

(86) \* \* \*  
 (ii) \* \* \*  
 (C) Letter from Connecticut Department of Environmental Protection dated August 1, 2002.  
 (D) The SIP narrative "Connecticut State Implementation Plan Revision to Revise the State's NO<sub>x</sub> Emissions Budget," dated July 22, 2002.

**Subpart W—Massachusetts**

■ 3. Section 52.1120 is amended by adding paragraph (c)(124)(ii)(E) and (F) to read as follows:

**§ 52.1120 Identification of plan.**  
 \* \* \* \* \*  
 (c) \* \* \*  
 (124) \* \* \*  
 (ii) \* \* \*  
 (E) Letter from the Commonwealth of Massachusetts, Executive Office of Environmental Affairs, Department of Environmental Protection dated April 10, 2002.  
 (F) The SIP narrative "Technical Support Document for Public Hearings on Revisions to the State Implementation Plan for Ozone for

Massachusetts, Amendments to Statewide Projected Inventory for Nitrogen Oxides," dated March 2002.

**Subpart OO—Rhode Island**

■ 4. Section 52.2070 is amended by adding new entries to the end of the table in paragraph (e) to read as follows:

**§ 52.2070 Identification of plan.**  
 \* \* \* \* \*  
 (e) \* \* \*

**RHODE ISLAND NON REGULATORY**

Name of non regulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approved date	Explanation
September 20, 2001 letter from Rhode Island Department of Environmental Management.	Statewide	Submitted September 20, 2001.	June 20, 2003 [Insert FR citation from published date]	Submitting the "NO <sub>x</sub> State Implementation Plan (SIP) Call Narrative," revised September 2001.
NO <sub>x</sub> State Implementation Plan (SIP) Call Narrative, revised September 2001.	Statewide	Submitted September 20, 2001.	June 20, 2003 [Insert FR citation from published date]	

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 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL-7516-4]

**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 the Resource Conservation and Recovery Act (RCRA). EPA has made a determination that all these revisions to the Virginia hazardous waste program, with the exception of the Hazardous Waste Lamps Rule, 64 FR 36466, (July 6, 1999), satisfy all requirements necessary for final authorization. Thus, with the exception of the Hazardous Waste Lamps Rule, EPA is authorizing the State's revisions to its hazardous waste program, subject to the limitations on its authority retained by EPA in accordance with RCRA, including the Hazardous and Solid Waste Amendments of 1984.

**EFFECTIVE DATE:** Final authorization for the revisions to Virginia's hazardous waste management program, with the exception of the Hazardous Waste Lamps Rule, shall be effective on June 20, 2003.

**FOR FURTHER INFORMATION CONTACT:** Joanne Cassidy, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029, 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 that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must revise their programs accordingly and apply to EPA to authorize the revisions. Revisions to State programs may be necessary when Federal or State statutory or regulatory authority is changed. For example, most commonly, States must revise their programs when EPA promulgates changes to its regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

Virginia received final authorization on December 4, 1984, effective December 18, 1984 (49 FR 47391), to

implement a hazardous waste management program in lieu of the Federal Program. EPA subsequently granted authorization for revisions to Virginia's program on June 14, 1993, effective August 13, 1993 (58 FR 32855); and July 31, 2000, effective September 29, 2000 (65 FR 46607).

On September 24, 2002, 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 March 13, 2003, EPA published an immediate final rule (68 FR 11981-11986) 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 (68 FR 12015). 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 April 14, 2003. 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 as to whether or not to authorize Virginia's program revisions. EPA received adverse written comments during the public comment period and on May 2, 2003, published a document withdrawing the immediate final rule (68 FR 23407–23408). Since all of the comments received related only to the Hazardous Waste Lamps Rule, EPA is authorizing the remaining provisions. Today's action grants final authorization for all program revisions described in EPA's proposed rule, with the exception of the provisions of the Hazardous Waste Lamps Rule. EPA will respond to comments on the Hazardous Waste Lamps Rule in a separate action and publish EPA's final decision as to whether or not to authorize the Hazardous Waste Lamps Rule for Virginia. 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** documents.

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

The Agency received comments from twelve (12) sources. All comments received specifically related to the Hazardous Waste Lamps Rule. Of these comments, four (4) favored the authorization of these provisions and eight (8) were adverse. One of the eight adverse comments was postmarked one day after the deadline. EPA will address all public comments regarding authorization of the Hazardous Waste Lamps Rule for Virginia in a later final rule.

#### **C. What Decisions Have We Made in This Rule?**

The Agency has determined that approval of Virginia's RCRA program revisions, with the exception of the Hazardous Waste Lamps Rule, should occur. EPA has made a final determination that Virginia's application to revise its authorized program, with the exception of the Hazardous Waste Lamps Rule, 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, with the exception of the Hazardous Waste Lamps Rule. 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 for program revisions, with the exception of the Hazardous Waste Lamps Rule,

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 any such HSWA requirements and prohibitions in Virginia, including issuing HSWA permits, until the State is granted authorization to do so.

For further background on the scope and effect of today's action to approve Virginia's RCRA program revisions, please refer to the preambles of EPA's March 13, 2003 proposed and immediate final rules to grant authorization to Virginia for its program revisions, at 68 FR 12015 and 68 FR 11981–11986, respectively.

#### **D. 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 and 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 June 20, 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: June 12, 2003.

**James W. Newsom,**

*Acting Regional Administrator, EPA Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 761

[OPPT-2003-0029; FRL-7314-2]

RIN 2070-AC01

### Polychlorinated Biphenyls; Use of Porous Surfaces; Amendment in Response to Court Decision

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

**ACTION:** Final rule.

**SUMMARY:** EPA is revising the language of the regulations affecting the use of polychlorinated biphenyls (PCBs) in the Code of Federal Regulations (CFR) to conform to a court decision vacating an amendment to these regulations. EPA's 1998 amendments to the PCB disposal regulations added a use authorization for porous materials contaminated by spills of liquid PCBs. Due to an editing error, the regulation referred to a unit of measurement inapplicable to the concentration of PCBs in liquids. In 1999, EPA issued a final rule correcting a number of errors in the 1998 action, including the porous surfaces use authorization. On January 30, 2001, the United States Court of Appeals for the District of Columbia Circuit (the Court) vacated the portion of the 1999 amendment which pertained to the porous materials use authorization. This document revises the CFR to conform to the court decision, and requires no notice and public comment.

**DATES:** This final rule is effective on June 20, 2003.

**FOR FURTHER INFORMATION CONTACT:** *For general information contact:* Barbara Cunningham, Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

*For technical information contact:* Sara McGurk, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number:

(202) 566-0480; e-mail address: [mcgurk.sara@epa.gov](mailto:mcgurk.sara@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

###### A. Does this Action Apply to Me?

You may be potentially affected by this action if you manufacture, process, distribute in commerce, use, or dispose of PCBs or materials containing PCBs. Potentially affected entities may include, but are not limited to:

- Oil and Gas Extraction (NAICS 21111), e.g., Facilities with surfaces contaminated by PCBs
- Electric Power Generation, Transmission and Distribution (NAICS 2211), e.g., Facilities with surfaces contaminated by PCBs
- Construction (NAICS 23), e.g., Facilities with surfaces contaminated by PCBs
- Food Manufacturing (NAICS 311), e.g., Facilities with surfaces contaminated by PCBs
- Paper Manufacturing (NAICS 322), e.g., Facilities with surfaces contaminated by PCBs
- Petroleum and Coal Products Manufacturing (NAICS 324), e.g., Facilities with surfaces contaminated by PCBs
- Chemical Manufacturing (NAICS 325), e.g., Facilities with surfaces contaminated by PCBs
- Primary Metal Manufacturing (NAICS 331), e.g., Facilities with surfaces contaminated by PCBs
- Rail Transportation (NAICS 48211), e.g., Facilities with surfaces contaminated by PCBs
- Lessors of Real Estate (NAICS 5311), e.g., Facilities with surfaces contaminated by PCBs
- Waste Treatment and Disposal (NAICS 5622), e.g., Facilities with surfaces contaminated by PCBs
- Public Administration (NAICS 92), e.g., Facilities with surfaces contaminated by PCBs

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 40 CFR part 761. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

##### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT-2003-0029. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566-0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 761 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title\\_40/40cfr761\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml/00/Title_40/40cfr761_00.html), a beta site currently under development.

To access information about PCBs, go directly to the PCB Home Page for the Office of Pollution Prevention and Toxics at <http://www.epa.gov/pcb>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

##### II. Background

###### A. What Action is the Agency Taking?

EPA is amending the regulation at 40 CFR 761.30(p) that governs the continued use of porous surfaces contaminated by spills of liquid PCBs to reflect a decision from the Court in