§ 180.303 [Amended]

16. Section 180.303 is amended by removing from the table in paragraph (a)(1) the entries for ''Peanut, forage''; ''Pineapple, forage''; and ''Soybean straw.''

17. Section 180.315 is amended by revising the table in paragraph (a) to read as follows:

§ 180.315 Methamidophos; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Broccoli	1.0
Brussels sprouts	1.0
Cabbage	1.0
Cauliflower	1.0
Cotton, undelinted seed	0.1
Cucumber	1.0
Eggplant	1.0
Lettuce	1.0
Melon	0.5
Pepper	1.0
Potato	0.1
Tomato	1.0

* * * * *

§ 180.332 [Amended]

18. Section 180.332 is amended by removing from the table in paragraph (a) the entry for ''Potato waste, processed (dried).''

19. Section 180.342 is amended as follows:

i. By removing the entries for ''Bean, lima, forage''; ''Bean, snap, forage''; ''Mushroom''; ''Seed and pod vegetables'' and ''Sorghum milling fractions'' from the table in paragraph (a)(1).

ii. By changing ''Bean, snap'' to ''Bean, snap, succulent''; ''Sorghum, fodder'' to ''Sorghum, grain, stover''; and ''Sorghum, grain'' to ''Sorghum, grain, grain''; in the table in paragraph (a)(1).

iii. By removing the entries for ''Bean, forage''; ''Caneberries''; ''Pea forage''; and ''Sugarcane'' from the table in paragraph (a)(2).

iv. By changing ''Sweet potato'' to ''Sweet potato, roots'' in the table in paragraph (a)(2).

v. By revising paragraph (c)(1).

The section, as amended, reads as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

(c) *Tolerances with regional registrations.* (1) Tolerances with regional registration, as defined in § 180.1(n), are established for the combined residues of chlorpyrifos and its metabolite 3,5,6-trichloro-2-pyridinol in or on the following food commodities:

Commodity	Parts per million
Asparagus	5.0
Grape	0.5
Leek (of which no more than 0.2 ppm is chlorpyrifos)	0.5

* * * * *

§ 180.404 [Amended]

20. Section 180.404 is amended by removing the entries for ''Cotton, hulls''; ''Hog, fat''; ''Hog, meat byproducts''; and ''Hog, meat'' from the table in paragraph (a).

21. Section 180.409 is amended by revising the table in paragraph (a)(1); removing paragraph (a)(2); and redesignating paragraph (a)(3) as paragraph (a)(2) to read as follows:

§ 180.409 Pirimiphos-methyl; tolerances for residues.

(a) *General.* (1) * * *

Commodity	Parts per million
Cattle, fat	0.2
Cattle, kidney	2.0
Cattle, liver	2.0
Cattle, meat	0.2
Cattle, meat byproducts	0.2
Corn	8.0
Goat, fat	0.2
Goat, kidney	2.0
Goat, liver	2.0
Goat, meat byproducts	0.2
Hog, fat	0.2
Hog, kidney	2.0
Hog, liver	2.0
Hog, meat byproducts	0.2
Horse, fat	0.2
Horse, kidney	2.0
Horse, liver	2.0
Horse, meat byproducts	0.2
Kiwifruit	5.0
Poultry, fat	0.2
Sheep, fat	0.2
Sheep, kidney	2.0
Sheep, liver	2.0
Sheep, meat byproducts	0.2
Sorghum, grain, grain	8.0

* * * * *

§ 180.416 [Amended]

22. Section 180.416 is amended by removing the entries for ''Goat, fat''; ''Goat, meat''; and ''Goat, meat byproducts'' from the table in paragraph (a).

23. Section 180.427 is amended by revising the table in paragraph (a); removing the text in paragraph (c); and reserving paragraph (c) with a heading to read as follows:

§ 180.427 Fluvalinate; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
Honey	0.05

* * * * *

(c) *Tolerances with regional registrations.* [Reserved]

* * * * *

§ 180.434 [Amended]

24. Section 180.434 is amended by revising the table in paragraph (a) as follows:

i. By removing the entries for ''Apricot,'' ''Grass, seed screenings,'' ''Nectarine,'' ''Peach,'' ''Plum,'' and ''Plum, prune, fresh.''

ii. By changing ''Grass, hay (straw)'' to ''Grass, hay'' and ''Grass, straw;''.

[FR Doc. 02–19104 Filed 7–30–02; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7252–4]

Michigan: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting Michigan final authorization of revisions to its hazardous waste management program under the Resource Conservation and Recovery Act (RCRA). EPA published a proposed rule on February 28, 2002 at 67 *FR* 9225 and provided for public comment. The public comment period ended on April 15, 2002. We received comments from two commenters, addressed below. No further opportunity for comment will be provided. EPA has determined that Michigan's revisions satisfy all requirements for final authorization.

EFFECTIVE DATE: Final authorization for the revisions to Michigan's hazardous

waste management program will become effective on July 31, 2002.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Feigler, Michigan Regulatory Specialist, U.S. Environmental Protection Agency, Waste, Pesticides and Toxics Division (DM–7J), 77 W. Jackson Blvd., Chicago, Illinois 60604, phone number: (312) 886–4179; or Ms. Kimberly Tyson, Michigan Department of Environmental Quality, 608 W. Allegan, Hannah Building, Lansing, Michigan, phone number: (517) 373–2487.

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 change their programs and ask EPA to authorize the changes. Changes to state programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

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

On February 28, 2002 (67 *FR* 9225), EPA published a proposed rule announcing the availability for public comment of Michigan's application for revisions to its authorized hazardous waste management program. EPA also announced that it had reviewed the application and determined that these revisions satisfy all requirements needed to qualify for final authorization. EPA received written comments from two commenters during the public comment period. The significant issues raised by the commenters and EPA's responses are summarized below.

I. Comments From the Michigan Department of Environmental Quality

Comment #1: The Michigan Department of Environmental Quality (MDEQ) submitted a comment objecting to EPA's determination that Michigan is not authorized to carry out its hazardous waste program in Indian country within the state, as defined in 18 U.S.C. 1151. MDEQ notes that the original application for the RCRA base program included a statement from Michigan's Office of Attorney General that the Michigan ''does not, at this time, seek any federal authorization over ''Indian lands'' within Michigan.'' MDEQ does not agree that the term ''Indian country'' means the same as ''Indian lands.'' It interprets the term ''Indian lands'' to mean either land held in trust by the federal government for the benefit of a federally recognized Indian tribe or Indian-owned lands within Indian reservations.

Response: EPA disagrees with the interpretation that there is a difference between the terms ''Indian lands'' and ''Indian country'' for purposes of implementing EPA programs. In the context of RCRA, EPA's interpretation that the two terms are synonymous has been specifically approved by the Ninth Circuit Court of Appeals in *Washington Dep't of Ecology* v. *U.S. EPA*, 752 F.2d 1465, 1467, n.1 (9th Cir.1985). The Court stated:

> In the course of this litigation, EPA has regarded [the term ''Indian lands''] as synonymous with ''Indian country,'' which is defined at 18 U.S.C.1151 to include all lands (including fee lands) within Indian reservations, dependent Indian communities and Indian allotments to which Indians hold title. We accept this definition as a reasonable marker of the geographic boundary between state and federal authority.

EPA has consistently interpreted ''Indian country'' to be the same as ''Indian lands.'' For example, EPA's regulations implementing RCRA Subtitle D define ''Indian lands'' to be the same as ''Indian country.'' 40 CFR 258.2. *See also* 40 CFR 144.3 (regulations under the Safe Drinking Water Act define ''Indian lands'' to be the same as ''Indian country''). In addition, it is clear that EPA has used the terms ''Indian country'' and ''Indian lands'' interchangeably when addressing authorization of state programs under RCRA Subtitle C. For some examples of this practice, *see* 65 *FR* 46606, 610 (July 31, 2000) (Virginia); 65 *FR* 33774, 776 (May 25, 2000) (Minnesota); 65 *FR* 29973, 978 (May 10, 2000) (West Virginia); 65 *FR* 26755 (May 9, 2000) (South Dakota); 64 *FR* 49673, 674, 680 (September 14, 1999) (Texas); 58 *FR* 8232 (Feb. 12, 1993) (Utah); 51 *FR* 3782 (January 30, 1986) (Washington).

Outside of the environmental context, the term ''Indian lands'' has frequently been used to refer to more than lands held in trust or Indian-owned land. For example, Congress has defined ''Indian lands'' to include ''Indian country'' in the Indian Tribal Regulatory Reform and Business Development Act of 2000 (25 U.S.C. 4302(4)) and in the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (25 U.S.C. 3653(2), and it defined ''Indian lands'' to include all lands within the limits of any Indian reservation in the Indian Gaming Regulatory Act (25 U.S.C. 2703(4). Other agencies have adopted similar definitions of the term Indian lands. *See* 30 CFR 700.5 (adopted by the Department of Interior under the Surface Mining Control and Reclamation Act, ''Indian lands'' includes all lands within the exterior boundaries of any federal Indian Reservation) and 25 CFR 502.12 (adopted by the Indian Gaming Commission under the Indian Gaming Regulatory Act, ''Indian lands'' include ''land within the limits of an Indian Reservation'').

Comment #2: MDEQ also stated that EPA, relying upon its position on ''Indian lands,'' has asserted that the state lacks implementing authority over non-Indian facilities on non-Indian lands. In some cases, these assertions have even encompassed facilities over which the EPA has explicitly delegated authority to the state.

Response: EPA takes the position that an EPA-approved state program does not apply in Indian country (including any non-Indian facilities in Indian country) unless the state has expressly demonstrated authority and EPA has expressly approved the state to administer the EPA program there. EPA has not expressly authorized the State of Michigan under the federal environmental laws in Indian country.

Comment #3: MDEQ comments that EPA's interpretation of what lands constitute a reservation appears to be typically based solely on claims of tribes, even where those claims are clearly contrary to applicable laws and treaties, as well as all available historical evidence, and have never been established in a court of law.

Response: Under RCRA, EPA determines which lands constitute a reservation (and hence are within Indian country) on a case-by-case basis. EPA does not rely solely on the claims of tribes in making this determination. EPA generally consults with the Department of Interior in making this determination and takes into account all applicable information, including treaties and other laws.

Comment #4: MDEQ commented that the term ''Indian country'' appears in a criminal statute which predates RCRA. MDEQ also commented that EPA's interpretation diminishes the scope of Michigan's base RCRA program.

Response: The use of the term ''Indian country'' rather than the term ''Indian lands'' would not diminish Michigan's base program, since EPA treats those two terms as synonymous. The statutory

definition of ''Indian country'' in 18 U.S.C. 1151, includes, *inter alia*, all lands within the limits of any Indian reservation, including non-member fee lands. EPA notes that, although the definition of Indian country appears in a criminal code, it generally applies to civil judicial and regulatory jurisdiction. *Alaska* v. *Native Village of Venetie Tribal Gov't*, 522 U.S. 520, 527 (1998); *Decoteau* v. *District County Court*, 420 U.S. 425, 427 n.2 (1975). EPA also notes that its interpretation of the two terms has been held consistently even before Michigan received authorization for the base RCRA program in October of 1986. See *Washington Dep't of Ecology* v. *U.S. EPA*, 752 F. 2d 1465, 1467, n.1 (9th Cir. 1985).

II. Comments From a Second Commenter

Comment #5: The commenter asserts that EPA should have hosted a public hearing.

Response: Michigan received final authorization for its RCRA program on October 30, 1986, and is applying for a revision to its authorized program to reflect analogous modifications to the federal RCRA Subtitle C program. The regulations governing review of program revisions at 40 CFR part 271 do not require a hearing for authorization of revisions. On March 4, 1986, EPA promulgated amendments to 40 CFR 271.21 that eliminated public hearing requirements for revisions. The Agency discussed this elimination in the preamble to that rule:

> As discussed in the proposal, the new procedures do not require public hearings to be held in conjunction with EPA's authorization decisions. Since there is no legal requirement to provide for hearings on revision decisions and little public interest has been shown to date in attending hearings on initial authorization of state programs, we think the opportunity to provide written comments is adequate. Only one comment was received on the elimination of routine public hearings, and that comment favored the rule change. * * *

51 *FR* 7540 at 7541 (March 4, 1986).

Comment #6: The commenter asserts that Michigan's statutes in Public Act 451 Part 111 and 115 do not appear to provide authority for the land application of hazardous waste found in R 299.9801, Mich. Adm. Code.

Response: R 299.9801, Mich. Adm. Code, was adopted by the State of Michigan effective on December 28, 1985. The Attorney General of the State of Michigan submitted a statement, signed September 7, 1988, that certified that ''the laws of the State of Michigan provide adequate authority to carry out the revised program set forth in the revised ''Program Description'' submitted by the Michigan Department of Natural Resources.'' (The agency was later renamed the Department of Environmental Quality.) Page 3 of that statement, paragraph II.A, reads, ''State statutes and regulations define hazardous waste and impose management standards so as to control all the hazardous waste controlled under 40 CFR 261, 264, 265 and 266 as amended August 20, 1985 [50 *FR* 33541–43]* * *'' The statement further cites to the following statutory and regulatory authority, among others:

- 1979 Act 64, section 4(3); MCL 299.504(3); MSA 13.30(4)(3) (currently 1994 Act 451, section 11103(3); MCL 324.11103(3); MSA 13a.11103(3)).
- 1979 Act 64, section 26; MCL 299.526; MSA 13.30(26) (currently 1994 Act 451, section 11127; MCL 324.11127; MSA 13a.11127)).
- Mich. Admin. Code 1985 AACS, R 299.9101 *et seq*.

EPA reviewed the statement and the citations of authority and found them satisfactory, and authorization of the state program revisions became effective on April 24, 1989.

Comment #7: The commenter asserts that R 299.9801, Mich. Adm. Code, allows for the unregulated disposal of hazardous waste as a fertilizer ''product,'' whereas R 299.4111, Mich. Adm. Code, which pertains to plans to manage solid wastes as non-detrimental material managed for agricultural or silvicultural use, would heavily regulate non-hazardous waste.

Response: For the reasons discussed below, this authorization action is not the appropriate forum for these comments. As in the federal regulations at 40 CFR 266.20, R 299.9801, Mich. Admin. Code, exempts products that contain ''recyclable materials used in a manner constituting disposal'' (except K061 derived fertilizers [1]) from regulation only if they comply with applicable land disposal restriction (LDR) treatment standards or, where no treatment standards have been established, if they comply with the applicable prohibition levels or with section 3004(d) of RCRA, for each recyclable material that the products contain. EPA promulgated 40 CFR 266.20 on January 4, 1985 (*see* 50 *FR* 614) and revised this regulation on August 17, 1988 (*see* 53 *FR* 31138); September 6, 1989 (54 *FR* 36967); and August 24, 1994 (59 *FR* 8583). Michigan R 299.9801 is equivalent to the federal requirements and was previously authorized by EPA effective on October 30, 1986 (51 *FR* 36804, October 16, 1986) and on April 8, 1996 (61 *FR* 4742, February 2, 1996). The program revisions EPA is authorizing today do not affect the equivalency of R 299.9801.

Moreover, this comment is not relevant to this action because R 299.4111, Mich. Adm.Code, is not part of and has no effect upon this action or Michigan's authorized hazardous waste program. R 299.4111, which regulates plans for managing solid wastes as non-detrimental material managed for agricultural or silvicultural use, is not applicable to hazardous wastes because R 299.4110 exempts hazardous wastes from regulation as solid waste. R 299.4110 reads as follows:

> As provided by section 11506 of the act, the following wastes are ''other wastes regulated by statute'' and are exempt from regulation as solid wastes under part 115 of the act: (a) hazardous waste regulated under part 111 of the act.

By its terms, R 299.4111, Mich. Adm. Code, applies to solid wastes:

> (1) A person shall not apply sludges, ashes, or other *solid waste* to the land without having obtained a license under the act, unless the director has approved a plan for managing the wastes as nondetrimental materials that are appropriate for agricultural or silvicultural use or has otherwise authorized the application under part 31 of the act. *(Emphasis added)*

While both solid waste and its subset hazardous waste are regulated under the umbrella of RCRA, that statute contains different subchapters for governing the content, criteria and administration of hazardous waste programs (Subchapter III) and solid waste plans (Subchapter IV). EPA's authority to ''authorize'' a state to administer and enforce a ''hazardous waste program'' under Subchapter III of RCRA (*see* 3006 of RCRA, 42 U.S.C. 6926) does not constitute ''approval'' of either a state solid waste plan (*see* section 4007(a) of RCRA, 42 U.S.C. 6947(a), or a solid waste management facility permit program (*see* section 4005(c) of RCRA, 42 U.S.C. 6945(c)), under Subchapter IV of RCRA. The criteria for authorization of a state hazardous waste program are set part in section 3006 of RCRA. In reviewing an application under section 3006, EPA considers whether the state program (1) is equivalent to the federal program under Subchapter III, which governs hazardous waste; (2) is consistent with federal or ''state programs applicable in other states''; and (3) provides adequate enforcement of compliance with the requirements of

[1] EPA has proposed to remove the regulatory provision which currently exempts fertilizer made from K061 from having to meet applicable LDR standards in EPA's proposed rule ''Requirements for Zinc Fertilizers Made from Recycled Hazardous Secondary Materials,'' dated November 28, 2000. 65 *FR* 70985.

Subchapter III of RCRA. As part of this review, EPA considers whether the state is imposing requirements less stringent than those authorized under Subchapter III respecting the same matter as governed by such regulation. (*See* sections 3006 and 3009 of RCRA, 42 U.S.C. 6926 and 6929.) The commenter's request for EPA to review R 299.9801 for consistency with R 299.4111, which explicitly does not apply to hazardous waste, falls outside the scope of this action.

For the reasons set forth above, the comments on R 299.4111, Mich. Admin. Code, are not relevant to today's action.

C. What Decisions Have We Made in This Rule?

We conclude that Michigan's revisions to its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Michigan final authorization to operate its hazardous waste program with the revisions described in the authorization application. Michigan now has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program 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 the states are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Michigan, including issuing permits, until the state is granted authorization to do so.

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

The effect of this decision is that a facility in Michigan subject to RCRA will now have to comply with the authorized state requirements in lieu of the corresponding federal requirements in order to comply with RCRA. Additionally, such persons will now have to comply with any applicable federally-issued requirements, such as HSWA regulations issued by EPA for which the state has not received authorization, and RCRA requirements that are not supplanted by authorized state-issued requirements. Michigan continues to have enforcement responsibilities under its state hazardous waste management program for violations of its hazardous waste management program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, the authority to:

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

This action to approve these revisions does not impose additional requirements on the regulated community because the regulations for which Michigan is being authorized by today's action are already effective, and are not changed by today's action.

E. What Has Michigan Previously Been Authorized for?

Michigan initially received final authorization on October 16, 1986, effective October 30, 1986 (51 *FR* 36804–36805) to implement the RCRA hazardous waste management program. We granted authorization for changes to Michigan's program effective January 23, 1990 (54 *FR* 48608, November 24, 1989); effective June 24, 1991 (56 *FR* 18517, January 24, 1991); effective November 30, 1993 (58 *FR* 51244, October 1, 1993); effective January 13, 1995 (60 *FR* 3095, January 13, 1995); effective April 8, 1996 (61 *FR* 4742, February 8, 1996); effective November 14, 1997 (62 *FR* 61775, November 14, 1997); and effective June 1, 1999 (64 *FR* 10111, March 2, 1999).

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

On March 3, 2000, and April 3, 2001, Michigan submitted complete program revision applications seeking authorization of its changes in accordance with 40 CFR 271.21. We now make a final decision that Michigan's hazardous waste management program, as revised, satisfies all requirements under RCRA necessary to qualify for final authorization. Therefore, we grant Michigan final authorization for the program revisions described in the February 28, 2002 proposed rule (67 *FR* 9225). For further details, see the February 28, 2002 proposed rule.

G. Who Handles Permits After the Authorization Takes Effect?

Michigan 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 we issued prior to the effective date of this authorization, until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions for which Michigan is authorized after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Michigan is not yet authorized.

H. What Is Codification and Is EPA Codifying Michigan'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. We do this by referencing the authorized state rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart X, for this authorization of Michigan's program changes until a later date.

I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Michigan?

Michigan is not authorized to carry out its hazardous waste program in Indian country within the state, as defined in 18 U.S.C. 1151. This includes:

1. All lands within the exterior boundaries of Indian reservations within or abutting the State of Michigan;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian country.

Therefore, today's action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in Indian country. It is EPA's long-standing position that the term ''Indian lands'' used in past Michigan hazardous waste approvals is synonymous with the term ''Indian country.'' *Washington Dep't of Ecology* v. *U.S. EPA,* 752 F.2d 1465, 1467, n.1 (9th Cir. 1985). *See* 40 CFR 144.3 and 258.2.

J. Administrative Requirements

The Office of Management and Budget has exempted RCRA authorizations from the requirements of Executive Order 12866 (58 *FR* 51735, October 4, 1993), and therefore this action is not subject to review by OMB. Furthermore, this action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 *FR* 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. This action authorizes state requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by state law. This authorization will effectively suspend

the applicability of certain federal regulations in favor of Michigan's program, thereby eliminating duplicate requirements for handlers of hazardous waste in the state. Authorization will not impose any new burdens on small entities. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This action does not have tribal implications within the meaning of Executive Order 13175 (65 *FR* 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 *FR* 43255, August 10, 1999), because it merely authorizes state requirements as part of the state RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 *FR* 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action does not include environmental justice related issues that require consideration under Executive Order 12898 (59 *FR* 7629, February 16, 1994).

Under RCRA 3006(b), EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 *FR* 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 *FR* 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1994 (44 U.S.C. 3501 *et seq.*).

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

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: July 23, 2002.

Thomas V. Skinner,

Regional Administrator, Region 5.

[FR Doc. 02–19226 Filed 7–30–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011109274–1301–02; I.D. 072202B]

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Adjustment to the 2002 Scup Winter II Commercial Quota

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Scup Winter II commercial quota adjustment for 2002.

SUMMARY: NMFS (NOAA Fisheries) adjusts the 2002 Winter II commercial scup quota. This action complies with a provision of the commercial quota management program established by the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP). Scup landings in excess of the quota allocated for the prior year's Winter II quota period (November and December) must be deducted from the Winter II scup quota for the following year. The intent of this action is to continue the rebuilding program described in the FMP's objectives, by taking into account 2001 overages of the scup Winter II quota.

DATES: Effective July 31, 2002, through December 31, 2002.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fisheries Policy Analyst, (978) 281–9279.

SUPPLEMENTARY INFORMATION:

Background

NOAA Fisheries published a final rule in the **Federal Register** on December 26, 2001 (66 FR 66348), announcing specifications and adjustments to the 2002 summer flounder, scup, and black sea bass commercial quotas. On February 14, 2002, NOAA Fisheries published a final rule in the **Federal Register** (67 FR 6877) revising the method by which the commercial quotas for these species are to be adjusted if landings in any fishing year exceed the quota allocated (thus resulting in a quota overage). The FMP originally required that any landings in excess of a commercial quota allocation for a state or period in one year would be deducted from that state's or period's annual quota allocation for the following year. This was problematic because complete landings data for the