

US EPA ARCHIVE DOCUMENT

provisions of section 408(n)(4) of FFDCA. For these same reasons, the Agency has determined that this rule does not have any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive order to include regulations that have "substantial direct effects on one or more Indian tribes, 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." This rule will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VI. Congressional Review Act

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 this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 8, 2004.

James Jones,

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.1063 [Removed]

■ 2. Section 180.1063 is removed.

§ 180.1088 [Removed]

■ 3. Section 180.1088 is removed.

§ 180.1116 [Removed]

■ 4. Section 180.1116 is removed.

§ 180.1123 [Removed]

■ 5. Section 180.1123 is removed.

§ 180.1125 [Removed]

■ 6. Section 180.1125 is removed.

§ 180.1129 [Removed]

■ 7. Section 180.1129 is removed.

§ 180.1152 [Removed]

■ 8. Section 180.1152 is removed.

§ 180.1169 [Removed]

■ 9. Section 180.1169 is removed.

[FR Doc. 04-9136 Filed 4-22-04; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7653-2]

South Dakota: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule and response to comments.

SUMMARY: The EPA is granting final authorization to the hazardous waste program revisions submitted by South Dakota. The Agency published a Proposed Rule on November 3, 2003, and provided for public comment. The public comment period ended on December 3, 2003. No comments were received regarding Resource Conservation and Recovery Act (RCRA) program issues. There was one comment from the South Dakota State Attorney General regarding Indian country language. No further opportunity for comment will be provided.

DATES: This authorization will be effective on May 24, 2004.

ADDRESSES: You can view and copy South Dakota's applications at the following addresses: SDDENR, from 9

a.m. to 5 p.m., Joe Foss Building, 523 E. Capitol, Pierre, South Dakota 57501-3181, contact: Carrie Jacobson, phone number (605) 773-3153 and EPA Region VIII, from 8 a.m. to 3 p.m., 999 18th Street, Suite 300, Denver, Colorado 80202-2466, contact: Kris Shurr, phone number: (303) 312-6139, e-mail: shurr.kris@epa.gov.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, EPA Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, phone number: (303) 312-6139, e-mail: shurr.kris@epa.gov.

SUPPLEMENTARY INFORMATION: On August 16, 2002, and February 14, 2003, South Dakota submitted final complete program revision applications seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a Final decision that South Dakota's hazardous waste program revisions satisfy all of the requirements necessary to qualify for Final authorization. For a list of rules that become effective with this Final Rule, please see the Proposed Rule published in the November 3, 2003 **Federal Register** at 68 FR 62264.

Response to Comments: EPA proposed to authorize South Dakota's State Hazardous Waste Management Program Revisions on November 3, 2003 (68 FR 62264). EPA received only one comment, from the State of South Dakota, objecting to EPA's definition of Indian country, where the State is not authorized to administer its program. Specifically, the State disagreed that all "trust land" in South Dakota is Indian country. However, through a letter dated March 12, 2004, the State of South Dakota conveyed to EPA that "while we [the State] continue to object and disagree on this issue, the state will accept EPA's authorization of the hazardous waste program revisions as described in EPA's November 3, 2003, notice in the **Federal Register**."

EPA maintains the interpretation of Indian country in South Dakota as described in the November 3, 2003 **Federal Register** notice of proposed rulemaking. Further explanation of this interpretation of Indian country can be found at 67 FR 45684-45686 (July 10, 2002).

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 also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). 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 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 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, 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 May 24, 2004.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Incorporation-by-reference, Indians-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 14, 2004.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. 04-9284 Filed 4-22-04; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 424

[CMS-1185-F]

RIN 0938-AK79

Medicare Program; Elimination of Statement of Intent Procedures for Filing Medicare Claims

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

ACTION: Final rule.

SUMMARY: This final rule removes the written statement of intent (SOI) procedures, set forth in 42 CFR 424.45, used to extend the time for filing Medicare claims. In the absence of an SOI, providers and suppliers (and, where applicable, beneficiaries) have from 15 to 27 months (depending on the date of service) to file claims with Medicare contractors.

EFFECTIVE DATE: This final rule is effective on May 24, 2004.

FOR FURTHER INFORMATION CONTACT: David Walczak, (410) 786-4475.

I. Background

The purpose of the statement of intent (SOI) procedures is to extend the timely filing period for the submission of an initial Medicare claim. An SOI, by itself, does not constitute a claim, but rather is a means of extending the deadline for filing a timely and valid claim. Our regulations at § 424.32, "Basic requirements for all claims," and § 424.44, "Time limits for filing claims," require that Medicare claims be filed on Medicare-designated claims forms by providers, suppliers, and beneficiaries according to Medicare instructions. These claims must be filed by the end of the year following the year in which the services were furnished. Services furnished in the last 3 months of a calendar year are deemed to be furnished in the subsequent calendar year; therefore, a provider, supplier, or beneficiary has until December 31 of the second year following the year in which the services were furnished to file claims. Where an SOI has been filed with the appropriate Medicare contractor and the contractor notifies the submitter of the SOI that the SOI is valid (that is, the SOI sufficiently identifies the beneficiary and the items or services rendered), the period in which to file a claim may be extended an additional 6 months after the month of the contractor's notice.