

1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

**VIII. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

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

**List of Subjects in 40 CFR Part 180**

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

Dated: June 29, 2000.

**James Jones,**  
*Director, Registration Division, Office of Pesticide Programs.*

Therefore, 40 CFR chapter I is amended as follows:

**PART 180—[AMENDED]**

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

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

2. Section 180.442 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

**§ 180.442 Bifenthrin; tolerances for residues.**

(a) *General.* \* \* \*

Commodity	Parts per million
Caneberry subgroup .....	1.0
Grape .....	0.2
Lettuce, head .....	3.0
Pepper, bell .....	0.5
Peppers, non-bell .....	0.5
* * * * *	

[FR Doc. 00-17618 Filed 7-11-00; 8:45 am]  
**BILLING CODE 6560-50-F**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL-6732-8]

**Delaware: Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Immediate final rule.

**SUMMARY:** Delaware has applied to EPA for Final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The revisions cover regulatory changes adopted on August 23, 1999 to the State's authorized hazardous waste program, which include various amendments to Federal hazardous waste regulations through January 21, 1999. EPA has determined that Delaware's hazardous waste program revisions satisfy all of the requirements necessary to qualify for Final authorization, and is authorizing the state program revisions through this immediate final action. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and does not anticipate adverse comments. However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as a proposal to authorize the revisions should the Agency receive adverse comment. If EPA receives comments that oppose this action or portion(s) thereof, we will publish a document in the **Federal Register** withdrawing this rule or portion(s) thereof before it takes effect, and the separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes. Unless EPA receives adverse written comments during the review and comment period, the decision to authorize Delaware's hazardous waste program revisions will take effect.

**DATES:** This Final authorization for Delaware will become effective without further notice on September 11, 2000, unless EPA receives adverse comments by August 11, 2000. Once again, if EPA should receive such comments on its decision, the Agency will publish a timely withdrawal informing the public that this rule will not take effect.

**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. Copies of the Delaware program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8 a.m. to 4:30 p.m., Monday through Friday at the following addresses: Department of Natural Resources & Environmental Control, Division of Air & Waste Management, 89 Kings Highway, Dover, DE 19901, Phone number 302-739-3689 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?**

RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), provides for authorization of State hazardous waste programs under Subtitle C. Under RCRA section 3006, EPA may authorize a State to administer and enforce the RCRA hazardous waste program. See also 40 CFR part 271. In fact, Congress designed RCRA so that the entire Subtitle C program would eventually be administered by the States in lieu of the Federal program. This is because the States are closer to, and more familiar with, the regulated community and therefore are in a better position to administer the programs and respond to local needs effectively.

After receiving authorization, the State administers the program in lieu of the Federal program, although EPA retains enforcement authority under RCRA sections 3008, 3013, and 7003. Authorized States must revise their programs when EPA promulgates "new" Federal Standards that are more stringent or broader in scope than existing Federal Standards. States are not required to modify their programs when "new" Federal changes are less stringent than the existing Federal program or when changes reduce the scope of the existing Federal program. These changes are optional and are noted as such in the **Federal Register** (FR) notices in which the new Federal Standards are promulgated.

States which have received Final authorization from EPA under 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 hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste 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 Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. What Decisions Have We Made in This Rule?**

EPA concludes that Delaware's application for authorization of its program revisions meets all applicable statutory and regulatory requirements established by RCRA. Accordingly, EPA grants Delaware Final authorization to operate its hazardous waste program as revised. Delaware now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of HSWA. Delaware also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

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

The effect of this decision is that a facility in Delaware subject to RCRA will now have to comply with the authorized State requirements instead of the analogous federal requirements in order to comply with RCRA. Delaware has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which includes, in part, authority to:

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

This action does not impose additional requirements on the regulated community because the regulations for which Delaware 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 is authorizing the State's changes through this immediate final action and is publishing this rule without a prior proposal to authorize the changes because EPA believes it is not controversial and expects no comments that oppose this action. EPA is providing an opportunity for public comment now. In the proposed rules section of today's **Federal Register** EPA is publishing a separate document that proposes to authorize the State changes. If EPA receives comments which oppose this authorization or portion(s) thereof,

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 decision or portion(s) thereof, we will withdraw this authorization decision, or those portion(s) for which EPA received comments opposing its decision, by publishing a document in the **Federal Register**. We will address all public comments in a subsequent final action based on the proposed rule.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, we may withdraw only that part of today's authorization rule. The authorization of the program changes that are not opposed by any comments may become effective on September 11, 2000. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

You should 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. We must receive your comments by August 11, 2000. You may not have an opportunity to comment again. If you want to comment on this action you must do so at this time.

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

Delaware received final authorization effective June 22, 1984 (53 FR 23837, June 8, 1984) to implement its hazardous waste management program in lieu of the Federal program. On January 31, 1986 (51 FR 3954), the authorized Delaware program was incorporated by reference into the Code of Federal Regulations (CFR). On April 9, 1996, Delaware submitted a program revision application for additional approval in accordance with the requirements of 40 CFR 271.21(b)(3) (Procedures for Revisions of State Programs). Delaware received final authorization for this program revision application effective October 7, 1996 (as published in 61 FR 41345, August 8, 1996). On June 15, 1998, Delaware submitted a second program revision application for additional approval in accordance with the requirements of 40 CFR 271.21(b)(3) (Procedures for Revisions of State Programs). Delaware received final authorization for this program revision application effective October 19, 1998 (as published in 61 FR 44152, August 18, 1998). On February 7, 2000, Delaware submitted a third

program revision application for additional approval in accordance with the requirements of 40 CFR 271.21(b)(3) (Procedures for Revisions of State Programs).

EPA reviewed Delaware's application, and now makes an immediate final decision, subject to receipt of adverse written comments, that Delaware's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Consequently, EPA intends to grant Delaware Final authorization for the program modifications contained in the program revision application.

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

Delaware's program revision application includes State regulatory changes that are analogous to various

amendments to 40 CFR parts 124, 260 through 266, and 270, that were published in the **Federal Register** through January 21, 1999.

Delaware is today seeking authority to administer the Federal requirements that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements. Unless otherwise indicated, the listed Delaware regulatory references are to the Delaware Regulations Governing Hazardous Waste (DRGHW), as amended and effective January 1, 1999. The statutory references are to 7 Delaware Code Annotated (1991). In DRGHW 262, Delaware has adopted analogues to amendments to 40 CFR part 262, subparts E and H, but is not being authorized for these provisions in today's action because they are not

subject to authorization. Delaware has adopted revisions analogous to Federal revisions to 40 CFR 268.44(a), but is not being authorized for these provisions in today's action because they are not subject to authorization. In addition, Delaware adopted revisions analogous to Federal revisions to 40 CFR 268.44(h)-(m), but is not seeking authorization for these provisions and continues to leave this authority with EPA for granting variances from a treatment standard.

Delaware is seeking authority for the Federal Corrective Action Program under HSWA as addressed in Revision Checklists 17L, 44A, B, and C and 121; additional Land Disposal Restrictions (LDR) revisions through September 1998 and the post closure permit requirement and closure process regulations (alternative to post-closure rule).

Federal requirement	Analogous Delaware authority
<b>HSWA Cluster I</b>	
Surface Impoundments; Non-Checklist SR1 .....	7 Delaware Code (7 Del. Code) Chapter 63, §§ 6304, 6305 and 6307; Delaware Regulations Governing Hazardous Waste (DRGHW) 264.221(j) and 265.221(i).
Double Liners, 50 FR 28702, 07/15/85; Revision Checklist 17H .....	7 Del. Code, §§ 6304, 6305, and 6307; DRGHW 264.221(a), 264.221(c)-(e), 264.301(a), 264.301(c)-(e), 265.221(a)-(e), 265.254, 265.301(a)-(e).
Corrective Action, 50 FR 28702, 07/15/85; Revision Checklist 17L .....	7 Del. Code, §§ 6304, 6305 and 6307; DRGHW 264.90(a), 264.101(a)-(b), 122.60(c)(3)(vii).
<b>HSWA Cluster II</b>	
Exception Reporting for Small Quantity Generators of Hazardous Waste, 52 FR 35894-35899, 09/23/87; Revision Checklist 42.	7 Del. Code, §§ 6305(a) and 6306(c); DRGHW 262.42(a)(2), 262.42(b) more stringent, 262.44.
Permit Application Requirements Regarding Corrective Action, 52 FR 45788-45799, 12/01/87; Revision Checklist 44A.	7 Del. Code, § 6305(a); DRGHW 122.14(c)-122.14(d)(3).
Corrective Action Beyond the Facility Boundary, 52 FR 45788-45799, 12/01/87; Revision Checklist 44B.	7 Del. Code, § 6305(a); DRGHW 264.100(e)-(e)(2), 264.101(c).
Corrective Action For Injection Wells, 52 FR 45788-45799, 12/01/87; Revision Checklist 44C.	[No regulatory analogue because Delaware Regulations Governing Underground Injection Control (DRGUIC) 122.23(b)-(c) prohibit the underground injection of hazardous waste.]
Permit Modification, 52 FR 45788-45799, 12/01/87; Revision Checklist 44D—with revisions as noted in Checklist 54.	7 Del. Code, § 6304 and 6305; DRGHW 122.41(a)(3) [Revised as noted in Checklist 54].
Permit as a Shield Provision, 52 FR 45788-45799, 12/01/87; Revision Checklist 44E—with revisions as noted in Checklist 100.	7 Del. Code, § 6304; DRGHW 122.4(a) [Revised as noted in Checklist 100].
Permit Conditions to Protect Human Health and the Environment, 52 FR 45788-45799, 12/01/87; Revision Checklist 44F.	7 Del. Code, § 6304; DRGHW 122.10(k).
Post-Closure Permits, 52 FR 45788-45799, 12/01/87; Revision Checklist 44G—with revisions as noted in Checklist 174.	7 Del. Code, § 6304; DRGHW 122.1(c) [Revised as noted in Checklist 174], 122.1(c)(5)-122.1(c)(6)(iii).
HSWA Codification Rule, Double Liners; Correction, 55 FR 19262-19264, 05/09/90; Revision Checklist 77—with revisions as noted in Checklist 100.	7 Del. Code, §§ 6304, 6305 and 6307; DRGHW 264.221(c) and 264.301(c) [Revised as noted in Checklist 100].
<b>RCRA Cluster II</b>	
Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units, 57 FR 3462-3497, 09/29/92; Revision Checklist 100.	7 Del. Code, §§ 6304, 6305 and 6307; DRGHW 260.10, 264.15(b)(4), 264.19, 264.73(b)(6), 264.221(c)-264.221(d)(2), 264.221(f)-(i), 264.222, 264.223, 264.226(d)(1)-(3), 264.228(b)(2)-(4), 264.251(c)-(k), 264.252, 264.253, 264.254(c), 264.301(c)-264.301(d)(2), 264.301(f)-(l), 264.302, 264.303(c)(1)-(c)(3), 264.304, 264.304(d) 264.310(b)(3)-(6), 265.15(b)(4), 265.19, 265.73(b)(6), 265.221(a), 265.221(c), 265.221(f)-(g), 265.222, 265.223, 265.226(b), 265.228(b)(2)-(4), 265.254, 265.255, 265.259, 265.260, 265.301(a), 265.301(c), 265.301(f)-(i), 265.302, 265.303, 265.304c, 265.310(b)(2)-(5), 122.4(a), 122.17(b), 122.17(b)(2)-(7), 122.18(c)-(d), 122.21(b), 122.21(d), 122.42/Appendix 1.

Federal requirement	Analogous Delaware authority
<b>RCRA Cluster III</b>	
Corrective Action Management Units and Temporary Units, 58 <i>FR</i> 8658–8685, 02/16/93, Revision Checklist 121.	7 Del. Code, §§ 6305(a), 6307 and 6310; DRGHW 260.10, 264.3, 264.101(b), 264.552, 264.553, 265.1(b), 268.2(c), 122.2, 122.42 Appendix I.
<b>RCRA Cluster IV</b>	
Testing and Monitoring Activities, 58 <i>FR</i> 46040–46051, 08/31/93; Revision Checklist 126—with revisions as noted in Checklists 137 and 141.	7 Del. Code, §§ 6304, 6305, 6305 and 6307; DRGHW 260.11(a) [Revised as noted in Checklist 141], 260.22(d)(1)(i), 261.22(a)(1)–(2), 261.24(a), Part 261, Appendices II, III and X, 264.190(a), 264.314(c), 265.190(a), 265.314(d), 268.7(a) [Revised as noted in Checklist 137], 268.40(a) [Revised as noted in Checklist 137], 268.41(a) [Revised as noted in Checklist 137], Part 268, Appendices I and IX, 122.6(a), 122.19(c)(1)(iii)–(iv), 122.62(b)(2)(i)(C)–(D), 122.66(c)(2)(i)–(ii).
Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues, 58 <i>FR</i> 59598–59603, 11/09/93, Revision Checklist 127.	7 Del. Code, §§ 6304, 6305, 6306 and 6307; DRGHW 266.112(b)(2)(i), Part 266, Appendix VII, notes.
Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection, 59 <i>FR</i> 458–469, 01/04/94; Revision Checklist 128—with revisions as noted in Checklist 141.	7 Del. Code, § 6305(a); DRGHW 260.11(a) [Revised as noted in Checklist 141], Part 261, Appendix VIII.
Recordkeeping Instructions; Technical Amendment, 59 <i>FR</i> 13891–13893, 03/24/94; Revision Checklist 131.	7 Del. Code, §§ 6305 and 6307; DRGHW, Part 264, Appendix I/Tables 1 and 2, Part 265, Appendix I/Tables 1 and 2.
Wood Surface Protection; Correction, 59 <i>FR</i> 28484, 06/02/94; Revision Checklist 132—with revisions as noted in Checklist 141.	7 Del. Code, § 6305(a); DRGHW 260.11(a) [Revised as noted in Checklist 141].
Letter of Credit Revision, 59 <i>FR</i> 29958–29960, 06/10/94; Revision Checklist 133.	7 Del. Code, §§ 6305, 6306 and 6307; DRGHW 264.151(d), 264.151(k).
Correction of Beryllium Powder (P015) Listing, 59 <i>FR</i> 31551–31552, 06/20/94; Revision Checklist 134—with revisions as noted in Checklist 137.	7 Del. Code, § 6305(a)(1); DRGHW 261.33(e), Part 261, Appendix VIII, 268.42(a)/ Table 2 [Revised as noted in Checklist 137].
<b>RCRA Cluster V</b>	
Recovered Oil Exclusion, 59 <i>FR</i> 38536–38545, 07/28/94; Revision Checklist 135.	7 Del. Code, § 6305(a)(1); DRGHW 261.3(c)(2)(ii)(B), 261.4(a)(12), 261.6(a)(3)(iv)–(vi), 266.100(b)(3).
Removal of the Conditional Exemption for Certain Slag Residues, 59 <i>FR</i> 43496–43500 as Amended 08/24/94; Revision Checklist 136—with revisions as noted in Checklist 137.	7 Del. Code, § 6307; DRGHW 266.20(c), 268.41(a)/ Table CCWE [Revised as noted in Checklist 137].
Testing and Monitoring Activities Amendment 1, 60 <i>FR</i> 3089–3095, 01/13/95; Revision Checklist 139—with revisions as noted in Checklist 141.	7 Del. Code, § 6305(a); DRGHW 260.11(a) [Revised as noted in Checklist 141].
Carbamate Production Identification and Listing of Hazardous Waste, 60 <i>FR</i> 7824–7859, 02/09/95 as Amended at 60 <i>FR</i> 19165, 04/17/95 and at 60 <i>FR</i> 25619, 05/12/95; Revision Checklist 140.	7 Del. Code, § 6305(a)(1); DRGHW 261.3(a)(2)(iv)(E)–(G), 261.3(c)(2)(ii)(D), 261.32, 261.33(e)–(f), Part 261, Appendices VII–VIII.
Testing and Monitoring Activities Amendment II, 60 <i>FR</i> 17001–17004, 04/04/95; Revision Checklist 141.	7 Del. Code, § 6305(a); DRGHW 260.11(a).
Universal Waste: General Provisions, 60 <i>FR</i> 25492–25551, 05/11/95; Revision Checklist 142A.	7 Del. Code, §§ 6304, 6305, 6306, 6307, and 6312; DRGHW 260.10 intro, 260.10, 261.5(c), 261.5(f)(3)–261.5(g)(3), 261.9 intro, 262.10(b)–(g), 262.11(d), 264.1(g)(11)intro, 265.1(c)(14) intro, 268.1(f) intro, 122.1(c)(2)(viii) intro, 273.1, 273.5, 273.6, 273.10, 273.11, 273.12, 273.14 intro, 273.15, 273.16, 273.17, 273.18, 273.19, 273.20, 273.30, 273.31, 273.32(a)(1)–(2), 272.32(b), 273.34 intro, 273.35, 273.36, 273.37, 273.38, 273.39, 273.40, 273.50, 273.51, 273.52, 273.53, 273.54, 273.55, 273.56, 273.60, 273.61, 273.62, 273.70 intro–273.70(c).
Universal Waste Rule: Specific Provisions for Batteries, 60 <i>FR</i> 25492–25551, 05/11/95; Revision Checklist 142 B.	7 Del. Code, §§ 6304, 6305, 6306, and 6307; DRGHW 260.10, 261.6(a)(3)(ii)–(vi), 261.9(a), 264.1(g)(11)(l), 265.1(c)(14)(l), 266.80(a)–(b) intro, 268.1(f)(1), 122.1(a)(2)(viii)(A), 273.1(a)(1), 273.2, 273.6, 273.13, 273.14(a), 273.33(a), 273.34(a).
Universal Waste Rule: Specific Provisions for Pesticides, 60 <i>FR</i> 25492–25551, 05/11/95; Revision Checklist 142 C.	7 Del. Code, §§ 6304, 6305, 6306, and 6307; DRGHW 260.10, 261.9(b), 264.1(g)(11)(ii), 265.1(c)(14)(ii), 268.1(f)(2), 122.1(c)(2)(viii)(B), 273.1(a)(2), 273.3, 273.6, 273.13(b), 273.14(b)–(c)(2), 273.32(a)(1), 273.32(a)(3), 273.33(b), 273.34(b)–(c)(2).
Universal Waste Rule: Specific Provisions for Thermostats, 60 <i>FR</i> 25492–25551, 05/11/95; Revision Checklist 142 D.	7 Del. Code, §§ 6304, 6305, 6306 and 6307; DRGHW 260.10, 261.9(c), 264.1(g)(11)(iii), 265.1(c)(14)(iii), 268.1(f)(3), 122.1(c)(2)(viii)(C), 273.1(a)(3), 273.4, 273.6, 273.13(c), 273.14(d), 273.33(c), 273.34(d).
Universal Waste Rule: Petition Provisions to Add A new Universal Waste, 60 <i>FR</i> 25492–25551, 05/11/95; Revision Checklist 142 E.	7 Del. Code, §§ 6304, 6305, 6306, and 6307; DRGHW 260.20(a), 260.23, 273.80, 273.81.
Removal of Legally Obsolete Rules, 60 <i>FR</i> 33912–33915, 06/29/95; Revision Checklist 144.	7 Del. Code, §§ 6304, 6305, 6306, and 6307; DRGHW 261.31(a), 266.103(c)(5), 266.104(f)–(h), 122.2, 122.10(e)(4), 122.10(f)(2), 122.10(g)(1), 122.10(g)(1)(i) more stringent, 122.10(g)(1)(ii)–(iii).

Federal requirement	Analogous Delaware authority
<b>RCRA Cluster VI</b>	
Liquids in Landfills III, 60 <i>FR</i> 35703–35706, 07/11/95; Revision Checklist 145.	7 Del Code, 6305, DRGHW 264.314(e)(2)(ii)–(iii), 265.314(f)(2)(ii)–(iii).
RCRA Expanded Public Participation, 60 <i>FR</i> 63417–63434, 12/11/95; Revision Checklist 148.	7 Del. Code, §§ 6304, 6305, and 6307; DRGHW 124.31, 124.32, 124.33, 122.2, “Facility mailing list, 122.14(b)(22), 122.30(m), 122.61(b)(5), 122.62(b)(6)–(7), 122.62(b)(8)–(11), 122.62(d), 122.66(d)(3)–(6), 122.66(g).
Amendments to the Definition of Solid Waste; Amendment II, 61 <i>FR</i> 13103–13106, 03/26/96; Revision Checklist 150.	7 Del. Code, § 6305; DRGHW 261.4(a)(12).
Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners, 61 <i>FR</i> 15566–15660, 04/08/96, Revision Checklist 151 as amended 04/08/96 at 61 <i>FR</i> 15660–15668, 04/30/96, 61 <i>FR</i> 19117, 06/28/96, 61 <i>FR</i> 33680–33690, 07/10/96, 61 <i>FR</i> 36419–36421, 08/26/96, 61 <i>FR</i> 43924–43931, 02/19/97, 62 <i>FR</i> 7502–7600—with revisions as noted in Checklists 157, 159, 162, 167A, 167B, 171, and 173.	7 Del. Code, §§ 6304 and 6305; DRGHW 268.1(c)(3)–(4), 268.1(e)(3)–(4) [Revised as noted in Checklist 157], 268.1(e)(5), 268.2(f); 268.2(i) [Revised as noted in Checklist 167A]; 268.2(j); 268.2(k) Revised as noted in Checklist 167B; 268.3(a)–(c)(6), 268.7(a) [Revised as noted in Checklist 157]; 268.7(a)(1)(ii) [Removed as noted in Checklist 157], 268.7(a)(1)(iv)–(vi) [Removed as noted in Checklist 157], 268.7(a)(2)(i)(B) [Revised as noted in Checklist 157], 268.7(a)(3)(ii) [Revised as noted in Checklist 167B], 268.7(b)(4)(ii), 268.7(b)(5)(iv)–(v), 268.8 (Reserve), 268.9(a) [Revised as noted in Checklist 157], 268.9(d), 268.9(d)(1)(i)–(ii) [Revised as noted in Checklist 157], 268.39(a) [Revised as noted in Checklist 159], 268.39(b), 268.39(c) [Revised as noted in Checklist 173], 268.39(d) [Revised as noted in Checklist 159], 268.39(e)–(g), 268.40(e) [Revised as noted in Checklist 167], 268.40(g) [Revised as noted in Checklist 171], 268.40/Table [Revised as noted in Checklist 173], 268.42 Table 1, 268.44(a) [Revised as noted in Checklist 162], 268.48(a)/Table UTS [Revised as noted in Checklist 171], Part 268, Appendix XI.
Imports and Exports of Hazardous Waste: Implementation of OECD Council Division, 61 <i>FR</i> 16290–16316, 04/12/96; Revision Checklist 152.	7 Del. Code, §§ 6305 and 6306; DRGHW 261.6(a)(5), 262.10(d)–(h), 262.53(b), 262.56(b), 262.58, 262.80, 262.81, 262.82, 262.83, 262.84, 262.85, 262.86, 262.87, 262.88 (Reserved), 262.89, 263.10(d), 263.20(a), 264.12(a)(1)–(2), 264.71(d), 265.12(a)(1)–(2), 265.71(d), 266.70(b)(2)–(3), 273.20, 273.40, 273.56, 273.70 intro, 273.70(d).

**RCRA Cluster VII**

Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, 59 <i>FR</i> 62896–62953, 12/06/94 as amended by 60 <i>FR</i> 26828–26829, 05/19/95, 60 <i>FR</i> 50426–50430, 09/29/95, 60 <i>FR</i> 56952–56954, 11/13/95, 61 <i>FR</i> 4903–4916, 02/09/96, 61 <i>FR</i> 28508–28510, 06/05/96, 61 <i>FR</i> 59932–59997, 11/25/96; Revision Checklist 154—with revisions as noted in Checklists 163 and 177.	7 Del. Code, § 6305; DRGHW 260, 261, 262, 264, 265, 122 revisions were adopted to substantively and numerically coincide identically with the Federal revisions described in Revision Checklist 154 [Revised as noted in Checklists 163 and 177].
Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance, 62 <i>FR</i> 1992–1997, 01/14/97; Revision Checklist 155—with revisions as noted in Checklist 160.	7 Del. Code, §§ 6304, 6305, and 6307; DRGHW 268.39(c) [Revised as noted in Checklist 160].
Military Munitions Rule: Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties, 62 <i>FR</i> 6622–6657, 02/12/97; Revision Checklist 156.	7 Del. Code, §§ 6304, 6305, 6305(a), 6306, 6306(c) 6307, and 6310; DRGHW 260.10, 261.2(a)(2)(iii)–(iv), 262.10(i), 262.20(f) more stringent, 263.10(e)–(f), 264.1(g)(8)(i)(D), 264.1(g)(8)(iv), 264.1(i), 264.70, 264.1200, 264.1201, 264.1202, 265.1(c)(11)(i)(D), 265.1(c)(11)(iv), 265.1(f), 265.70, 265.1200, 265.1201, 265.1202, 266.200, 266.201, 266.202, 266.203(a)–(a)(1)(iii), 266.203(a)(2)–(c), 266.204, 266.205, 266.206, 122.1(c)(3)(i)(D), 122.1(c)(3) (iii), 122.42(h)–(i).
Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions, 62 <i>FR</i> 25998–26040, 05/12/97; Revision Checklist 157—with revisions as noted in Checklists 167B and 167C.	7 Del. Code, § 6304, 6305, and 6307; DRGHW 261.1(c)(9)–(12), 261.2(c) table 1, 261.4(a)(13)–(14), 261.6(a)(3)(ii), 268.1(e) intro–(e)(4), 268.4(a)(2)(iv), 268.4(a)(4), 268.7(a) intro; 268.7(a)(1) [Revised as noted in Checklist 167B], 268.7(a)(2) [Revised as noted in Checklist 167B], 268.7(a)(3) [Revised as noted in Checklist 167B], 268.7(a)(3)(i), 268.7(a)(3)(ii) [Revised as noted in Checklist 167B], 268.7(a)(4) [Revised as noted in Checklist 167B], 268.7(a)(4)/table [Revised as noted in Checklist 167B], 268.7(a)(5) [Revised as noted in Checklist 167B], 268.7(a)(5)(i)–(iii), 268.7(a)(6) [Revised as noted in Checklist 167B], 268.7(a)(7) [Revised as noted in Checklist 167C], 268.7(a)(8)–(b), 268.7(b)(1)–(2) [Revised as noted in Checklist 167B], 268.7(b)(3) intro, 268.7(b)(3)(i)–(ii), 268.7(b)(3)(ii)/table [Revised as noted in Checklist 167C], 268.7(b)(4)–(b)(4)(iii), 268.7(c)(1)–(2), 268.9(a), 268.9(d)(1)(ii), 268.30; 268.32–268.36 (Reserved), 268.40/Table of Treatment Standards [Revised as noted in Checklist 167C], 268.42/Table 1, 268.44(o), 268.44(o)/Table 1, 268 Appendices I, II, III, and X (Reserved), 268 Appendix VI, 268 Appendices VII and VIII [Revised as noted in Checklist 167C].

Federal requirement	Analogous Delaware authority
Testing and Monitoring Activities Amendment III, 62 <i>FR</i> 32452–32463, 06/13/97, Revision Checklist 158.	7 Del. Code, §§ 6304, 6305, 6306, 6307, and 6310; DRGHW 260.11(a) intro–(a)(15), 264.1034(d)(1)(iii), 264.1034(f), 264.1063(d)(2), 264 Appendix IX, footnote 5, 265.1034(d)(1)(iii), 265.1034(f), 265.1063(d)(2), 266.104(e)(1), 266.106(g)(1)–(2), 266.107(f), Part 266 Appendix IX, Section 3.0, Note.
Conformance With the Carbamate Vacatur, 62 <i>FR</i> 1992–1997, 05/29/97; Revision Checklist 159—with revisions as noted in Checklist 167C.	7 Del. Code, §§ 6302, 6304, 6305 and 6307; DRGHW 261.32/table, 261.33, 261 Appendix VII, 261 Appendix VIII, 268.39(a), 268.39(d), 268.40 table, [Revised as noted in Checklist 167C].
Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance, Amendment, 62 <i>FR</i> 37694–37699, 07/14/97; Revision Checklist 160—with revisions as noted in Checklist 173.	7 Del. Code, §§ 6304, 6305 and 6307; DRGHW 268.39(c) [Revised as noted in Checklist 173].
Emergency Revision of the Carbamate Land Disposal Restrictions, 62 <i>FR</i> 45568, 08/28/97; Revision Checklist 161—with revisions as noted in Checklist 171.	7 Del. Code, §§ 6304, 6305 and 6307; DRGHW 268.40(g) [Revised as noted in Checklist 171], 268.48(a)/Table [Revised as noted in Checklist 171].
Clarification of Standards for Hazardous Waste LDR Treatment Variances, 62 <i>FR</i> 64504–64509, 12/05/97; Revision Checklist 162—with revisions as noted in Checklist 167B.	7 Del. Code, §§ 6304 and 6305; DRGHW 268.44(a), 268.44(h)–(h)(2)(i), 268.44(h)(3) [Revised as noted in Checklist 167B], 268.44(m).
Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment, 62 <i>FR</i> 64636–64671, 12/8/97; Revision Checklist 163—with revisions as noted in Checklist 177.	7 Del. Code, § 6305; DRGHW 264 and 265 revisions were adopted to substantively and numerically coincide identically with the Federal revisions described in Revision Checklist 163 [revised as noted in Checklist 177].
Recycled Used Oil Management Standards; Technical Correction and Clarification, 63 <i>FR</i> 24963–24969, 5/6/98, as amended 7/14/98, at 63 <i>FR</i> 37780–37782; Revision Checklist 166.	7 Del. Code, §§ 6304–6307, and 6310; DRGHW 261.5(j), 261.6(a)(3)(iv)(A)–(C), 279.10(l), 279.22(d), 279.45(h), 279.54(g), 279.64(g), 279.74(b).
Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes, 63 <i>FR</i> 28556–28753, 5/26/98; Revision Checklist 167A—with revisions as noted in Checklist 172.	7 Del. Code, §§ 6304 and 6305; DRGHW 268.2(i), 268.3(d), 268.34(a), 268.34(b)–(e) [Revised as noted in Checklist 172], 268.40(e), 268.40(h), 268.40/Table, 268.48(a)/Table UTS.
Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions, 63 <i>FR</i> 28556–28753, 5/26/98; Revision Checklist 167B.	7 Del. Code, §§ 6304 and 6305; DRGHW 268.2(k), 268.7(a)(1)–(a)(3) intro, 268.7(a)(3)(ii), 268.7(a)(4)–(6), 268.7(b)(1)–(4) intro, 268.7(e), 268.44(h)(3) intro–(5), 268.49.
Land Disposal Restrictions Phase IV—Corrections 63 <i>FR</i> 28556–28753, 5/26/98, as amended at 63 <i>FR</i> 31266, 6/8/98; Revision Checklist 167C.	7 Del. Code, §§ 6304 and 6305; DRGHW 268.4(a)(2)(ii)–(iii), 268.7(a)(7), 268.7(b)(3)(ii)/Table, 268.7(b)(4)(iv)–(b)(6), 268.40(e), 268.40/Table, 268.42(a), 268.45(a) intro, 268.45(d)(3)–(4), 268.48/Table, Appendix VII, Tables 1 and 2, Appendix VIII, Part 268.
Mineral Processing Secondary Materials Exclusion, 63 <i>FR</i> 28556–28753, 5/26/98; Revision Checklist 167D.	7 Del. Code, § 6305; DRGHW 261.2(c)(3), 261.2(c)(4)/Table, 261.2(e)(1)(iii), 261.4(a)(16) intro–(vi).
Bevill Exclusion Revisions and Clarifications, 63 <i>FR</i> 28556–28753, 5/26/98; Revision Checklist 167E.	7 Del. Code, § 6305; DRGHW 261.3(a)(2)(i), 261.3(a)(2)(iii), 261.4(b)(7).
Exclusion of Recycled Wood Preserving Wastewaters, 63 <i>FR</i> 28556–28753, 5/26/98; Revision Checklist 167F.	7 Del. Code, § 6305; DRGHW 261.4(a)(9)(iii).
Hazardous Waste Combustors; Revised Standards, 63 <i>FR</i> 33782–33829, 06/19/98; Revision..	
Checklist 168 .....	7 Del. Code, § 6305; DRGHW 261.4(a)(17), 261.38, 122.42(j) intro, 122.42(j), 122.42 Appendix I, 122.72(b)(8).

**RCRA Cluster IX**

Petroleum Refining Process Wastes, 63 <i>FR</i> 42110–42189, 08/06/98; Revision Checklist 169.	7 Del. Code, §§ 6304, 6305(a), and 6305(a)(1); DRGHW 261.3(a)(2)(iv)(C), 261.3(c)(2)(ii)(B), 261.3(c)(2)(ii)(E), 261.4(a)(12)(i)–(ii), 261.4(a)(18)–(19), 261.6(a)(3)(iv)(C), 261.31(a), 261.32, 261 Appendix VII, 266.100(b)(3), 268.35, 268.40/Table.
Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production, 63 <i>FR</i> 47410–47418, 09/04/98; Revision Checklist 171.	7 Del. Code, §§ 6304 and 6305; DRGHW 268.40(g), 268.40(i), 268.40/Table, 268.48(a)/Table.
Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags, 63 <i>FR</i> 48124–48127, 09/09/98; Revision Checklist 172.	7 Del. Code, §§ 6304 and 6305; DRGHW 268.34(b)–(f).
Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); Final Rule, 63 <i>FR</i> 51254–51267, 09/24/98; Revision Checklist 173.	7 Del. Code, §§ 6304 and 6305; DRGHW 268.39(c), 268.40/Table.
Post-Closure Permit Requirement and Closure Process, 63 <i>FR</i> 56710–56735, 10/22/98; Revision Checklist 174.	7 Del. Code, §§ 6304, 6305, and 6307; DRGHW 264.90(e)–(f), 264.110(c), 264.110(c)(1)–(2), 264.112(b)(8), 264.112(c)(2)(iv), 264.118(b)(4), 264.118(d)(2)(iv), 264.140(d), 265.90(f), 265.110(c)–(d), 265.112(b)(8), 265.112(c)(1)(iv), 265.118(c)(4)–(5), 265.118(d)(1)(iii), 265.121, 265.140(d), 122.1(c) intro, 122.1(c)(7), 122.14(a), 122.28.

Federal requirement	Analogous Delaware authority
Organic Air Emission Standards: Clarification and Technical Amendments, 64 <i>FR</i> 3382, 01/21/99; Revision Checklist 177.	7 Del. Code, §6305; DRGHW 262.34(a)(1)(i)-(ii), 264.1031, 264.1080(b)(5), 264.1083(a)(1)(i)-(ii), 264.1083(b)(1)(i)-(ii), 264.1084(h)(3), 264.1086(e)(6), 265.1080(b)(5), 265.1084(a)(1)(i)-(ii), 265.1084(a)(3)(ii)(B), 265.1084(a)(3)(ii)(D), 265.1084(a)(3)(iii), 265.1084(b)(1)(i)-(ii), 265.1084(b)(3)(ii)(B), 265.1084(b)(3)(ii)(D), 265.1084(b)(3)(iii), 265.1085(h)(3), 265.1085(h)(3)(i)-(ii), 265.1087(e)(6).

#### H. Where Are the Revised State Rules Different From the Federal Rules?

The Delaware hazardous waste program contains several provisions which are more stringent than is required by the RCRA program. The more stringent provisions are being recognized as a part of the Federally-authorized program and include the following:

1. At DRGHW 262.42(b), Delaware is more stringent because the State requires a small quantity generator to file an exception report when confirmation of the hazardous waste delivery to the designated facility is not made within 45 days instead of 60 days of the date the waste was accepted by the initial transporter. The generator must also notify the State of the designated facility and the State to which the waste may have been delivered. (Checklist 42)

2. At Delaware Regulations Governing Underground Injection Control (DRGUIC) 122.23(b)-(c), Delaware is more stringent in that the State prohibits the underground injection of hazardous waste. Therefore, there are no hazardous waste corrective action requirements for injection wells. (Checklist 44C)

3. At DRGHW 262.20(f), Delaware is more stringent because the State restricts the exemption to manifest requirements only when the military munitions are being transported during an emergency response. (Checklist 156)

Furthermore, the State requires transporters of used oil to obtain transporter permits. See DRGHW part 263, subpart E and Checklist 166. Since this requirement goes beyond the scope of the Federal program, it does not constitute part of the authorized program.

In addition, Delaware will be authorized to carry out, in lieu of the Federal program, State-initiated changes to provisions of the State's Program. The following State-initiated changes are equivalent and analogous to the numerically identical RCRA provisions found at Title 40 of the Code of Federal Regulations: DRGHW 260.1(a)(4) through (a)(6), and (c); 261.6(a)(3)(v); 262.23(d); 264.18(b)(1) introductory paragraph; 264.91(c) introductory paragraph; 264.145(c)(7);

264.221(e)(2)(I)(B); 265.145(e)(1)(I)(B) and (D), (ii)(B) and (D), and paragraph (e)(2); 268.7(a)(8); and 268.44 Table. One other state-initiated change being approved by this notice is DRGHW 122.1 which is analogous to 40 CFR Section 270.1.

Unless EPA receives comments opposing this action by August 11, 2000 and publishes a **Federal Register** document withdrawing the immediate final rule or portions thereof, this Final authorization approval will become effective without further notice on September 11, 2000.

#### I. Who Handles Permits After This Authorization Takes Effect?

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based on the Federal provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization. EPA will also transfer any pending permit applications and pertinent file information to the State within thirty (30) days of the effective date of this authorization.

Upon authorization of the State program for any additional portions of HSWA, EPA will suspend issuance of Federal permits for hazardous waste treatment, storage, and disposal facilities mandated by HSWA in the State, in those areas for which the State is receiving authorization. If EPA promulgates standards for additional processes or regulations mandated by HSWA not covered by the State's authorized program, EPA will process and enforce RCRA permits in the State in those new areas until the State receives final authorization of equivalent State standards.

EPA will be responsible for enforcing the terms and conditions of the Federal portion of the permits until they expire or are terminated in accordance with 40 CFR 124.5 and 271.8.

The State and EPA will coordinate implementation of those HSWA provisions for which the State has not

received authorization until such time as it receives authorization from EPA to implement the remaining HSWA provisions in lieu of EPA.

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

Delaware is not seeking authorization to operate the program on Indian lands since there are no Federally-recognized Indian Lands in the State.

#### K. What Is Codification and Is EPA Codifying Delaware'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 uses 40 CFR part 272 for codification of the decision to authorize Delaware's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA is not codifying Delaware's hazardous waste program at this time, but reserves amendment of 40 CFR part 272, subpart I, for such future use.

#### L. Regulatory Analysis and Notices

##### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule.

The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Delaware program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not apply to duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

*Certification Under the Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.*

The RFA generally requires an agency to prepare a regulatory flexibility

analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this authorization on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that are hazardous waste generators, transporters, or that own and/or operate TSDFs are already subject to the regulatory requirements under the State laws which EPA is now authorizing. This action merely authorizes for the purpose of RCRA section 3006 those existing State requirements.

*Submission to Congress and the Comptroller General*

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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*Compliance With Executive Order 12866*

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

*Compliance With Executive Order 13132 (Federalism)*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This authorization does not have federalism implications. It will not have a substantial direct effect on 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, because this rule affects only one State. This action simply approves Delaware's proposal to be authorized for updated requirements of the hazardous waste program that the State has voluntarily chosen to operate. Further, as a result of this action, newly authorized provisions of the State's program now apply in Delaware in lieu of the equivalent Federal program provisions implemented by EPA under HSWA. Affected parties are subject only to those authorized State program provisions, as opposed to being subject to both Federal and State regulatory requirements. Thus the requirements of section 6 of the Executive Order do not apply.

*Compliance With Executive Order 13045*

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any



rule that: (1) The Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not concern an environmental health or safety risk that may have a disproportionate effect on children.

#### *Compliance With Executive Order 13084*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with the consulting option, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect communities of Indian tribal governments. Delaware is not authorized to implement the RCRA hazardous waste program in Indian country, since there are no Federally-recognized Indian lands in the State.

#### *Paperwork Reduction Act*

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies

must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

#### **National Technology Transfer and Advancement Act**

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law No. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve such technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### **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 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 19, 2000.

**Bradley M. Campbell,**

*Regional Administrator, EPA Region III.*

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 27**

**[CC Docket No. 94-102, CS Docket No. 98-120; FCC 00-224]**

### **Service Rules for the 746 Through 764 and 776 Through 794 MHz Bands**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petitions for reconsideration.

**SUMMARY:** This document responds to petitions for reconsideration seeking

changes in service rules adopted previously in this proceeding regarding commercial use of the 747-762 MHz and 777-792 MHz bands. The Commission generally affirms these service rules and provides additional guidance on the factors it will consider when reviewing applications that would accelerate the departure of incumbent analog television licensees. A separate document seeks comment on additional measures to facilitate the use of these bands for new commercial services.

**DATES:** Effective July 12, 2000.

#### **FOR FURTHER INFORMATION CONTACT:**

*Legal Information:* Stanley Wiggins or Jane Phillips, 202-418-1310.

*Technical Information:* Marty Liebman, 202-418-1310.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Memorandum Opinion and Order (MO&O) portion of the Commission's Memorandum Opinion and Order and Further Notice of Proposed Rulemaking in WT Docket No. 99-168 and CS Docket No. 98-120, FCC 00-00-224, adopted June 22, 2000, and released June 30, 2000. The Notice of Proposed Rulemaking portion of this decision is summarized elsewhere in this **Federal Register**. The complete text of this MO&O is available for inspection and copying during normal business hours at the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY-B400, 445 12th Street, SW, Washington, DC.

#### **Synopsis of the Memorandum Opinion and Order**

1. In this Memorandum Opinion and Order (MO&O), the Commission responds to petitions for reconsideration of the First Report and Order (First R&O), 65 FR 3139, January 20, 2000, in this proceeding. The First R&O adopted service rules for the commercial use of the 747 through 762 MHz and 777 through 792 MHz bands that enable the broadest possible use of this spectrum, consistent with sound spectrum management. The MO&O generally affirms the service rules adopted in the First R&O, and provides additional guidance on the factors the Commission will consider when reviewing regulatory requests necessary to implement voluntary agreements that would accelerate the departure of incumbent analog television licensees and open these bands for new 700 MHz licensee use.

2. Specifically, the Commission removes the restrictions on the