

US EPA ARCHIVE DOCUMENT

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[FR Doc. E8-17480 Filed 7-29-08; 8:45 am]

BILLING CODE 6560-50-S

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 271**

[EPA-RO3-RCRA-2008-0256; FRI-8698-9]

**Virginia: Final Authorization of State
Hazardous Waste Management
Program Revision****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Final rule.

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

DATES: Final authorization for the revisions to Virginia's hazardous waste management program shall be effective on July 30, 2008.

FOR FURTHER INFORMATION CONTACT:

E-mail: Thomas UyBarreta, uybarreta.thomas@epa.gov; Mail: Thomas UyBarreta, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029; Phone: 215-814-2953.

**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. As the Federal program is revised, States must revise their programs and ask EPA to authorize the revisions. Revisions 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 revise their programs because of revisions to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

On October 10, 2007, Virginia submitted to EPA a complete program

revision application, in accordance with 40 CFR 271.21, seeking authorization of additional changes to its program. On April 3, 2008, EPA published both an immediate final rule (73 FR 18172-18176) granting Virginia final authorization for these revisions to its federally-authorized hazardous waste program, along with a companion proposed rule announcing EPA's proposal to grant such final authorization (73 FR 18229-18230). EPA announced in both notices that the immediate final rule and the proposed rule were subject to a thirty-day public comment period. The public comment period ended on May 5, 2008. Further, EPA stated in both notices that if it received adverse comments on its intent to authorize Virginia's program revisions that it would (1) withdraw the immediate final rule; (2) proceed with the proposed rule as the basis for the receipt and evaluation of such comments, and (3) subsequently publish a final determination responding to such comments and announce its final decision whether or not to authorize Virginia's program revisions. EPA did receive a written comment during the public comment period and on June 3, 2008, published a notice withdrawing the immediate final rule (73 FR 31634). Today's action responds to the comments EPA received and publishes EPA's final determination granting Virginia final authorization of its program revisions. Further background on EPA's immediate final rule and its tentative determination to grant authorization to Virginia for its program revisions appears in the aforementioned **Federal Register** notices. The issues raised by the commenter are summarized and responded to as follows.

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

EPA received two comments from an individual opposing EPA's proposal to authorize revisions to Virginia's hazardous waste regulations. The commenter opposed authorization of the regulations that adopted the rules that were promulgated under non-HSWA authority, including the RCRA Burden Reduction Initiative (Revision Checklist 213).¹ The commenter argued that, through RCRA, Congress has barred EPA and authorized states from promulgating regulations that are less stringent than the regulations that were first

promulgated under the authority of RCRA. Specifically, the commenter stated that 42 U.S.C. 6929 would prevent EPA from amending 40 CFR 268.7(b)(6) to eliminate the requirement to submit notifications and certifications to EPA; this amendment, argued the commenter, prohibits states from requiring that the State be provided with copies of hazardous waste manifests, and such prohibition is not allowed by 42 U.S.C. 6929. For the reasons set forth below, we do not agree with the commenter.

EPA promulgated all of the rules included in Virginia's revision pursuant to the authority granted to EPA by Congress under RCRA. Those rules, including the RCRA Burden Reduction Initiative Rule, were finalized after full consideration of any and all comments submitted in a timely manner. By adopting the rules promulgated by EPA, Virginia revised its hazardous waste program to be equivalent to and consistent with the federal program. Pursuant to 42 U.S.C. 6926(b), EPA has the authority to authorize state programs that are equivalent to and consistent with the federal program. Additionally, as is explained in more detail in the RCRA Burden Reduction Initiative Final Rule (71 FR 16862), EPA's amendment of 40 CFR 268.7(b)(6) does not prohibit any state from requiring that the state be provided with copies of hazardous waste manifests. States are not required to adopt and seek authorization for federal requirements that are equivalent to, or less stringent than, the state's currently authorized regulations (see 71 FR at 16899). Specifically, although several states had commented positively regarding the amendment to 40 CFR 268.7(b)(6), EPA explained that any state "may choose to be more stringent than the federal program, and choose to retain these notifications." (71 FR at 16889)

The commenter also stated that some of the Revision Checklists for the nine RCRA clusters for which Virginia is seeking authorization "erroneously suggest that the Attorney General may not need to conduct a detailed review of the proposed rules against state statute for authority prior to final authorization." As a result, the commenter expressed concern "that there may not have been an in-depth Attorney General review as required" by 40 CFR 271.7. EPA responds to this comment as follows.

Pursuant to 40 CFR 271.21(b)(1), in order to revise its program, a state must submit "such * * * documents as EPA determines to be necessary under the circumstances." These documents may include a modified Attorney General's

¹ The commenter incorrectly stated that the entire RCRA Burden Reduction Initiative was promulgated pursuant to non-HSWA authority. In fact, the RCRA Burden Reduction Initiative was promulgated pursuant to both HSWA and non-HSWA statutory authority.

Statement. The purpose of the Attorney General's Statement, as described in 40 CFR 271.7, is to demonstrate to EPA that the state has the legal authority to carry out the program. In each of the revision checklist summaries for the revisions at issue in this authorization, EPA states that "specific [Attorney General] certification of statutory authority may not be required for this checklist as long as the [Attorney General] has previously demonstrated authority for * * *" the area that is being regulated in the rule at issue, such as generators, identification and listing of hazardous waste, or the hazardous waste manifest. This statement, as included in the checklist summaries, is appropriate because a state that has already certified that it has the authority to regulate a certain area may not need to make that certification once again if the authority has not changed. Nevertheless, in this case, Virginia did submit to EPA an Attorney General's Statement of Adequate Authority, in accordance with 40 CFR 271.7, as part of its application for revision of its hazardous waste regulations.

C. What Decisions Have We Made in This Rule?

Based on EPA's response to public comment, the Agency has determined that approval of Virginia's RCRA program revisions should proceed. EPA has made a final determination 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.

The effect of this decision is that a facility in Virginia subject to RCRA will have to comply with the authorized revised State requirements instead of the equivalent Federal requirements in order to comply with RCRA. While Virginia has enforcement responsibilities under its State hazardous waste program for violations of such program, EPA nevertheless retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Take enforcement actions regardless of whether the State has taken its own actions;
- Enforce RCRA requirements and suspend or revoke permits; and
- Perform inspections, and require monitoring, tests, analyses or reports.

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. 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 Virginia.

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. 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); as a result, this action will be effective July 30, 2008.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, 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: July 21, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E8-17456 Filed 7-29-08; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 94-129; FCC 07-223]

Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's *Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996, Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers*, Fourth Report and Order (2007 Fourth Report and Order). This notice is consistent with the 2007 Fourth Report and Order, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the rule.

DATES: Section 64.1120(c)(3)(iii), published at 73 FR 13144, March 12, 2008 is effective July 30, 2008.

FOR FURTHER INFORMATION CONTACT: David Marks, Consumer Policy Division, Consumer & Governmental Affairs Bureau, at (202) 418-0347.

SUPPLEMENTARY INFORMATION: This document announces that, on July 14, 2008, OMB approved, for a period of three years, the information collection requirements contained in the Commission's 2007 Fourth Report and Order, FCC 07-223, published at 73 FR 13144, March 12, 2008. The OMB Control Number is 3060-0787. The Commission publishes this notice as an announcement of the effective date of the rule. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC 20554.

Please include the OMB Control Number, 3060-0787, in your correspondence. The Commission will also accept your comments via the Internet if you send them to PRA@fcc.gov.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on July 14, 2008, for the information collection requirements contained in the Commission's rules at 47 CFR 64.1120(c)(3)(iii). The OMB Control Number is 3060-0787. The total annual reporting burden for respondents for these collections of information, including the time for gathering and maintaining the collection of information, is estimated to be: 6,454 respondents, a total annual hourly burden of 105,901 hours, and \$51,285,000 in total annual costs.

Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act, which does not display a current, valid OMB Control Number. The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03-123; FCC 07-186]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Commission announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection associated with the Commission's *Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities*, Report and Order and Declaratory Ruling (2007 TRS Cost Recovery Order). This notice is consistent with the 2007 TRS Cost Recovery Order, which stated that the Commission would publish a document in the **Federal Register** announcing the effective date of the rule.

DATES: Section 64.604(c)(5)(iii)(C), published at 73 FR 3197, January 17, 2008, is effective July 30, 2008.

FOR FURTHER INFORMATION CONTACT: Thomas Chandler, Disabilities Rights Office, Consumer and Governmental Affairs Bureau, at (202) 418-1475.

SUPPLEMENTARY INFORMATION: This document announces that, on July 20, 2008, OMB approved, for a period of three years, the information collection requirements contained in the Commission's 2007 TRS Cost Recovery Order, FCC 07-186, published at 73 FR 3197, January 17, 2008. The OMB Control Number is 3060-0463. The Commission publishes this notice as an announcement of the effective date of the rule. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street, SW., Washington, DC 20554. Please include the OMB Control Number, 3060-0463, in your correspondence. The Commission will also accept your comments via the Internet if you send them to PRA@fcc.gov.

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Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on July 20, 2008, for the information collection requirements contained in the Commission's rules at 47 CFR 64.604(c)(5)(iii)(C). The OMB Control Number is 3060-0463. The total annual reporting burden for respondents for