

versions of the docket for this final rule. As previously stated, all documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

EPA is approving these RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in its SIP-approved generic RACT regulations applicable to these sources. In accordance with its SIP-approved generic RACT rule, the Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

### III. Proposed Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP on January 27, 2005 to establish and require VOC and NO<sub>x</sub> RACT for seven sources pursuant to the Commonwealth's SIP-approved generic RACT regulations. EPA is soliciting public comments on this proposed rule to approve these source-specific RACT determinations established and imposed by PADEP in accordance with the criteria set forth in its SIP-approved generic RACT regulations applicable to these sources. These comments will be considered before taking final action.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule 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 rule proposes to approve 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). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. 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 proposed 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 proposed rule to approve source-specific RACT determinations established and imposed by the Commonwealth of Pennsylvania pursuant to its SIP-approved generic RACT regulations does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 3, 2005.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. 05-11548 Filed 6-9-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7922-8]

### Louisiana: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Immediate final rule.

**SUMMARY:** Louisiana has applied to the EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Louisiana's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal**

**Register** will serve as a proposal to authorize the changes.

**DATES:** This final authorization will become effective on August 9, 2005, unless the EPA receives adverse written comment by July 11, 2005. If the EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

**ADDRESSES:** Submit your comments by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. E-mail: [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).

3. Mail: Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

4. Hand Delivery or Courier. Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas Texas 75202-2733.

**Instructions:** Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov), or e-mail. The Federal [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

You can view and copy Louisiana's application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Louisiana Department of Environmental Quality, 602 N. Fifth Street, Baton Rouge,

Louisiana 70884-2178, phone number (225) 219-3559 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, phone number (214) 665-8533.

Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

**FOR FURTHER INFORMATION CONTACT:**

Alima Patterson Region 6 Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, (214) 665-8533, EPA Region 1145 Ross Avenue, Dallas Texas 75202-2733, and e-mail address [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from the 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 the 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 the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

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

We conclude that Louisiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Louisiana final authorization to operate its hazardous waste program with the changes described in the authorization application. Louisiana has responsibility for permitting treatment, storage, and disposal facilities 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 the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in

Louisiana including issuing permits, until the State is granted authorization to do so.

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

The effect of this decision is that a facility in Louisiana subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Louisiana has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, 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 does not impose additional requirements on the regulated community because the regulations for which Louisiana is being authorized by today's action are already effective under State law, and are not changed by today's action.

**D. Why Wasn't There a Proposed Rule Before Today's Rule?**

The EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

**E. What Happens if the EPA Receives Comments That Oppose This Action?**

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw only that part of this rule, but the authorization of the program

changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

**F. For What Has Louisiana Previously Been Authorized?**

The State of Louisiana initially received final authorization on February 7, 1985, (50 FR 3348), to implement its base Hazardous Waste Management Program. We granted authorization for changes to their program on November 28, 1989 (54 FR 48889) effective January 29, 1990; August 26, 1991 (56 FR 41958) effective August 26, 1991; November 7, 1994 (59 FR 55368) effective January 23, 1995; December 23, 1994 (59 FR 66200) effective March 8, 1995; there were technical corrections made on January 23, 1995 (60 FR 4380), effective January 23, 1995; and another technical correction was made on April 11, 1995 (60 FR 18360) effective April 11, 1995; October 17, 1995 (60 FR 53704) effective January 2, 1996; March 28, 1996 (61 FR 13777) effective June 11, 1996; December 29, 1997 (62 FR 67572) effective March 16, 1998; October 23, 1998 (63 FR 56830) effective December 22, 1998; August 25, 1999 (64 FR 46302) effective October 25, 1999; September 2, 1999 (64 FR 48099) effective November 1, 1999; February 28, 2000 (65 FR 10411) effective April 28, 2000; January 2, 2001 (66 FR 23 ) effective March 5, 2001 and December 9, 2003 (68 FR 68526) effective February 9, 2004. On November 4, 2004, Louisiana applied for approval of its program revisions for

RCRA Cluster XIII including Conditionally Exempt Small Quantity Generator's (CSQGs), Small Quantity Generators (SQGs) and Manifest Requirements. In this application, Louisiana is seeking approval of RCRA Cluster XIII also including Conditionally Exempt Small Quantity Generator's (CSQGs), Small Quantity Generators (SQGs) and Manifest Requirements that was repealed in accordance with 40 CFR 271.21(b)(3).

Since 1979, the State of Louisiana, through the Louisiana Department of Natural Resources, has conducted a program designed to regulate those who generate, transport, treat, store, dispose of or recycle hazardous waste. During the 1983 Regular Session of the Louisiana Legislature, Act 97, the Environmental Affairs Act, was adopted. This Act amended and reenacted Louisiana Revised Statutes (LRS) 30:1051 *et seq.* and also created the Louisiana Department of Environmental Quality (LDEQ). During the 1999 Regular Session of Louisiana Legislature, Act 303 revised the LRS 30:2011 *et seq.*, allowing LDEQ to re-engineer itself to perform more efficiently and to meet its strategic goals.

Act 97, which amended and reenacted Louisiana Revised Statutes 30:1051 *et seq.*; transferred the duties and previously delegated responsibilities of the Department of Natural Resources, Office of Environmental Affairs, to LDEQ. The LDEQ and the Department of Natural Resources, Office of Conservation, has a memorandum of understanding that outlines the protocol for activities associated with the

exploration, development, or production of oil, gas, or geothermal resources. The LDEQ has lead agency jurisdictional authority for administering the RCRA Subtitle C program in Louisiana. The LDEQ is designated to facilitate communication between the EPA and the State.

The State law governing the generation, transportation, treatment, storage and disposal of hazardous waste can be found in LRS 30:2171–2205. This part may be cited as the “Louisiana Hazardous Waste Control Law.” The laws governing hazardous waste should be viewed as part of a larger framework of environmental laws specified in Title 30, Subtitle II Louisiana Revised Statutes. The State of Louisiana adopted the Federal regulations for Cluster XIII promulgated from July 1, 2003 through June 30, 2004, including CSQGs, SQGs, and Manifest requirements dated November 1, 1981, through September 23, 1987 and the State’s regulations which became effective January 20, 2001, May 20, 2001 and September 20, 2004.

*State Initiated Changes*

The State has made amendments to the provisions listed in the table which follows. These amendments correct typographical and/or printing errors, clarify and make the State’s regulations more internally consistent. The State’s laws and regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than the Federal laws and regulations. These State initiated changes are submitted under the requirements of 40 CFR 271.21(a).

**CHANGES TO CONDITIONALLY EXEMPT SMALL QUANTITY AND SMALL QUANTITY GENERATORS**

State citation	Federal citation	Result of re-promulgated rule (amended/effective date May 20, 2001)
2205.A.1 .....	268.50(A)(1)	Repealed.
Chapter 39 .....	N/A	Repealed.
4105.B.7 .....	N/A	Language deleted.

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

On November 4, 2004, Louisiana submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We

now make an immediate final decision, subject to receipt of written comments that oppose this action, that Louisiana’s hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant the State of Louisiana Final authorization

for the following changes: The State of Louisiana’s program revisions consist of regulations which specifically govern RCRA Cluster XIII including amendment to CSEQ’s SQG’s and Manifest requirements as documented below:

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
1. Manifest Requirements: 40 CFR part 262.22, 264.71(a) 3 and 4, 264.71(b). 264.71(d) and 264.72(b).	45 FR 3322, May 19, 1980, as amended at 45 FR 86970–86974, December 31, 1980; 61 FR 16315, April 12, 1996; 45 FR 33221, May 19, 1980, as amended at 50 FR 4514, January 31, 1985; and 49 FR 10500, March 20, 1984.	Louisiana Revised States (LRS) 30: Section 2001 <i>et seq.</i> , with specific cites of 2174, 2175, and 2180 as amended 2002, effective 2002; Louisiana Hazardous Waste Regulations (LHWR) Sections 905.A.4 & 5, 905.B.5, 907.D, 1107.C, and 1199. Appendix A, as amended January 20, 2001; effective January 20, 2001.
2. Small Quantity Generators and Conditionally Exempt Small Quantity Generators Requirements.	45 FR 33119, May 19, 1980; 45 FR 78529, November 25, 1980, as amended at 47 FR 36097, August 18, 1982; 48 FR 14294, April 1, 1983; 50 FR 1999, January 14, 1985; 51 FR 40637 November 7, 1986; 48FR 14228 April 1, 1983; 48 FR 30114 June 30, 1983, as amended at 50 FR 28751, July 15, 1985; 51 FR 10174–10176, March 24, 1986; 52 FR 45799 December 1, 1987; 54 FR 9607, March. 7, 1989; 60 FR 33914, June 29, 1995; 45 FR 33119–33221, May 19, 1980, as amended at 48 FR 3982, January 1983; 50 FR 4514, January 31, 1985; 47 FR 1251, January 11, 1982; 52 FR 35898–35899, September 23, 1987; 51 FR 28682, August 8, 1986, as amended at 56 FR 43705 September 4, 1991; 61 FR 16309, April 12, 1996; [45 FR 33151–33221, May 19, 1980; 51 FR 40636, November. 7, 1980; 51 FR 40638, November 7, 1986; 52 FR 21016, June 4, 1987; and 51 FR 40642, November 7, 1986. 52 FR 21016–21017, June 4, 1987; 56 FR 7208, February 21, 1991; 56 FR 32688, July 17, 1991; 60 FR 25542, May 11, 1995, as amended at 64 FR 36488, July 6, 1999; 57 FR 41612, September 10, 1992; 45 FR 33232 May 19, 1980; 51 FR 25479, July 14, 1986, as amended at 53 FR 34087 September 2, 1988; and 45 FR 78529–78541 November 25, 1980.	LRS:30:2001 <i>et seq.</i> with specific cites of 2174, 2175, and 2180, as amended 2002, effective 2002, LHWR Sections 105.D.5.a, 108.A-J, 108.G.3.g.4 and 5 is more stringent because the State assess fees based upon notification including mandatory fees for Conditionally exempt small quantity generators; The Federal rule at 40 CFR 261 does not assess any generator fees. Sections 109. Definitions, 303.E1, 305.C.2, 305.C.4, 909.Introduction, 909.Comment, 1101.I, 1107.A.4, 1109.E.7, 1109.E.7.e, 1109.E.7.f, 1109.E.8 & 9, 1111.C.1 & 2, 1111.C.3, 1111.E, 1113.G.1.e, 1113.G.2, 1307.H, 1501.C.1, 2201.I.4, 2205.A.1, 2245.G. & H., 2249.C.3, 3001.C.3, 3017.B. & C., 3801.A., 3801.C., 3801.D, 4003.B.3, 4105.B.3, 4105.B.7, 4105.B.11, 4105.B.12 & 13, 4301.E, 4313.B, 4438, 4901.A, 4901.E & F, 4907.C and 5137.A, as amended January 20, 2001; effective January 20, 2001.
3. Zinc Fertilizers Made From Recycled Hazardous Secondary Materials. (Checklist 200).	67 FR 48393, July 24, 2002 .....	LRS:30:2001 <i>et seq.</i> with specific cites of 2174, 2175, and 2180, as amended 2002, effective 2002, LHWR Sections 105.D, 105.D.1.t, 105.D.1.t.i.–ii, 105.D.t.ii.(a)(b), 105.D.1.t.ii(b)(i)–(iii), 105.D.1.t.ii.(c)–(d), 105.D.t.ii.(d), 105.D.1.t.ii.(d)(i)–(iii), 105.D.t.iii, 105.D.1.t.iii.(a)(d), 105.D.1.t.iv–v, 105.D.1.u, 105.D.1.u.i, 105.D.1.u.i.(a)(b), 105.D.1.u.ii, 105.D.1.u.iii, 1.u.iii(a)–(f), 4139.A.2.c & 3, 4139.A.6, 4139.A.3.a–b, 2223.l, as amended April 2004, effective August 20, 2004.
4. Treatment Variance for Radioactively Contaminated Batteries. (Checklist 201).	67 FR 62618, October 7, 2002 .....	LRS:30:2001 <i>et seq.</i> with specific cites of 2174, 2175, and 2180, as amended 2002, effective 2002, LHWR Sections 2299 Table 2, as amended April 2004, effective August 20, 2004.
5. Hazardous Air Pollutant Standards for Combustors-Corrections 2 (Checklist 202).	67 FR 77687, December 19, 2002 .....	LRS:30:2001 <i>et seq.</i> with specific cites of 2174, 2175, and 2180, as amended 2002, effective 2002, LHWR Sections 529.F, 535.G, 3115.E, and 537.D, as amended April 2004, effective August 20, 2004.

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

We consider the following State requirements to be more stringent than the Federal requirements: At the State of Louisiana regulations LHWR Sections 105.D.5.a, 108.A–J, 108.G.3.g.4 and 5, are more stringent because the State assess fees based on notifications including mandatory fees for Conditionally exempt small quantity generators. The Federal rule regulation at 40 CFR 261 does not assess any generator’s fees. There are no broader in scope provisions in this program revisions.

**I. Who Handles Permits After the Authorization Takes Effect?**

Louisiana will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The 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. We will not issue any more new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements

for which Louisiana is not yet authorized.

**J. What Is Codification and Is the EPA Codifying Louisiana’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 CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart T for this authorization of Louisiana’s program changes until a later date. In this

authorization application the EPA is not codifying the rules documented in this **Federal Register** notice.

#### **K. Statutory and Executive Order Reviews**

The Office of Management and Budget (OMB) 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 preexisting 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), the 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 the 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, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The 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. The 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 August 9, 2005.

#### **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: May 13, 2005.

**Lawrence E. Starfield,**

*Acting Regional Administrator, Region 6.*

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**BILLING CODE 6560-50-P**