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[Rules and **Regulations**]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7465-8]

Virginia: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: **Environmental** Protection Agency (EPA).

ACTION: Immediate final rule.

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

DATES: This final authorization will become effective on May 12, 2003, unless EPA receives adverse written comment by April 14, 2003. 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: Send written comments to Joanne Cassidy, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814-3381. You may inspect and copy **Virginia's** application from 8:15 a.m. to 4:30 p.m., at the following addresses: **Virginia** Department of **Environmental** Quality, Division of Waste Program Coordination, 629 East Main Street, Richmond, VA 23219, Phone number: (804) 698-4213, attn: Robert Wickline, and **Virginia** Department of **Environmental** Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24015, Phone number: (540) 562-6872, attn: Aziz Farahmand, and EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814-5254.

FOR FURTHER INFORMATION CONTACT: Joanne Cassidy, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814-3381.

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

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that is equivalent to, consistent with, and no 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 40 Code of Federal **Regulations** (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Has EPA Made in This Rule?

EPA concludes that **Virginia's** application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant **Virginia** final authorization to operate its hazardous waste program with the changes described in its application for program revisions. **Virginia** 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 in **Virginia**, including issuing HSWA permits, until the State is granted authorization to do so.

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

The effect of this decision is that a facility in **Virginia** subject to RCRA will now have to comply with the authorized **Virginia** regulatory revisions instead of the equivalent revised Federal requirements in order to comply with RCRA. **Virginia** 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:

- [sbull] Perform inspections, and require monitoring, tests, analyses or reports;

- [sbull] Enforce RCRA requirements and suspend or revoke permits;

and

- [sbull] Take enforcement actions regardless of whether **Virginia** has taken its own actions.

This action does not impose additional requirements on the regulated community because the **regulations** for which **Virginia** is being authorized by today's action are already effective and are not changed by today's action.

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

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

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

If EPA receives comments that oppose this authorization, we will

withdraw this rule by publishing a document in the Federal Register before the rule becomes effective. EPA will base any further decision on the authorization of **Virginia's** program changes on the proposal mentioned in the previous paragraph. 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.

F. What Has **Virginia** Previously Been Authorized for?

Virginia initially received final authorization on December 4, 1984, effective December 18, 1984 (49 FR 47391), to implement the RCRA hazardous waste management program. EPA granted authorization for changes to **Virginia's** regulatory program on July 31, 2000, effective September 29, 2000 (65 FR 46606).

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

On September 24, 2002, **Virginia** submitted a final complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. **Virginia's** revision application includes changes to the Federal hazardous waste program, as published in the Federal Register from December 6, 1994 through June 30, 2001, 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 **Virginia's** hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants **Virginia** final authorization for the following program changes:

1. Program Revision Changes for Federal Rules Published Between December 20, 1994 and June 30, 2001

Virginia seeks authority to administer the Federal requirements that are listed in Table 1. Except as noted in the Table, **Virginia** incorporates by reference these Federal provisions, in accordance with the dates specified in Title 9, **Virginia** Administrative Code (9 VAC 20-60-18). Table 1 lists **Virginia's** requirements that are being recognized as no less stringent than the analogous Federal requirements. The **Virginia** Waste Management Act (VWMA), enacted by the 1986 session of the **Virginia's** General Assembly and recodified in 1988 as Chapter 14, Title 10.1, Code of **Virginia**, forms the basis of the **Virginia** program. The regulatory references are to Title 9, **Virginia** Administrative Code (9 VAC) effective November 21, 2001.

Table 1.--**Virginia's** Analogs to the Federal Requirements

Description of Federal requirement (Revision checklists \1\)	Federal Register	Analogous Virginia authority
RCRA Cluster V \2\		
Universal Treatment Standards and Treatment Standards for Organic Characteristic Wastes and Newly Listed Waste (Revision Checklist 137).	60 FR 242, 1/3/95.	Title 9, Virginia Administrative Code (9 VAC) Sec. 20-60-18 and 20-60-268 A
Testing and Monitoring Activities Amendment I (Revision Checklist 139).	60 FR 3089, 1/13/95.	9 VAC Sec. 20-60-18 and 20-60-260 A

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Carbamate Production	60 FR 7824, 2/9/95	9 VAC Sec. Sec.
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Identification and Listing of Hazardous Waste (Revision Checklist 140).	60 FR 19165, 4/17/95. 60 FR 25619, 5/12/95.	20-60-18 and 20-60-261 A
Testing and Monitoring Activities Amendment II (Revision Checklist 141).	60 FR 17001, 4/4/95.	9 VAC Sec. Sec. 20-60-18 and 20-60-260 A
Removal of Legally Obsolete Rules (Revision Checklist 144).	60 FR 33912, 6/29/95.	9 VAC Sec. Sec. 20-60-18, 20-60-261 A, 20-60-266 A and 20-60-270 A

RCRA Cluster VI

Liquids in Landfills III (Revision Checklist 145).	60 FR 35703, 7/11/95.	9 VAC Sec. Sec. 20-60-18, 20-60-264 A and 20-60-265 A
RCRA Expanded Public Participation (Revision Checklist 148).	60 FR 63417, 12/11/95.	9 VAC Sec. Sec. 20-60-18, 20-60-124 A and 20-60-270 A
Recovered Oil Exclusion, Correction (Revision Checklist 150).	61 FR 13103, 3/26/96.	9 VAC Sec. Sec. 20-60-18 and 20-60-261 A
Land Disposal Restrictions Phase III--Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners (Revision Checklist 151).	61 FR 15566, 4/8/96. 61 FR 15660, 4/8/96. 61 FR 19117, 4/30/96. 61 FR 33680, 6/28/96. 61 FR 36419, 7/10/96. 61 FR 43924, 8/26/96. 62 FR 7502, 2/19/97.	9 VAC Sec. Sec. 20-60-18 and 20-60-268 A

RCRA Cluster VII

Conditionally Exempt Small Quantity Generator Disposal Options Under Subtitle D (Revision Checklist 153).	61 FR 34252, 7/1/96.	9 VAC Sec. Sec. 20-60-18 and 20-60-261 A
Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers (Revision Checklist 154).	59 FR 62896, 12/6/94. 60 FR 26828, 5/19/95. 60 FR 50426, 9/29/95. 60 FR 56952, 11/13/95. 61 FR 4903, 2/9/96 61 FR 28508, 6/5/96. 61 FR 59932, 11/25/96.	9 VAC Sec. Sec. 20-60-18, 20-60-260 A, 20-60-261 A, 20-60-262 A, 20-60-264 A, 20-60-265 A and 20-60-270 A
Land Disposal Restrictions Phase III--Emergency Extension of the K088 Capacity Variance (Revision Checklist 155).	62 FR 1992, 1/14/97.	9 VAC Sec. Sec. 20-60-18 and 20-60-268 A
Military Munitions Rule (Revision Checklist 156).	62 FR 6622, 2/12/97.	9 VAC Sec. Sec. 20-60-18, 20-60-260 A, 20-60-261 A, 20-60-262 A,

			20-60-263 A, 20-60-264 A, 20-60-265 A, 20-60-266 A and 20-60-270 A
Land Disposal Restrictions-- Phase IV (Revision Checklist 157).	62 FR 25998, 5/12/ 97.	9 VAC Sec. Sec.	20-60-18, 20-60-261 A and 20-60-268 A
Testing and Monitoring Activities Amendment III (Revision Checklist 158).	62 FR 32452, 6/13/ 97.	9 VAC Sec. Sec.	20-60-18, 20-60-260 A, 20-60-264 A, 20-60-265 A and 20-60-266 A
Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions (Conformance With the Carbamate Vacatur) (Revision Checklist 159).	62 FR 32974, 6/17/ 97.	9 VAC Sec. Sec.	20-60-18, 20-60-261 A and 20-60-268 A

RCRA Cluster VIII

Land Disposal Restrictions Phase III--Emergency Extension of the K088 National Capacity Variance (Revision Checklist 160).	62 FR 37694, 7/14/ 97.	9 VAC Sec. Sec.	20-60-18 and 20-60-268 A
Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes From Carbamate Production (Revision Checklist 161).	62 FR 45568, 8/28/ 97.	9 VAC Sec. Sec.	20-60-18 and 20-60-268 A
Clarification of Standards for Hazardous Waste Land Disposal Restriction Treatment Variances (Revision Checklist 162).	62 FR 64504, 12/5/ 97.	9 VAC Sec. Sec.	20-60-18 and 20-60-268 A
Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers (Revision Checklist 163).	62 FR 64636, 12/8/ 97.	9 VAC Sec. Sec.	20-60-18, 20-60-264 A, 20-60-265 A and 20-60-270 A
Kraft Mill Stream Stripper Condensate Exclusion (Revision Checklist 164).	63 FR 18504, 4/15/ 98.	9 VAC Sec. Sec.	20-60-18 and 20-60-261 A
LDR Phase IV--Treatment Standards for Metal Wastes and Mineral Processing Wastes (Revision Checklist 167A).	63 FR 28556, 5/26/ 98.	9 VAC Sec. Sec.	20-60-18 and 20-60-268 A

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LDR Phase IV--Hazardous Soils Treatment Standards and Exclusions (Revision Checklist 167B).	63 FR 28556, 5/26/ 98.	9 VAC Sec. Sec.	20-60-18 and 20-60-268 A
167C--LDR Phase IV--Corrections (Revision Checklist 167C).	63 FR 28556, 5/26/ 98.	9 VAC Sec. Sec.	20-60-18 and 20-60-268 A
Mineral Processing Secondary Materials Exclusion (Revision Checklist 167D).	63 FR 31266, 6/8/ 98.		
Bevill Exclusion Revisions and Clarification (Revision Checklist 167E).	63 FR 28556, 5/26/ 98.	9 VAC Sec. Sec.	20-60-18 and 20-60-261 A
Hazardous Waste Combustors Revised Standards (Revision	63 FR 28556, 5/26/ 98.	9 VAC Sec. Sec.	20-60-18 and 20-60-261 A
	63 FR 33782, 6/19/ 98.	9 VAC Sec. Sec.	20-60-18, 20-60-261 A

Checklist 168).

and 20-60-270 A

RCRA Cluster IX

Petroleum Refining Process Wastes (Revision Checklist 169).	63 FR 42110, 8/6/98.	9 VAC Sec. Sec. 20-60-18, 20-60-261 A, 20-60-266 A and 20-60-268 A
Land Disposal Restrictions Phase IV--Zinc Micronutrient Fertilizers, Administrative Stay (Revision Checklist 170).	63 FR 46332, 8/31/98.	9 VAC Sec. Sec. 20-60-18 and 20-60-268 A
Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production (Revision Checklist 171).	63 FR 47410, 9/4/98.	9 VAC Sec. Sec. 20-60-18 and 20-60-268 A
Land Disposal Restrictions Phase IV--Extension of Compliance Date for Characteristic Slags (Revision Checklist 172).	63 FR 48124, 9/9/98.	9 VAC Sec. Sec. 20-60-18 and 20-60-268 A
Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); Final Rule (Revision Checklist 173).	63 FR 51254, 9/24/98.	9 VAC Sec. Sec. 20-60-18 and 20-60-268 A
Post-Closure Requirements and Closure Process (Revision Checklist 174).	63 FR 56710, 10/22/98.	9 VAC Sec. Sec. 20-60-18, 20-60-264 A, 20-60-265 A and 20-60-270 A
HWIR-Media (Revision Checklist 175).	63 FR 65874, 11/30/98.	9 VAC Sec. Sec. 20-60-18, 20-60-260 A, 20-60-261 A, 20-60-264 A, 20-60-265 A, 20-60-268 A, 20-60-270 A and 20-60-270 B 14
		Note: At 9 VAC 20-60-270 B 14, Virginia clarifies that the EPA appeal rights and procedures related to remedial action plan (RAP), as specified in 40 CFR 270.155, are not incorporated into the Virginia regulations . Appeals of actions related to RAPs are governed by Virginia's Administrative Process Act, Title 2.2, Chapter 40, Sec. Sec. 2.2-4000 through 2.2-4033, Code of Virginia .
Universal Waste Rule--Technical	63 FR 71225, 12/24/98.	9 VAC Sec. 20-60-

Amendments (Revision Checklist 176).	98.	18, 20-60-266 A and 20-60-273 A
Organic Air Emission Standards: Clarification and Technical Amendments (Revision Checklist 177).	64 FR 3382, 1/21/99.	9 VAC Sec. Sec. 20-60-18, 20-60-262 A, 20-60-264 A and 20-60-265 A
Petroleum Refining Process Wastes--Leachate Exemption (Revision Checklist 178).	64 FR 6806, 2/11/99.	9 VAC Sec. Sec. 20-60-18 and 20-60-261 A
Land Disposal Restrictions Phase IV--Technical Corrections and Clarifications to Treatment Standards (Revision Checklist 179).	64 FR 25408, 5/11/99.	9 VAC Sec. Sec. 20-60-18, 20-60-261 A, 20-60-262 A and 20-60-268 A
Test Procedures for the Analysis of Oil and Grease and Non-Polar Material (Revision Checklist 180).	64 FR 26315, 5/14/99.	9 VAC Sec. Sec. 20-60-18 and 20-60-260 A

RCRA Cluster X

Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps (Revision Checklist 181).	64 FR 36466, 7/6/99.	9 VAC Sec. Sec. 20-60-18, 20-60-260 A, 20-60-261 A, 20-60-264 A, 20-60-265 A, 20-60-268 A, 20-60-270 A, 20-60-273 A, and 20-60-273 B.3.a
Hazardous Air Pollutant Standards for Combustors, Miscellaneous Units, and Secondary Lead Smelters; Clarification of BIF Requirements; Technical Correction to Fast-track Rule (Revision Checklist 182).	64 FR 52828, 9/30/99. 64 FR 63209, 11/19/99.	9 VAC Sec. Sec. 20-60-18, 20-60-260 A, 20-60-261 A, 20-60-264 A, 20-60-265 A, 20-60-266 A and 20-60-270 A
Land Disposal Restrictions Phase IV--Technical Corrections (Revision Checklist 183).	64 FR 56469, 10/20/99.	9 VAC Sec. Sec. 20-60-18, 20-60-261 A, 20-60-262 A and 20-60-268 A
Accumulation Time for Waste Water Treatment Sludges (Revision Checklist 184).	65 FR 12378, 3/8/00.	9 VAC Sec. Sec. 20-60-18 and 20-60-262 A
Vacatur of Organobromine Production Waste Listings (Revision Checklist 185).	65 FR 14472, 3/17/00.	9 VAC Sec. Sec. 20-60-18, 20-60-261 A and 20-60-268 A

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Petroleum Refining Process Wastes--Clarification (Revision Checklist 187).	65 FR 36365, 6/8/00.	9 VAC Sec. Sec. 20-60-18, 20-60-261 A and 20-60-268 A
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RCRA Cluster XI

Hazardous Air Pollutant Standards; Technical corrections (Revision Checklist 188).	65 FR 42292, 7/10/00. 66 FR 24270, 5/14/01.	9 VAC Sec. Sec. 20-60-18, 20-60-261 A, 20-60-264 A and 20-60-270 A
Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes (Revision Checklist 189).	65 FR 67068, 11/8/00.	9 VAC Sec. Sec. 20-60-18, 20-60-261 A and 20-60-

		268 A
Land Disposal Restrictions Phase IV--Deferral for PCBs in Soil (Revision Checklist 190).	65 FR 81373, 12/26/00.	9 VAC Sec. Sec. 20-60-18 and 20-60-268 A
Mixed Waste Rule (Revision Checklist 191).	66 FR 27218, 5/16/01.	9 VAC Sec. Sec. 20-60-18 and 20-60-266 A
Mixture and Derived-From Rules Revisions (Revision Checklist 192A).	66 FR 27266, 5/16/01.	9 VAC Sec. Sec. 20-60-18 and 20-60-261 A
Land Disposal Restrictions Correction (Revision Checklist 192B).	66 FR 27266, 5/16/01.	9 VAC Sec. Sec. 20-60-18 and 20-60-268 A
Change of Official EPA Mailing Address (Revision Checklist 193).	66 FR 34374, 6/28/01.	9 VAC Sec. Sec. 20-60-18 and 20-60-260 A

PROJECT XL

Project XL Site-Specific Rulemaking for Merck & Co., Inc., Stonewall Plant, Elkton, VA.	62 FR 59621, 10/8/97.	9 VAC Sec. Sec. 20-60-18, 20-60-264 and 20-60-265 A
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\1\ A Revision Checklist is a document that addresses the specific changes made to the Federal **regulations** by one or more related final rules published in the Federal Register. EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal **regulations**. For more information see EPA's RCRA State Authorization Web page at <http://www.epa.gov/epaoswer/hazwaste/state>.

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 \ A ``RCRA Cluster'' is a set of Revision Checklists for Federal rules promulgated between July 1 and June 30 of any given year.

2. Additional Requirements for Universal Waste Handlers of Hazardous Waste Lamps

In the preamble of the July 6, 1999 Universal Waste Rule for hazardous waste lamps (64 FR 36466 et seq.), EPA stated that the Agency will consider authorization of State programs that include provisions for controlling the treatment or crushing of universal waste lamps, if the State program can be shown to be equivalent to the Federal prohibition (see p. 36478, column 1). **Virginia** has adopted and is seeking authorization for requirements at 9 VAC sections 20-60-273.B.3.b and 20-60-273.B.3.c which allow universal waste handlers to crush universal waste lamps at the site of generation in order to reduce their volume before transportation. **Virginia's** lamp crushing **regulations** include technical requirements for controlling emissions of hazardous constituents to levels established by the Federal Occupational Safety and Health Administration (OSHA), and specific operational recordkeeping requirements. EPA has reviewed **Virginia's** universal waste lamp **regulations** and has determined that the State's requirements are at least as protective as, and therefore equivalent to, the Federal prohibition on the treatment of universal waste lamps. Therefore, EPA grants **Virginia** final authorization for its universal waste lamp **regulations**, which provide for lamp crushing.

3. Miscellaneous Changes

In addition to adopting Federal program revisions by means of updating the effective date of the incorporation by reference of the Code of Federal **Regulations** to July 1, 2001, **Virginia** has made various additional regulatory revisions since its first program revision application. **Virginia** is seeking authorization for these miscellaneous changes, which became effective March 13, 2002. Among these changes,

Virginia reorganized its permit procedures by deleting Part XI (9 VAC 20-60-960 through 9 VAC 20-60-1250) and expanding, as appropriate, the coverage of 9 VAC 20-60-270. **Virginia** has also adopted the Federal provisions of 40 CFR 260.30 and 260.31 at 9 VAC 20-60-1390 A 2 and 20-60-1390 B respectively, which provide for a petition process for waste variances from classification as a solid waste; and revised various cross-references, principally to conform to the deletion of Part XI. Additional miscellaneous changes are listed following this paragraph. Regulatory citations annotated with an asterisk are deemed to be more stringent than the Federal program. EPA has evaluated the miscellaneous changes described in this section and has determined that they are consistent with and no less stringent than the corresponding Federal regulations.

Title 9, **Virginia** Administrative Code (9 VAC) Sec. Sec. 20-60-14 B 3 through B6; 20-60-17 A; 20-60-20 through 20-60-90; 20-60-124 A & B; 20-60-260 B 3 b; 20-60-260 B 8 and B 9; 20-60-261 B 5*, 20-60-262 B 4* and 20-60-262 B 6 and B 7; 20-264 B 5*, 20-60-264 B 7; 20-60-264 B 15 a*; 20-60-264 B 16; 20-60-264 B 17; 20-60-265 B 6*; 20-60-265 B 7; 20-60-265 B 9; 20-60-265 B 18; 20-60-266 B 3; 20-60-270 A; 20-60-270 B 5; 20-60-270 B 6 (except first sentence); 20-60-270 B 7; 20-60-270 B 8; 20-60-270 B 9 introductory paragraph; 20-60-279 B 9 a*; 20-60-270 B 9 b; 20-60-270 B 10*; 20-60-270 B 11*; 20-60-270 B 12*; 20-60-270 B 13; 20-60-273 B 2; 20-60-315 B & C; 20-60-315 H; 20-60-328 A through D; 20-60-1410 A and B; 20-60-1420 B and C; 20-60-1430; and 20-60-1435.

A further discussion of **Virginia's** miscellaneous regulatory changes is found in the following authorization revision application documents for **Virginia**: (1) ``Demonstration of Adequate Authority for **Virginia** Hazardous Waste Management Program Revisions from Program Revision I through June 30, 2001: Program Revision II'' and (2) ``Program Description, Revision II, 2002.''

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H. Where Are the Revised **Virginia** Rules Different From the Federal Rules?

Virginia's hazardous waste program contains several provisions which are more stringent than the RCRA program as codified in the July 1, 2001 edition of title 40 of the Code of Federal **Regulations** (CFR). These more stringent provisions are part of the Federally-authorized program and are, therefore, Federally-enforceable. The specific more stringent provisions are noted in Section G.3.

I. Who Handles Permits After This Authorization Takes Effect?

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

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

Virginia is not seeking authority to operate its program on Indian lands, since there are no Federally-recognized Indian Lands in **Virginia**.

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

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

L. Statutory and Executive Order Reviews

Statutory and Executive Order Reviews

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

1. Executive Order 12866: Regulatory Planning Review

The Office of Management and Budget has exempted this rule from its review under Executive Order (EO) 12866.

2. Paperwork Reduction Act

This rule does not impose an information collection burden under the Paperwork Reduction Act.

3. Regulatory Flexibility Act

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act.

5. Executive Order 13132: Federalism

EO 13132 does not apply to this rule because it will not have federalism implications (i.e., substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government).

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

EO 13175 does not apply to this rule because it will not have tribal implications (i.e., substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes).

7. Executive Order 13045: Protection of Children from **Environmental** Health & Safety Risks

This rule is not subject to EO 13045 because it is not economically

significant and it is not based on health or safety risks.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to EO 13211 because it is not a significant regulatory action as defined in EO 12866.

9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, Section 12(d) of the National Technology Transfer and Advance Act does not apply to this rule.

10. Congressional Review Act

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 et seq.) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a `major rule' as defined by 5 U.S.C. 804(2). This action will be effective on May 12, 2003.

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: March 5, 2003.

Thomas Voltaggio,
Acting Regional Administrator, EPA Region III.
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