with Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VI. Congressional Review Act

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: May 21, 2003.

James Jones,

Director, 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), 346(a) and 371.

§180.359 and 180.1132 [Removed]

■ 2. Sections 180.359 and 180.1132 are removed.

■ 3. Section 180.1033 is revised to read as follows:

§180.1033 Methoprene; exemption from the requirement of a tolerance.

Methoprene is exempt from the requirement of a tolerance in or on all food commodities when used to control insect larvae.

[FR Doc. 03–14330 Filed 6–10–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7511–1]

Utah: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Utah applied to EPA for Final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reached a final determination that these changes satisfy all requirements needed to qualify for Final authorization. Thus, with respect to these revisions, EPA is granting Final authorization to the State to operate its program subject to the limitations on its authority retained by EPA in accordance with RCRA, including the Hazardous and Solid Waste Amendments (HSWA) of 1984.

DATES: Final authorization for the revisions to Utah's hazardous waste management program will become effective June 11, 2003.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139 or e-mail: *shurr.kris@epa.gov.*

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.

Utah initially received Final Authorization on October 10, 1984, effective October 24, 1984 (49 FR 39683) to implement its base hazardous waste management program. Utah received authorization for revisions to its program on February 21, 1989 (54 FR 7417), effective March 7, 1989; May 23, 1991 (56 FR 23648) and August 6, 1991 (56 FR 37291), both effective July 22, 1991; May 15, 1992 (57 FR 20770), effective July 14, 1992; February 12, 1993 (58 FR 8232) and May 5, 1993 (58 FR 26689), both effective April 13, 1993; October 14, 1994 (59 FR 52084), effective December 13, 1994; May 20, 1997 (62 FR 27501), effective July 21, 1997; January 13, 1999 (64 FR 02144), effective March 15, 1999; October 16, 2000 (65 FR 61109), effective January 16, 2001, and May 7, 2002 (67 FR 30599), effective July 7, 2002.

On February 12, 2003, Utah submitted a final complete program revision application, seeking authorization of additional changes to its program in accordance with 40 CFR 271.21. On April 10, 2003, EPA published both an Immediate Final Rule (68 FR 17556) granting Utah 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 a Final authorization (68 FR 17577). EPA announced in both notices that the Immediate Final Rule and the Proposed Rule were subject to a thirty-day public comment period. The public comment period ended on May 12, 2003. EPA did receive identical written comments from two commenters during the public comment period. Today's action responds to the comments EPA received and publishes EPA's Final determination granting Utah Final authorization of its program revisions. Further background on EPA's Immediate Final Rule and its tentative determination to grant authorization to Utah for its program revisions appears in the aforementioned **Federal Register** notices. The issues raised by the commenters are summarized and responded to in Item B.

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

Both commenters challenged Region VIII's process for authorizing revisions

to Utah's program in not providing for a public hearing, which, they state, is required by 40 CFR 271.20. EPA disagrees. The regulations relied upon by the commenters apply to initial program authorization, and not program revision authorizations. Rather, we have proceeded in accordance with 40 CFR 271.21, which does not require public hearings. On March 4, 1986, at 51 FR 07540, EPA promulgated amendments to 40 CFR 271.21 that eliminated public hearing requirements for program revisions. In this March 4, 1986 **Federal Register**, EPA stated: ''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. However, while the regulatory requirement is deleted, a Regional Administrator, in his discretion, could decide to hold a hearing.'' (51 FR 07541).

Consequently, EPA Region VIII believes it adhered to the governing regulations regarding opportunities for public hearings during the EPA approval process for State program revisions. We also believe, that due to the nature and limited number of comments received, the opportunity to provide for written comments, in lieu of a public hearing, was an adequate process to obtain public comment.

Both commenters shared a concern about the ''use constituting disposal'' provisions of 40 CFR part 266, subpart C. They appear to have concerns about the provisions of Utah regulations (which incorporate the Federal rules by reference) that allow, under certain conditions, ''hazardous wastes,'' like lime-based slag, to be used as a ''fertilizer.'' They argue that Utah's statute (like RCRA) does not allow the land application of hazardous wastes (beneficial or not) unless it occurs at a permitted disposal facility. For the reasons set forth below, EPA disagrees. EPA's regulations accommodate the proper reuse, recycling, and reclamation of as many resources destined for disposal as possible, while regulating hazardous wastes and hazardous waste residuals that must be discarded. EPA's regulations at 40 CFR part 266, subpart C, place controls on the management of hazardous wastes before such wastes are made into a fertilizer. Producing fertilizer from an otherwise hazardous waste is a type of recycling which, in EPA's regulations, is referred to as ''use constituting disposal.'' Rather than prohibiting the use of waste-derived fertilizers, EPA promulgated regulations to require that hazardous wastes that are going to be made into fertilizers be managed in accordance with all applicable hazardous waste management requirements until the wastes are actually made into a fertilizer. With regard to the ''use constituting disposal'' provisions of 40 CFR part 266, subpart C, in the context of fertilizer applications, these provisions in Utah's program were authorized by EPA as part of Utah's first program revision, which took effect on March 7, 1989—over fourteen years ago. Utah's rules currently incorporate the Federal rules by reference making them identical. Utah's current revision application, for which we recently published a tentative approval, with an opportunity for public comment, does not include any regulatory revisions to 40 CFR part 266, subpart C. Since the comment we has received on ''use constituting disposal'' is not part of Utah's most recent program revision application, we believe the public comments on ''use constituting disposal'' are not within the scope of this Agency action.

Both commenters raised concerns that the ''Express RCRA Authorization'' process circumvents the requirements of 40 CFR 271.7. They feel that the use of this process fails to identify deficiencies in the State program and does not allow the State to have regulations that are more protective than the Federal minimum requirements.

The ''Express RCRA Authorization'' initiative should not be confused with the ''Abbreviated Authorization Revisions'' discussed at 40 CFR 271.21(h). The Abbreviated Authorization Revision process is an optional process, may only be used under limited circumstances, and the prerequisite provisions must be listed in 40 CFR 271.21, Table 1. Any change to this process must be publicly noticed and opportunity for public comment provided.

The ''Express RCRA Authorization'' initiative is only a restructuring of the components submitted by the State in an authorization revision application. It was designed to make the application process more efficient and less resource intensive for the States and EPA. Although the submittal format is significantly different from what was previously used, all the components required by 40 CFR 271.21 (and thus, 40 CFR 271.7) are still provided in the revision application. Since there was no change in the required components, a public notice and public comment period was not required.

An Express Authorization application now requires a simplified State Attorney General's statement which certifies the State's statutory authority along with a table identifying the applicable State statutes. In the past, the State Attorney General had to submit a complex statutory and regulatory statement that could obscure the State's statutory authority and often duplicated the rule checklists (which are still provided and used as a tool to identify the State's equivalent rules). This new statement actually makes the State's statutory authority more apparent, rather than less, while maintaining all the requirements of 40 CFR 271.7. In addition to clarifying the State's statutory authority, the new format also makes it more apparent to the Region where the State's rules are different from the Federal rules, especially those that are more stringent or broader-in-scope, thereby reducing the time to review and approve a revision application. The Express Authorization approach does not restrict, in any way, the State's ability to adopt rules that are either more protective of human health and the environment or broader in scope than the Federal program. Nor does it limit the requirement for EPA to make a determination that the State's rules are equivalent and no less stringent than the Federal rules.

Both commenters point out that Utah's Solid and Hazardous Waste Act at 19–6–102(17)(b)(iii) exempts certain wastes, specifically: fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily for the combustion of coal or other fossil fuels, from the definition of solid waste that are not exempt from the Federal definition of solid waste at 40 CFR 261.4(b)(4).

An authorization review generally compares Federal regulations to State regulations. We would compare a State statute to a Federal regulation only if the State does not adopt a regulation and uses the State statute as its equivalent provision. In addition, the review of a State program revision focuses on the changes identified by the EPA-generated checklist (a tool used by both the State and EPA to identify all required changes) and any other changes identified by the State. A review of a State's entire program is conducted periodically using a different review process.

Our review has determined that Utah has adopted equivalent rules to 40 CFR

261.4(b)(4) at R315–2–4(b)(4) where it lists ''fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily for the combustion of coal or other fossil fuels, * * *'' as solid wastes which are not hazardous wastes. Since neither the federal nor state rules consider these wastes as hazardous wastes, Utah's exclusion in its Statutes of these wastes from the definition of solid waste is not within the scope of this action.

C. What Decisions Have We Made in This Rule?

Based on EPA's response to public comments, the Agency has determined that approval of Utah's RCRA program revisions should proceed. EPA has made a final determination that Utah's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Utah Final authorization to operate its hazardous waste program with the changes described in its application for program revisions. Utah has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA adopts 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 Utah, 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 Utah's RCRA program revisions, please refer to the preambles of EPA's April 10, 2003 Proposed and Immediate Final Rules at 68 FR 17577 and 68 FR 17556, respectively.

D. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by 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 rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective June 11, 2003.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, 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 2, 2003.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. 03–14748 Filed 6–10–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 439

[FRL–7510–6]

RIN 2040–AD85

Partial Withdrawal of Direct Final Rule; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Pharmaceutical Manufacturing Point Source Category

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial withdrawal of direct final rule and revisions.