

US EPA ARCHIVE DOCUMENT

enactment of section 1116(a)(3) (see former 38 CFR 3.311a(a)(1)(1990)), and we find no basis to conclude that Congress intended to broaden that definition. The commenter cited no authority for concluding that individuals who served in the waters offshore of the Republic of Vietnam were subject to the same risk of herbicide exposure as those who served within the geographic boundaries of the Republic of Vietnam, or for concluding that offshore service is within the meaning of the statutory phrase "Service in the Republic of Vietnam." We therefore make no change based on this comment.

CLL and Non-Hodgkin's Lymphoma

The commenter stated that because of the common etiology and shared symptoms between CLL and non-Hodgkin's lymphoma (NHL), all in-country Vietnam veterans who are eligible for compensation because of NHL should also be eligible for CLL diagnoses, treatment plans, and compensation.

We disagree. While CLL and NHL may share certain traits and symptomatology, they are, nonetheless, distinct diagnostic entities, both of which VA presumes to result from herbicide exposure. We believe the responsibilities of diagnosing disease and establishing treatment plans must rest with health care professionals. Further, it would be improper and contrary to current statutes to provide for automatic compensation for a disease that the claimant may not even have. Whether a veteran has one of these conditions, or which one, must be established by competent medical evidence. Therefore, no changes have been made based on this comment.

Based on the rationale set forth in the proposed rule document and this document, we are adopting the provisions of the proposed rule as a final rule without change.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information

under the Paperwork Reduction Act (44 U.S.C. 3501-3521).

Executive Order 12866

This final rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance program numbers are 64.109 and 64.110.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: August 27, 2003.

Anthony J. Principi,
Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A "Pension, Compensation, and Dependency and Indemnity Compensation"

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. In § 3.309, paragraph (e), the listing of diseases is amended by adding "Chronic lymphocytic leukemia" between "Hodgkin's disease" and "Multiple myeloma" to read as follows:

§ 3.309 Disease subject to presumptive service connection.

* * * * *

(e) * * *

Chronic lymphocytic leukemia

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[FR Doc. 03-26252 Filed 10-15-03; 8:45 am]
BILLING CODE 8320-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7575-1]

West Virginia: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: West 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 West 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 West Virginia's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, or portions thereof, 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 changes to West Virginia's program that were the subject of adverse comment.

DATES: This final authorization will become effective on December 15, 2003, unless EPA receives adverse written comments by November 17, 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, or portions thereof, will not take effect as scheduled.

ADDRESSES: Send written comments to Lillie Ellerbe, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814-5454. Comments may also be submitted electronically to ellerbe.lillie@epa.gov or by facsimile at (215) 814-3163. Comments in electronic format should identify this specific notice. You may inspect and copy West Virginia's application from 8 a.m. to 4:30 p.m., at the following addresses: West Virginia Department of Environmental Protection

(WVDEP), Division of Water and Waste Management, 1356 Hansford Street, Charleston, WV 25301-1401, Phone number: (304) 558-2505, attn: Carroll Cather, and EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814-5254.

FOR FURTHER INFORMATION CONTACT:

Lillie Ellerbe, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103, Phone number: (215) 814-5454.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes to become more stringent or broader in scope, States must change their programs and apply to EPA to authorize the changes. Authorization of 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 revise 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 West Virginia's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant West Virginia final authorization to operate its hazardous waste program with the changes described in its application for program revisions, subject to the procedures described in Section E, below. West 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 for which West Virginia has not been authorized, including issuing HSWA permits, until

the State is granted authorization to do so.

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

This decision serves to authorize revisions to West Virginia's authorized hazardous waste program. This action does not impose additional requirements on the regulated community because the regulations for which West Virginia is being authorized by today's action are already effective and are not changed by today's action. West 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:

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

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 West Virginia's program changes. If EPA receives comments which oppose this authorization, or portions thereof, that document will serve as a proposal to authorize the changes to West Virginia'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, as appropriate, by publishing a document in the **Federal Register** before the rule would become effective. EPA will base any further decision on the authorization of West Virginia's program changes 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 change to the State's hazardous waste program,

we will withdraw that part of this rule, but the authorization of the program changes 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 West Virginia Previously Been Authorized for?

Initially, West Virginia received final authorization to implement its hazardous waste management program effective May 29, 1986 (51 FR 17739). EPA granted authorization for changes to West Virginia's regulatory program on May 10, 2000, effective July 10, 2000 (65 FR 29973).

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

On June 4, 2003, West Virginia submitted a program revision application, seeking authorization of additional changes to its program in accordance with 40 CFR 271.21. West Virginia's revision application includes various regulations which are equivalent to, and no less stringent than, changes to the Federal hazardous waste program, as published in the **Federal Register** through March 8, 2000. We now make an immediate final decision, subject to receipt of written comments that oppose this action, the West Virginia's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants West Virginia final authorization for the following program changes:

West Virginia seeks authority to administer the Federal requirements that are listed in Table 1. This Table lists the State analogs that are being recognized as so less stringent than the appropriate Federal requirements. Unless otherwise stated, the State's statutory references are to the West Virginia Code (W. Va. Code), 1994 Cumulative Supplement, Chapter 22—Environmental Resources, Article 1 (Division of Environmental Protection), Article 5 (Air Pollution Control), and Article 18 (Hazardous Waste Management Act). The regulatory references are to the following Legislative Rules: Title 33, Series 20, Code of State Regulations (33CSR20), "Hazardous Waste Management Rule", effective July 1, 2001; 45CSR25, "To Prevent and Control Air Pollution From Hazardous Waste Treatment, Storage, or Disposal Facilities," effective July 1, 2001; and 47CSR13 Underground Injection Control" effective June 1, 2002.

In particular, West Virginia is seeking authority for the Federal Corrective Action Program under HSWA as addressed in Revision Checklists 17L, 44A, B, C, and 121; Federal delisting requirements at 40 CFR 260.22, Revision Checklist 17B; post closure permit requirement and closure process regulations (alternative to post-closure rule), Revision Checklist 174; the radioactive mixed waste requirements, and Project XL rulemaking for Osi Specialities, Inc., Sistersville, WV (aka Crompton Corporation).

Description of Federal Requirement (Revision Checklists ¹)	Analogous West Virginia Authority
Early Checklists	
Consolidated Delisting Checklist, Hazardous Waste Management System: General 40 CFR 260.20 and 260.22 as of June 30, 1999 (Includes Revision Checklist 17B).	West Virginia Code (W. Va. Code) 1994 Cumulative Supplement §§ 22-18-6(a)(12), 22-1-3(c), 22-18-5(a), 22-18-6(a) and 22-18-23, Hazardous Waste Management Regulations (HWMR) §§ 33-20-1.6, 33-20-2.1 and 33-20-2.4.
Corrective Action, 50 FR 28702-28755, 7/15/85, Revision Checklist 17L.	W. Va. Code §§ 22-18-9(a) and 22-1-3(c), 22-18-9(b)(1)-(2), 22-18-6(a)(4)(C), (F), (G), 22-18-7(e), 22-8-9(b)(2) HWMR §§ 33-20-1.6, 33-20-7.2, 33-20-11.1 and 33-20-11.23.
Non-HSWA IV/HSWA Cluster II²	
Permit Application Requirements Regarding Corrective Action, 52 FR 45788-45799, 12/1/87, Revision Checklist 44A.	W. Va. Code §§ 22-1-3(c), 22-18-8(a), 22-18-9(a) and 22-18-23, HWMR §§ 33-20-1.6, 33-20-11.1.
Corrective Action Beyond the Facility Boundary, 52 FR 45788-45799, 12/1/87, Revision Checklist 44B.	W. Va. Code §§ 22-18-9(b) and 22-1-3(c), HWMR §§ 33-20-1.6, 33-20-7.2.
Corrective Action for Injection Wells, 52 FR 45788-45799, 12/1/87, Revision Checklist 44C.	W. Va. Code §§ 22-18-9(a), 22-18-8(a) and 22-18-9(a), 22-18-23, 47 CSR 13, § Interim Status for Class I RCRA Injection wells (47 CSR 13 § 7.3 (a-h), 47 CSR 13, § Class I RCRA Injection wells prohibited without a permit (47 CSR 13 § 13.3), HWMR §§ 33-20-1.6 and 33-20-11.23.
RCRA Cluster III	
Corrective Action Management Units and Temporary Units, 52 FR 8658-8685, 2/16/93, Revision Checklist 121.	W. Va. Code §§ 22-18-9, 22-1-3(c), 22-18-5(a) 22-18-6(a) and 22-18-23, HWMR §§ 33-20-1.6, 33-20-2.1, 33-20-7.2, 33-20-8.1, 33-20-10.1, and 33-20-11.1.
RCRA Cluster VIII	
Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance, Amendment, 62 FR 37694-37699, 7/14/97, Revision Checklist 160.	W. Va. Code §§ 22-18-5(a), 22-18-6(a), (a)(12)(A), (B), (D), 22-18-23 and 22-1-3(c), HWMR §§ 33-20-1.6 and 33-20-10.1.
Emergency Revision of the Carbamate Land Disposal Restrictions, 62 FR 45568, 8/28/97, Revision Checklist 161.	W. Va. Code §§ 22-18-5(a), 22-18-6(a), (a)(12)(A), (B), (D), 22-18-23 and 22-1-3(c), HWMR §§ 33-20-1.6 and 33-20-10.1.
Kraft Mill Stream Stripper Condensate Exclusion, 63 FR 18504-18751, 4/15/98, Revision Checklist 164.	W. Va. Code §§ 22-18-6(a), (a)(2)&(12), 22-1-3(c), 22-18-5(a), and 22-18-23, HWMR §§ 33-20-1.6, and 33-20-3.1, 45 CSR 25 § 45-25-1.5a (Table 25-A, Item 20).
Recycled Used Oil Management Standards; Technical Correction and Clarification 63 FR 24963-24969, 5/5/98 as amended 7/14/98, at 63 FR 37780-37782, Revision Checklist 166.	W. Va. Code §§ 22-18-6(a)(14), 22-18-6(a)(15) and 22-1-3(c), HWMR §§ 33-20-1.6, 33-20-3.1 and 33-20-14.1.
Petroleum Refining Process Wastes, 63 FR 42110-42189, 8/6/98, Revision Checklist 169.	W. Va. Code §§ 22-18-5(a), 22-18-6(a), (a)(12)(A), (B), (D), 22-1-3(c), 22-18-23, HWMR §§ 33-20-1.6, 33-20-3.1, 33-20-10.1, 33-20-3.1a through 3.1.a.3, 33-20-9, 45 CSR 25, § 45-25-1.5.a (Table 25-A, Item 20).
RCRA Cluster IX	
Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizers, Amendment 63 FR 46332-46334, 8/31/98, Revision Checklist 170.	W. Va. Code §§ 22-18-5(a), 22-18-6(a), (a)(12)(A), (B), (D), 22-18-23 and 22-1-3(c), HWMR §§ 33-20-1.6 and 33-20-10.1.
Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production, 63 FR 47410-47418, 9/4/98, Revision Checklist 171.	W. Va. Code §§ 22-18-5(a), 22-18-6(a), (a)(12)(A), (B), (D), 22-18-23, and 22-1-3(c), HWMR §§ 33-20-1.6 and 33-20-10.1.
Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags, 63 FR 48124-48127, 9/9/98, Revision Checklist 172.	W. Va. Code §§ 22-18-5(a), 22-18-6(a), (a)(12)(A), (B), (D), 22-18-23, and 22-1-3(c), HWMR §§ 33-20-1.6 and 33-20-10.1.
Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); Final Rule, 63 FR 51254-51267, 9/24/98, Revision Checklist 173.	W. Va. Code §§ 22-18-5(a), 22-18-6(a), (a)(12)(A), (B) & (D), 22-18-23 and 22-1-3(c), HWMR §§ 33-20-1.6, 33-20-10.1.
Post-Closure Permit Requirements and Closure Process, 63 FR 56710-56735, 10/22/98, Revision Checklist 174.	W. Va. Code §§ 22-18-6(a) & (a)(5), 22-1-3(c), 22-18-5(a), 22-18-23, 22-18-14(f), 22-18-15 and 22-18-17(c), HWMR §§ 33-20-1.6, 33-20-7.2, 33-20-8.1, 33-20-11.1.
HWIR-Media, 63 FR 65874-65947, 11/30/98, Revision Checklist 175 ...	W. Va. Code §§ 22-18-6(a), (a)(2), (a)(5)&(12), 22-1-3(c), 22-18-5(a), 22-18-23, 22-18-9, 22-18-20 HWMR §§ 33-20-1.6, 33-20-2.1 33-20-3.1, 33-20-7.2, 33-20-8.1, 33-20-10-1, 33-20-11.1, 45 CSR 25, § 45-25-1.5.a (Table 25-A, Item 20).
Universal Waste Rule—Technical Amendments, 63 FR 71225-71230, 12/24/98, Revision Checklist 176.	W. Va. Code §§ 22-1-3(c), 22-18-5(a), 22-18-6(a), 22-18-23 HWMR §§ 33-20-1.6, 33-20-13.1, 33-20-9.

Description of Federal Requirement (Revision Checklists ¹)	Analogous West Virginia Authority
Organic Air Emission Standards: Clarification and Technical Amendments, 64 FR 3382, 1/21/99, Revision Checklist 177.	W. Va. Code §§ 22-1-3(c), 22-5.1, 22-18-6(a), 22-18-6(a)(13)(A)&(B), 22-18-23, HWMR §§ 33-20-1.6, 33-20-3.1, 33-20-5.1, 33-20-7.2, 33-20-7.8, 33-20-8.1, 33-20-8.6, 33-20-11.1, 45 CSR 25, §§ 45-25-1.1.a, 45-25-1.1.b, 45-25-1.5a (Table 25-A, Items 6, 7, 8, 9, 10, 11 and 21).
Petroleum Refining Process Wastes—Leachate Exemption, 64 FR 6806, 2/11/99, Revision Checklist 178.	W. Va. Code §§ 22-18-6(a), (a)(2)&(12) 22-1-3(c), 22-18-5(a), 22-18-23, HWMR §§ 33-20-1.6, 33-20-3.1, 45 CSR 25, § 45-25-1.5.a (Table 25-A, Item 20).
Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards, 64 FR 25408-25417, 5/11/99, Revision Checklist 179.	W. Va. Code §§ 22-18-6(a), (a)(2)&(12)(A), (B), (D), 22-1-3(c), 22-18-5(a), 22-18-23, HWMR §§ 33-20-1.6, 33-20-3.1, 33-20-5.1, 33-20-10.1, 45 CSR 25, 45-25-1.5.a (Table 25-A, Item 20).
Test Procedures for the Analysis of Oil and Grease and Non-Polar Material, 64 FR 26315-26327, 5/14/99. Revision Checklist 180.	W. Va. Code §§ 22-1-3(c), 22-18-5(a), 22-18-6(a), 22-18-23, HWMR §§ 33-20-1.6, 33-20-2.1.
RCRA Cluster X	
Hazardous Air Pollutant Standards for Combustors, 64 FR 52828-53077, 9/30/99, as amended 11/19/99, at 64 FR 63209-63213, Revision Checklist 182.	W. Va. Code §§ 22-18-6(a), (a)(2) (5), (12), (13), 22-1-3(c), 22-18-5(a), 22-18-23, HWMR §§ 33-20-1.6, 33-20-3.1, 33-20-1.10, 45 CSR 25, § 45-25-1.5a (Table 25-A, Item 20) and 1.5.c.
Accumulation Time for Waste Water Treatment Sludges, 65 FR 12378-12398, 3/8/00, Revision Checklist 184.	W. Va. Code §§ 22-18-6(a)&(a)(3), 22-1-3(c), 22-18-5(a), 22-18-23, HWMR § 33-20-5.5.
Radioactive Mixed Waste	
Hazardous Components of Radioactive Mixed Wastes, 51 FR 24504, 7/3/86.	W. Va. Code §§ 22-18-3(16) 22-18-6(a)(2), HWMR §§ 33-20-1.6, and 33-20-3.1.
Project XL	
Project XL Site-Specific Rulemaking for Osi Specialities, Inc., Sisterville, WV, 63 FR 49384, as amended 9/15/98 and 63 FR 53844, 10/7/98.	W. Va. Code §§ 22-1-3(c), 22-5-1, 22-18-6(a), (a)(12), and (a)(13)(A)&(B), 45 CSR 25, § 45-25-1.5.a (Table 25-A, Item 10).

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>.

² A RCRA "Cluster" is a set of Revision Checklists for Federal rules, typically promulgated between July 1 and June 30 of the following year.

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

The West Virginia hazardous waste program contains certain provisions which are beyond the scope of the Federal program. These broader in scope provisions are not part of the program being authorized by today's action. EPA cannot enforce requirements which are broader in scope, although compliance with such provisions is required by West Virginia law. Examples of broader in scope provisions of West Virginia's program include, but are not limited to, the following:

1. At HWMR § 33-20-2.4.c, West Virginia provides for the acceptance of an EPA determination granting a petition to exclude hazardous waste, provided that certain conditions are met. If such conditions are not met, and West Virginia does not accept EPA's delisting of the hazardous waste, the waste would still be considered a hazardous waste under West Virginia's regulations, even though such waste would not be considered a hazardous waste by EPA. In this respect, West

Virginia's program would be beyond the scope of the Federal program.

2. At HWMR § 33-20-2.4.b West Virginia regulations require a petitioner for a delisting to pay an initial non-refundable application fee of \$1000 and allow the Director to recover all reasonable costs attributable to the review and investigation of such petition in excess of the initial fee. Since the Federal program does not require application fees to be submitted with a delisting petition, the collection of such fees is beyond the scope of the Federal program.

I. Who Handles Permits After This Authorization Takes Effect?

After authorization, West 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 West Virginia occurs and EPA terminates its permit, EPA and West 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 West Virginia is not yet authorized.

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

West Virginia is not seeking authorization to protect the program on Indian lands, since there are no Federally-recognized Indian Lands in West Virginia.

K. What Is Codification and Is EPA Codifying West 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

XX, for this authorization of West Virginia's program changes until a later date.

L. 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 12132 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 is 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 December 15, 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: October 7, 2003.

Donald S. Welsh,

Regional Administrator, EPA Region III.

[FR Doc. 03-26047 Filed 10-15-03; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 030613152-3235-02; I.D. 051903B]

RIN 0648-AQ38

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specification, General Category Effort Controls, and Permit Revisions; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction

SUMMARY: NMFS published a final rule in the Federal Register on October 2, 2003, concerning the final initial 2003 fishing year specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quotas for each of the established fishing categories, to set General category effort controls, to allocate 25 metric tons (mt) of BFT to account for incidental catch of BFT by pelagic longline vessels "in the vicinity of the management boundary area," to define the management boundary area and applicable restrictions, and to revise permit requirements to allow General category vessels to participate in registered recreational Highly Migratory Species (HMS) fishing tournaments and to allow permit applicants a 10-calendar day period to make permit category changes to correct potential errors. The document contained an error in the **DATES** section.

FOR FURTHER INFORMATION CONTACT: Brad McHale at (978) 281-9260.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of October 2, 2003, in FR Vol. 68, No. 191, page 56783, in the third column, correct the **DATES** caption to read:

DATES: This rule is effective November 3, 2003. The final initial quota specifications and General category effort controls are effective November 3, 2003, through May 31, 2004.

Dated: October 10, 2003.

Rebecca J. Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212306-2306-01; I.D. 101003A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central Regulatory Area of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and