRA revisions that occurred between July 30, 2003 and October 12, 2005, which

address changes to the Federal recycled used oil, manifest, mercury-containing equipment and standardized permit regulations and the Project XL

requirements for New York State Public Utilities.

Federal requirement	Regulatory explanation
68 FR 44659, 07/30/03 (Revision Checklist 203)	Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards.

²A Revision Checklist is a document that addresses the specific revisions 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/osw/laws-regs/state/index.htm>.

Federal requirement	Regulatory explanation
70 FR 10776, 03/04/05, as amended on June 16, 2005 (70 FR 35034) (Revision Checklist 207).	Modification of the Hazardous Waste Manifest System.
70 FR 29909, 05/24/05	Project XL Rulemaking Extension for New York State Public Utilities
70 FR 45508, 08/05/05 (Revision Checklist 209)	Mercury-Containing Equipment.
70 FR 53419, 09/08/05 (Revision Checklist 210)	Standardized Permit for RCRA Hazardous Waste Management Facilities.

2. Miscellaneous Changes

In addition to adopting the Federal program revisions discussed in Section G.1, Pennsylvania has made various regulatory revisions to its authorized program. Pennsylvania is seeking authorization for these miscellaneous changes. These changes are categorized as follows: (a) Redesignations and Corrections of Typographical Errors; (b) Clarification of Ambiguous Requirements; (c) Changes to Manifest Requirements; and (d) New Provisions Added for Clarification. Regulatory citations annotated with an asterisk are deemed to be more stringent than the Federal program. A further discussion of Pennsylvania's miscellaneous regulatory changes is found in the following application document for Pennsylvania: "Pennsylvania Third Supplemental Legal Statement for Final Authorization."

(a) Redesignations and Corrections of Typographical Errors

The Commonwealth provisions listed below were amended to correct typographical errors or were merely redesignated. All of these changes were made without affecting the stringency of the Commonwealth's currently authorized program. EPA has evaluated the changes described and has determined that they are consistent with and no less stringent than the corresponding Federal regulations.

Title 25, Pennsylvania Code (25 Pa. Code), §§ 261a.3(a), 261a.5(b), 262a.12(b) introductory paragraph through 262a.12(b)(1)(iv)*, 262a.21(a), 263a.20(a), 263a.20(b) introductory paragraph, 263.20(b)(1), 265a.13(1) introductory paragraph, 270a.42(b), 270a.60(a) introductory paragraph, 270a.60(a)(2), 270a.60(b)(1)(iv)*, 270a.60(b)(5), 270a.62, 270a.66 and 270a.81(b)(5).

(b) Clarification of Ambiguous Requirements

The Commonwealth has amended the following provisions in order to clarify ambiguities identified through the implementation of the regulations. Some of these amendments remove more stringent requirements or leave previously more stringent provisions equivalent to the federal program.

25 Pa. Code, §§ 260a.10 "Treatment", 262a.50, 264a.97(1)*, 264a.173(2)*, 265a.173(2)*, 265a.175 (Reserved), 270a.42(c)*, 270a.60(a)(1)*, 270a.83(a)(4), 270a.51(a), 270a.60(b)(2)(ii)*, 270a.60(b)(3)(ii)*, 270a.60(b)(4)(ii)* and 270a.60(b)(5)(ii)*.

(c) Changes to the Commonwealth's Manifest Requirements

The Commonwealth provisions listed below contain new and amended provisions that address the administration of the Pennsylvania hazardous waste manifest program. Some of these new provisions are additional requirements not found in the federal regulations and are therefore more stringent.

25 Pa. Code, §§ 262a.20 introductory paragraph, 262a.20(1), 262a.21(b), 262a.23(a)(1), 262a.23(a)(2)*, 262a.23(a)(3), 262a.23(a)(4), 263a.12(3)*, 263a.20(b)(2), 263a.20(b)(3), 263a.21(2), 263a.21(3)*, 264a.71(1), 264a.71(3)*, 264a.71(4), 265a.71(1), 265a.71(3)* and 265a.71(4).

(d) New Provisions Added for Clarification

The following provisions are new provisions that the Commonwealth added to provide clarity on how the hazardous waste program operates or to provide guidance on proper compliance methods. Some of these new provisions increase the stringency of the hazardous waste program. 25 Pa. Code, §§ 261a.3(b)*, 262a.11, 262a.12(b)(1)(v)*, 262a.34*, 262a.43 and 270a.51(b)-(d).

H. Where Are the Revised Pennsylvania Rules Different From the Federal Rules

1. Pennsylvania Requirements That Are Broader in Scope Than the Federal Program

The Pennsylvania hazardous waste program contains certain provisions that are beyond the scope of the Federal program. The following provisions from the December 20, 2002 amendments to the Commonwealth's regulations are new and amended provisions that are broader in scope than the federal hazardous waste program.

25 Pa. Code, §§ 263a.12(1) & (2), 263a.13, 263a.24(b), 263a.26(c), 270a.3, and 262a.12(b)(2).

These broader in scope provisions are not part of the program being authorized by today's action. EPA cannot enforce requirements that are broader in scope, although compliance with such provisions is required by Pennsylvania law. A further discussion of Pennsylvania's broader in scope provisions is found in the following application document for Pennsylvania: "Pennsylvania Third Supplemental Legal Statement for Final Authorization."

2. Pennsylvania Requirements That Are More Stringent Than the Federal Program

The Pennsylvania hazardous waste program contains some provisions that are more stringent than is required by the RCRA program as codified in the July 1, 2004 edition of title 40 of the Code of Federal Regulations (CFR), as amended through October 12, 2005. These more stringent provisions are being recognized as a part of the Federally authorized program. The specific more stringent provisions are noted in Section G.2.

I. Who Handles Permits After This Authorization Takes Effect?

After authorization, Pennsylvania 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 that we issued prior to the effective date of this authorization. Until such time as formal transfer of EPA permit responsibility to Pennsylvania occurs and EPA terminates its permit, EPA and Pennsylvania agree to coordinate the administration of permits in order to maintain consistency. We will not issue any more 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 Pennsylvania is not yet authorized.

J. How Does This Action Affect Indian Country (18 U.S.C. 115) in Pennsylvania

Pennsylvania is not seeking authorization to operate the program on

Indian lands, since there are no Federally recognized Indian lands in Pennsylvania.

K. What Is Codification and Is EPA Codifying Pennsylvania'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. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart NN, for this authorization of Pennsylvania's program revisions until a later date.

L. 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 (Pub. L. 104-4). For the same reason, this action would not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). In any case, Executive Order 13175 does not apply to this rule since there are no Federally recognized tribes in the Commonwealth of Pennsylvania.

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 that may disproportionately affect children. 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. 3701, *et seq.*) 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 18, 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 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 June 29, 2009.

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: April 9, 2009.

William C. Early,

Acting Regional Administrator, EPA Region III.

[FR Doc. E9-9792 Filed 4-28-09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 0809251266-81485-02]

RIN 0648-XO65

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfers

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

ACTION: Temporary rule; inseason quota transfers.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2009 commercial summer flounder quota to the Commonwealth of Virginia. In addition, the Commonwealth of Virginia is transferring a portion of its 2009 commercial summer flounder quota to the State of New Jersey. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective April 24, 2009 through December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Emily Bryant, Fishery Management Specialist, (978) 281-9244, FAX (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial