PART 70—[AMENDED]

■ 1. The authority citation for part 70 continues to read as follows:

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

■ 2. Appendix A to Part 70 is amended by adding paragraph (e) in the entry for West Virginia to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

West Virginia

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(e) The West Virginia Department of Natural Resources and Environmental Control submitted program amendment on September 10, 2003. This rule amendment contained in the September 10, 2003 submittal is necessary to make the current definitions of a ''major source'' and ''volatile organic compound'' consistent with the corresponding provisions of 40 CFR part 70, which went into effect on November 27, 2001. The State is hereby granted approval effective on April 27, 2007.

* * * * *

[FR Doc. 07–847 Filed 2–23–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–8281–3]

Idaho: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Idaho applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). On November 9, 2006, EPA published a proposed rule to authorize the changes and opened a public comment period under Docket ID No. EPA–R10–RCRA–2006–0830. The comment period closed on December 11, 2006. EPA has decided that these revisions to the Idaho hazardous waste management program satisfy all of the requirements necessary to qualify for final authorization and is authorizing these revisions to Idaho's authorized hazardous waste management program in this final rule.

DATES: *Effective Date:* Final authorization for the revisions to the hazardous waste program in Idaho shall be effective at 1 p.m. e.s.t on February 26, 2007.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, Mail Stop AWT–122, U.S. EPA Region 10, Office of Air, Waste, and Toxics, 1200 Sixth Avenue, Seattle, Washington 98101, phone (206) 553–0256. *E-mail: hunt.jeff@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 and consistent with the Federal program. States are required to have enforcement authority which is adequate to enforce compliance with the requirements of the hazardous waste program. Under RCRA Section 3009, States are not allowed to impose any requirements which are less stringent than the Federal program. 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 Title 40 of the Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279.

Idaho's hazardous waste management program received final authorization effective on April 9, 1990 (55 FR 11015, March 29, 1990). EPA also granted authorization for revisions to Idaho's program effective on June 5, 1992 (57 FR 11580, April 6, 1992), on August 10, 1992 (57 FR 24757, June 11, 1992), on June 11, 1995 (60 FR 18549, April 12, 1995), on January 19, 1999 (63 FR 56086, October 21, 1998), on July 1, 2002 (67 FR 44069, July 1, 2002), on March 10, 2004 (69 FR 11322, March 10, 2004), and on July 22, 2005 (70 FR 42273, July 22, 2005).

Today's final rule addresses a program revision application that Idaho submitted to EPA in June 2006, in accordance with 40 CFR 271.21, seeking authorization of changes to the State program. On November 9, 2006, EPA published a proposed rule announcing its intent to grant Idaho final authorization for revisions to Idaho's hazardous waste program and provided a period of time for the receipt of public comments. The proposed rule can be found at 71 FR 65765.

B. What Were the Comments to EPA's Proposed Rule?

EPA received one comment letter, dated December 4, 2006, from Mr. Chuck Broscious on behalf of the Environmental Defense Institute, Keep Yellowstone Nuclear Free, and David B. McCoy, collectively, ''the commenters.'' The comment letter focused on the Idaho Department of Environmental Quality's (DEQ) permitting and oversight of the Idaho National Laboratory (INL) facility located near Idaho Falls, Idaho. In short, the commenters question whether continued authorization of the revised hazardous waste program in Idaho is appropriate given concerns the commenters previously raised with EPA and its Office of the Inspector General (OIG) with respect to the permitting of the INL facility. Specifically, the commenters question whether Idaho's program provides adequate enforcement of compliance with the requirements of Subchapter C of RCRA given the application of the program at the INL facility.

The comment letter focuses on recent permitting activities conducted by DEQ at the INL facility. In a petition submitted to OIG on April 28, 2006, the commenters requested that OIG review DEQ's permitting activities at the INL facility. Similar questions were raised in petitions submitted to EPA on August 8, 2000, on September 13, 2001, and in follow-up letters and correspondence in 2003, 2004, and 2006 related to the 2000 and 2001 petitions.

In the 2001 petition, the commenters sought EPA's withdrawal of Idaho's authorization to implement the hazardous waste program under RCRA after citing permitting concerns at the INL facility. EPA, in response to that petition, conducted an informal investigation and determined that sufficient evidence did not exist to initiate formal withdrawal proceedings. EPA's determination was issued on March 20, 2002, with a follow-up response on June 20, 2002. The supporting documentation was provided to the commenters at that time and the documentation is currently available to the public under the Freedom of Information Act.

In 2003, the OIG requested that Region 10 conduct a second investigation to answer a series of follow-up questions related to the 2001 petition. EPA conducted this second investigation and issued its findings in 2003. These investigation results were also provided to Mr. David McCoy, one of the current commenters, as part of an October 13, 2004 Freedom of

Information Act response. On February 5, 2004, after conducting independent field work, OIG issued a final evaluation report which concluded, ''Region 10 generally relied on appropriate regulatory requirements and standards in reaching its conclusion that evidence did not exist to commence proceedings to withdraw the State of Idaho's authority to run its RCRA Hazardous Waste program.'' The evaluation report concluded that evidence did not exist to commence withdrawal proceedings. The OIG did identify areas of concern for further Regional and State follow-up. As detailed in the Evaluation Report, OIG and Region 10 agreed to specific follow-up actions. To document resolution of these action items, Region 10 submitted quarterly progress reports to the OIG Audit Liaison on January 13, 2004, April 16, 2004, July 15, 2004, October 12, 2004, February 9, 2005, and April 8, 2005. These reports documented the steps taken by EPA and DEQ to meet the specific actions recommended by OIG. Hard copies of all the quarterly reports were made available to the public as part of EPA's last authorization action effective July 22, 2005 (70 FR 42273). In response to a request by Mr. Chuck Broscious, one of the current commenters, EPA made a hardcopy version of the 2005 authorization docket available at the University of Idaho Library in Moscow, Idaho. As EPA stated in the 2005 authorization action (70 FR 42273), EPA considers its response to the September 13, 2001 withdrawal petition and recommendations in the February 5, 2004 OIG Evaluation Report complete.

In the current December 4, 2006 comment letter, the commenters contend that permitting the Integrated Waste Treatment Unit using a Class 3 permit modification to the existing Volume 14 INL permit results in inappropriate and abbreviated public participation. EPA addressed the issue of Class 3 permit modifications in the March 20, 2002 petition response. Page 26 of that EPA response states that:

* * *[I]t should be noted that the Class 3 permit modification public participation requirements are as stringent as those under initial permit submissions. Under the authorized program in Idaho at IDAPA 16.01.05.012; 40 CFR Part 270.42(c), Class 3 permit modifications fully incorporate public participation through both pre-submission and draft issuance public comment periods. Including the High-level Liquid Waste Evaporator as a Class 3 permit modification to the permit is a reasonable means of addressing complex, interrelated units in accordance with legally allowable partial permitting under IDAPA 16.01.05.012; 40 CFR 270.1(c)(4), and ensuring public participation.

The commenters also contend that DEQ's regulation of radiological wastes, and enforcement of those requirements, are not adequate. With respect to radiological issues, EPA addressed this same comment in the 2004 revision to Idaho's authorized program (69 FR 11322), concerning closure of the INL Tank Farm Facility. EPA stated, ''[t]he commenters failed to distinguish the RCRA 'mixed waste' authority and its application to the tanks from those radioactive solid waste issues which may be the subject of the NWPA [Nuclear Waste Policy Act] or the AEA [Atomic Energy Act].'' Under the authorized hazardous waste program, DEQ has authority to regulate the hazardous components of mixed waste; however, regulation of the radiological component is outside the scope of the RCRA program and not within the scope of the program EPA has authority to authorize. This same point was made in the 2005 revision to Idaho's authorized program (70 FR 42273). EPA stated, ''* * * EPA observes that defense activities related to nuclear production and propulsion programs will generally not meet the definition of solid waste under the RCRA regulations and may be regulated by other federal authorities.''

In publishing the Radioactive Mixed Waste Rule, EPA recognized that wastes containing both hazardous waste and radioactive waste are subject to regulation under RCRA. (*See* 51 FR 24505, July 3, 1986.) EPA considers radioactive mixed waste to be a solid waste under the Federal RCRA program and requires states to demonstrate regulation of the hazardous components of radioactive mixed wastes. However, Section 1006 of RCRA precludes EPA or a State from regulating the radioactive components where such regulation would be inconsistent with the Atomic Energy Act, as amended (AEA). Specifically, RCRA excludes from the definition of solid waste of ''source, special nuclear, or byproduct material'' as defined by the AEA. Consequently, ''source, special nuclear and byproduct material'' is exempt from the definition of *hazardous waste* and therefore from Subtitle C of RCRA. Idaho's authorized hazardous waste program is constrained by the limitations of RCRA statutory authority and by EPA's findings and interpretations. EPA cannot find Idaho's program to be inadequate when that authorized hazardous waste program is addressing mixed waste to the extent permitted by the RCRA program.[1]

[1] Additional information regarding radioactive mixed waste is located on EPA's webpage at *http://www.epa.gov/radiation/mixed* waste.

The commenters also reference an April 28, 2006 petition to the EPA Office of Inspector General citing concerns with the INL Advanced Test Reactor. Most of the concerns pertain to radiological issues outside the scope of the authorized RCRA program as described above. However, in addition to the radiological concerns, the commenters argue that this facility is in violation of RCRA Subtitle C because it disposes of hazardous waste, specifically beryllium reflector blocks from the Advanced Test Reactor, without a permit. Since beryllium powder is listed as a P–waste under 40 CFR 261.33, the commenters argue that both EPA and IDEQ have neglected their enforcement responsibility under RCRA Subtitle C. As described on page III–20 of the 2006 RCRA Orientation Manual (*http://www.epa.gov/epaoswer/general/orientat/*), P and U listed hazardous waste determinations apply specifically to the disposal, spillage, or container residue of unused, 100% pure or technical grade chemical commercial products. Under 40 CFR 261.33, EPA and authorized states have the authority to regulate the disposal of unused chemical products such as beryllium powder; however, this provision does not provide unlimited authority to regulate all beryllium-containing wastes or discarded products, unless they are defined as a hazardous waste under a different section of 40 CFR Part 261. Inspections of the Advanced Test Reactor, as documented by inspection reports submitted to the Office of Inspector General Liaison on July 15, 2004 and February 9, 2005, found no treatment, storage, or disposal activities that would require a RCRA permit. At the time of the inspections, all identified hazardous wastes were being handled within the regulatory criteria for large quantity generators. Copies of these inspection reports were made available as part of the docket for the 2005 authorization action and are currently available to the public under the Freedom of Information Act.

Lastly, the commenters cite concerns over the ''applicable or relevant and appropriate requirements'' (ARARs) for the INL CERCLA Disposal Facility under EPA's Superfund Program (CERCLA). Unlike it does in the RCRA hazardous waste program, EPA does not authorize states to act in lieu of EPA under CERCLA authority. Therefore, the question of whether a particular requirement is an ''applicable or relevant and appropriate requirement'' is a question for EPA's CERCLA program and is outside the scope of EPA's evaluation of the authorized

hazardous waste program in Idaho. For the above reasons, EPA has determined that the comments included in the current comment letter do not provide a basis to deny Idaho's application for program revision.

C. What Decisions Have We Made in This Rule?

EPA has made a final determination that Idaho's revisions to the Idaho authorized hazardous waste program meet all of the statutory and regulatory requirements established by RCRA for authorization. Therefore, EPA is authorizing the revisions to the Idaho hazardous waste program and authorizing the State of Idaho to operate its hazardous waste program as described in the revision authorization application. Idaho's authorized program will be responsible for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of RCRA, including 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 are implemented by EPA and take effect in States with authorized programs before such programs are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions in Idaho, including issuing permits or portions of permits, until the State is authorized to do so.

D. What Will Be the Effect of This Action?

The effect of today's action is that a facility in Idaho subject to RCRA must comply with the authorized State program requirements and with any applicable Federally-issued requirement, such as, for example, the federal HSWA provisions for which the State is not authorized, and RCRA requirements that are not supplanted by authorized State-issued requirements, in order to comply with RCRA. Idaho has enforcement responsibilities under its State hazardous waste program for violations of its currently authorized program and will have enforcement responsibilities for the revisions which are the subject of this final rule. EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

—Conduct inspections; require monitoring, tests, analyses or reports;
—Enforce RCRA requirements, including State program requirements that are authorized by EPA and any applicable Federally-issued statutes and regulations; suspend, modify or revoke permits; and
—Take enforcement actions regardless of whether the State has taken its own actions. This final action approving these revisions will not impose additional requirements on the regulated community because the regulations for which Idaho's program is being authorized are already effective under State law.

E. What Rules Are We Authorizing With This Action?

In June 2006, Idaho submitted a complete program revision application, seeking authorization for all delegable federal hazardous waste regulations codified as of July 1, 2005, as incorporated by reference in IDAPA 58.01.05(002)–(016).

F. Who Handles Permits After This Authorization Takes Effect?

Idaho will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits or portions of permits issued by EPA prior to final authorization of this revision will continue to be administered by EPA until the effective date of the issuance, re-issuance after modification, or denial of a State RCRA permit or until the permit otherwise expires or is revoked, and until EPA takes action on its permit or portion of permit. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit or portion of permit. EPA will continue to issue permits or portions of permits for HSWA requirements for which Idaho is not yet authorized.

G. What Is Codification and Is EPA Codifying Idaho'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 does this by referencing the authorized State's authorized rules in 40 CFR Part 272. EPA is reserving the amendment of 40 CFR Part 272, Subpart F for codification of Idaho's program at a later date.

H. How Does This Action Affect Indian Country (18 U.S.C. 1151) in Idaho?

EPA's decision to authorize the Idaho hazardous waste program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' 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 Idaho; (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, this action has no effect on Indian country. EPA retains jurisdiction over ''Indian Country'' as defined in 18 U.S.C. 1151.

I. Statutory and Executive Order Reviews

1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. It has been determined that this final rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is intended to minimize the reporting and record-keeping burden on the regulated community, as well as to minimize the cost of Federal information collection and dissemination. In general, the Act requires that information requests and record-keeping requirements affecting ten or more non-Federal respondents be approved by OPM. Since this final rule does not establish or modify any information or record-keeping requirements for the regulated community, it is not subject to the provisions of the Paperwork Reduction Act.

3. Regulatory Flexibility

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act

(SBREFA), 5 U.S.C. 601 *et seq.*, generally requires federal agencies 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 rule on small entities, small entity is defined as: (1) A small business, as codified in the Small Business Size Regulations at 13 CFR Part 121 ; (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. EPA has determined that this action will not have a significant impact on small entities because the final rule will only have the effect of authorizing pre-existing requirements under State law. After considering the economic impacts of today's rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 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 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 the 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.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local or tribal governments or the private sector. It imposes no new enforceable duty on any State, local or tribal governments or the private sector. Similarly, EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, the requirements of Section 203 of the UMRA do not apply to this rule.

5. 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 various levels of government.''

This rule does not have federalism implications. It 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 various levels of government, as specified in Executive Order 13132. This rule addresses the authorization of pre-existing State rules. Thus, Executive Order 13132 does not apply to this rule.

6. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), 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.'' This rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045 applies to any rule that: (1) Is determined to be ''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 economically significant as defined in Executive Order 12866 and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

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'' as defined under Executive Order 12866.

9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or 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 bodies. The NTTAA directs EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable

voluntary consensus standards. This rule does not involve ''technical standards'' as defined by the NTTAA. Therefore, EPA is not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. Because this rule addresses authorizing pre-existing State rules and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

11. 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 the 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). This rule will be effective on the date the rule is published in the **Federal Register**.

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: February 12, 2007.

Julie Hagensen,

Acting Regional Administrator, Region 10.

[FR Doc. E7–3207 Filed 2–23–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 061020273–7001–03; I.D. 013107C]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring 3,914 lb (1,775 kg) of commercial summer flounder quota to the State of New Jersey from its 2007 quota. Bythis action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective February 21, 2007 through December 31, 2007, unless NMFS publishes a superseding document in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Management Specialist, (978) 281–9341, FAX (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery arefound at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process toset the annual commercial quota and the percent allocated to each state are described in § 648.100.

The final rule implementing Amendment 5 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan, which was published on December 17, 1993 (58 FR 65936), provided a mechanism for summer flounder quota to be transferred from one state to another. Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine summer floundercommercial quota under § 648.100(d). The Regional Administrator is required to consider the criteria set forth in § 648.100(d)(3) in the evaluation of requests for quota transfers or combinations.

North Carolina has agreed to transfer 3,914 lb (1,775 kg) of its 2007 commercial quota to New Jersey to cover landings of a North Carolina vessel granted safe harbor in New Jersey aftersuffering damage as a result of rough seas. The Regional Administrator has determined that the criteria set forth in § 648.100(d)(3) have been met. The revised quotas for calendar year 2007 are: North Carolina, 2,749,866 lb (1,247,318 kg); and New Jersey, 1,682,017 lb (762,950 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 20, 2007.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–862 Filed 2–21–07; 2:26 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060906236–7028–02; I.D. 083006B]

RIN 0648–AU83

Fisheries of the Northeastern United States; Method For Measuring Net Mesh Size

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

ACTION: Final rule.

SUMMARY: NMFS amends the regulations governing how fishing net mesh size is measured in the Northeast. This change will increase the weight used to measure mesh at or larger than 120 mm in all fisheries. The intent of this rule is to ensure consistent and accurate measurements of fishing net mesh size.

DATES: Effective May 1, 2007.

FOR FURTHER INFORMATION CONTACT: Douglas Potts, Fishery Management Specialist, (978) 281–9341, FAX (978) 281–9135.

SUPPLEMENTARY INFORMATION: