

DELEGATION STATUS FOR PART 63 STANDARDS—NEVADA—Continued

Subpart	Description	NDEP <sup>1</sup>	WCAQMD <sup>2</sup>	CCDAQM <sup>3</sup>
WWWW	Reinforced Plastics Composites Production	X		
XXXX	Tire Manufacturing	X		
YYYY	Stationary Combustion Turbines	X		
ZZZZ	Stationary Reciprocating Internal Combustion Engines	X		
AAAAA	Lime Manufacturing Plants	X		
BBBBB	Semiconductor Manufacturing	X		
CCCCC	Coke Oven: Pushing, Quenching and Battery Stacks	X		
DDDDD	Industrial, Commercial, and Institutional Boiler and Process Heaters	X		
EEEEE	Iron and Steel Foundries	X		
FFFFF	Integrated Iron and Steel	X		
GGGGG	Site Remediation	X		
HHHHH	Miscellaneous Coating Manufacturing	X		
JJJJJ	Brick and Structural Clay Products Manufacturing	X		
KKKKK	Clay Ceramics Manufacturing	X		
LLLLL	Asphalt Roofing and Processing	X		
MMMMM	Flexible Polyurethane Foam Fabrication Operation	X		
NNNNN	Hydrochloric Acid Production	X		
PPPPP	Engine Test Cells/Standards	X		
QQQQQ	Friction Products Manufacturing	X		
SSSSS	Refractory Products Manufacturing	X		
DDDDDD	Polyvinyl Chloride and Copolymers Production Area Sources	X		
EEEEEE	Primary Copper Smelting Area Sources	X		
FFFFFF	Secondary Copper Smelting Area Sources	X		
GGGGGG	Primary Nonferrous Metals Area Sources—Zinc, Cadmium, and Beryllium	X		

<sup>1</sup> Nevada Division of Environmental Protection.

<sup>2</sup> Washoe County Air Quality Management Division.

<sup>3</sup> Clark County Department of Air Quality Management.

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[FR Doc. E8-6919 Filed 4-2-08; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[EPA-R03-RCRA-2008-0256; FRL-8548-9]

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

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

**ACTION:** Immediate final rule.

**SUMMARY:** Virginia has applied to EPA for Final authorization of the revisions of its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these revisions satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's revisions through this immediate final action. EPA is publishing this rule to authorize the revisions 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 that oppose this authorization during the comment period, the decision to authorize Virginia'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 June 2, 2008, unless EPA receives adverse written comment by May 5, 2008. If 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: Thomas UyBarreta, [uybarreta.thomas@epa.gov](mailto:uybarreta.thomas@epa.gov).

3. First Class or Overnight Mail: Thomas UyBarreta, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

4. Hand Delivery or Courier. Deliver your comments to Thomas UyBarreta, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.

**Instructions:** We must receive your comments by May 5, 2008. Please refer to Docket Number EPA-R03-RCRA-

2008-0256. Do not submit information that you consider to be Confidential Business Information (CBI) or otherwise protected through [regulations.gov](http://regulations.gov), or e-mail. Such comments should be sent via First Class or overnight mail. The [Federal regulations.gov](http://Federal.regulations.gov) Web site is an "anonymous access" system, which means 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 EPA without going through [regulations.gov](http://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, even if you sent an e-mail comment directly to EPA, 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, 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 Virginia's application and associated publicly available materials from 8:15 a.m. to 4:30 p.m., Monday through Friday at the following locations: Virginia Department of Environmental Quality,

Waste Division, 629 East Main Street, Richmond, VA 23219, Phone number: (804) 698-4213, attn: Robert Wickline; and Virginia Department of Environmental Quality, West Central Regional Office, 3019 Peters Creek Road, Roanoke, VA 24019, Phone number: (540) 562-6872, attn: Aziz Farahmand; and EPA Region Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103-2029, Phone number: (215) 814-5254. Interested persons wanting to examine these documents should make an appointment with the office at least five business days in advance.

**FOR FURTHER INFORMATION CONTACT:** Thomas UyBarreta, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029. Telephone 215-814-2953.

**SUPPLEMENTARY INFORMATION:**

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

States that 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 is revised, States must revise their programs and ask EPA to authorize the revisions. Revisions 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 revise their programs because of revisions to 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 Virginia's program revision application of October 10, 2007, to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Virginia Final authorization to operate its hazardous waste program with the revisions described in the authorization application, except as described in Sections H. 1, 3, and 4 of this immediate final rule. Virginia 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 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 even before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Virginia, including issuing permits, until the State is granted authorization to do so.

**C. What is the Effect of This Authorization Decision?**

The effect of this decision is that a facility in Virginia subject to RCRA will have to comply with the authorized revised State requirements instead of the equivalent Federal requirements in order to comply with RCRA. While Virginia has enforcement responsibilities under its State hazardous waste program for violations of such program, EPA nevertheless retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

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

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

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

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 EPA Receives Comments That Oppose This Action?**

If 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. EPA will base any further decision on the authorization of the revised State program 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 revision to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program revisions 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. What has Virginia Previously Been Authorized For?**

Initially, Virginia received final authorization to implement its hazardous waste management program effective December 18, 1984 (49 FR 47391). EPA granted authorization for revisions to Virginia's regulatory program effective August 13, 1993 (58 FR 32855); September 29, 2000 (65 FR 46607); June 20, 2003 (68 FR 36925); and July 10, 2006 (71 FR 27216).

**G. What Revisions Are We Authorizing With This Action?**

On October 10, 2007, Virginia submitted a program revision application, seeking authorization of revisions to its program in accordance with 40 CFR 271.21. Virginia's revision application includes various regulations that are equivalent to, and no less stringent than, revisions to the Federal hazardous waste program, as published in the **Federal Register** from July 1, 2004 through July 19, 2006, as well as miscellaneous changes to its previously authorized program. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Virginia's hazardous waste program revisions set forth in its October 10, 2007 application satisfy all of the requirements necessary to qualify for final authorization except as described in sections H. 1, 3, and 4 of this immediate final rule. Therefore, EPA grants Virginia final authorization for the following program revisions.

Virginia seeks authority to administer the Federal requirements that are listed in Table 1. Virginia incorporates by reference these Federal provisions, in accordance with the dates specified in Title 9, Virginia Administrative Code (9 VAC 20-60-18). Table 1 also lists Virginia's requirements that are being recognized as no less stringent than the analogous Federal requirements. The Virginia Waste Management Act (VWMA), enacted by the 1986 session of Virginia's General Assembly and recodified in 1988 as Chapter 14, Title 10.1, Code of Virginia, forms the basis

of the Virginia program. The regulatory Administrative Code (9 VAC) effective references are to Title 9, Virginia May 22, 2006.

TABLE 1.—VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of federal requirement (revision checklists <sup>1</sup> )	Federal Register	Analogous Virginia authority
<b>RCRA Cluster XV,<sup>2</sup> Non-HSWA</b>		
National Environmental Performance Track Program; Corrections, Checklist 204.	69 FR 62217, 10/25/04 .....	Title 9, Virginia Code (9 VAC) §§20–60–18 and 20–60–262 A.
<b>RCRA Cluster XV, HSWA</b>		
Identification and Listing of Hazardous Waste; Dyes and/or Pigments Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; CERCLA Hazardous Substance Designation and Reportable Quantities; Designation of Five Chemicals as Appendix VIII Constituents; Addition of Four Chemicals to the Treatment Standards of F039 and the Universal Treatment Standards, Checklist 206.	70 FR 9138, 2/24/05 .....	9 VAC §§20–60–18, 20–60–261 A, and 20–60–268 A.
<b>RCRA Cluster XV, HSWA/Non-HSWA</b>		
Modification of the Hazardous Waste Manifest System, Checklist 207.	70 FR 10776, 3/4/05 .....	9 VAC §§20–60–18, 20–60–260 A, 20–60–261 A, 20–60–262 A, 20–60–263 A, 20–60–264 A, and 20–60–265 A.
Testing and Monitoring Activities; Final Rule: Methods Innovation Rule and SW–846 Final Update IIIB, Checklist 208.	70 FR 34538, 6/14/05 .....	9 VAC §§20–60–18, 20–60–260 A, 20–60–261 A, 20–60–264 A, 20–60–265 A, 20–60–266 A, 20–60–268 A, 20–60–270 A, and 20–60–279 A.
Modification of the Hazardous Waste Manifest System, Checklist 207.	70 FR 35034, 6/16/05 .....	9 VAC §§20–60–18, 20–60–262 A, 20–60–264 A, and 20–60–265 A.
Methods Innovation Rule and SW–846 Update, Checklist 208.	70 FR 44150, 8/1/05 .....	9 VAC §§20–60–18, 20–60–261 A, and 20–60–264 A.
<b>RCRA Cluster XVI, Non-HSWA</b>		
Universal Waste Rule: Specific Provisions for Mercury Containing Equipment, Checklist 209.	70 FR 45508, 8/5/05 .....	9 VAC §§20–60–18, 20–60–260 A, 20–60–261 A, 20–60–264 A, 20–60–265 A, 20–60–270 A, and 20–60–273 A.
Standardized Permit for RCRA Hazardous Waste Management Facilities, Checklist 210.	70 FR 53420, 9/8/05 .....	9 VAC §§20–60–18, 20–124 A, 20–260 A, 20–261 A, 20–267 A, and 20–270 A.
Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures, Checklist 211.	70 FR 57769, 10/4/05 .....	9 VAC §§20–60–18, and 20–60–261 A.
<b>RCRA Cluster XVI, HSWA/Non-HSWA</b>		
National Emission Standards for Hazardous Air Pollutants: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II), Checklist 212.	70 FR 59402, 10/12/05 .....	9 VAC §§20–60–18, 20–60–260 A, 20–60–264 A, 20–60–265 A, 20–60–266 A, and 20–60–270 A.
RCRA Burden Reduction Initiative, Checklist 213 .....	71 FR 16862, 4/4/06 .....	9 VAC §§20–60–18, 9 VAC 20–60–260 A, 9 VAC 20–60–261 A, 9 VAC 20–60–264 A, 9 VAC 20–60–265 A, 9 VAC 20–60–266 A, 9 VAC 20–60–268 A, 9 VAC 20–60–270 A.
<b>Other</b>		
Identification and Listing of Hazardous Waste Final Exclusion.	70 FR 21153, 4/25/05 .....	9 VAC §§20–60–18, and 20–60–261 A.
Identification and Listing of Hazardous Waste .....	69 FR 56357, 9/21/04 .....	9 VAC §§20–60–18, and 20–60–261 A.
Identification and Listing of Hazardous Waste .....	69 FR 60557, 10/12/04 .....	9 VAC §§20–60–18 and 20–60–261 A.
Nonwaste waters from Productions of Dyes, Pigments, and Food, Drug, and Cosmetic Colorants.	70 FR 35032,6/16/05 .....	9 VAC §§20–60–18, 20–60–261 A, and 20–60–268 A.
Identification and Listing of Hazardous Waste; Final Exclusion.	70 FR 42499, 7/25/05 .....	9 VAC §§20–60–18, and 20–60–261 A.
Final Exclusion for Identification and Listing Hazardous Waste.	70 FR 44496, 8/3/05 .....	9 VAC §§20–60–18, and 20–60–261 A.
Site-Specific Treatment Variances for Heritage Environmental Services LLC and Chemical Waste Management, Chemical Services, Inc.	70 FR 44505, 8/3/05 .....	9 VAC §§20–60–18, and 20–60–268 A.
Final Exclusion for Identification and Listing Hazardous Waste.	70 FR 49187, 8/23/05 .....	9 VAC §§20–60–18, and 20–60–261 A.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Amendment.	70 FR 51638, 8/31/05 .....	9 VAC §§20–60–18, and 20–60–261 A.

TABLE 1.—VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of federal requirement (revision checklists <sup>1</sup> )	Federal Register	Analogous Virginia authority
Identification and Listing of Hazardous Waste .....	70 FR 60217, 10/17/05 .....	9 VAC §§ 20–60–18, and 20–60–261 A.
Identification and Listing of Hazardous Waste; Amend- ment.	70 FR 71002, 11/25/05 .....	9 VAC §§ 20–60–18 and 20–60–261 A.
Identification and Listing of Hazardous Waste; Final Ex- clusion.	70 FR 71002, 11/25/05 .....	9 VAC §§ 20–60–18 and 20–60–261 A.
Identification and Listing of Hazardous Waste; Final Ex- clusion.	70 FR 76168, 12/23/05 .....	9 VAC §§ 20–60–18 and 20–60–261 A.
Site-Specific Variance From the Land Disposal Restric- tions Treatment Standard for 1,3-Phenylenediamine (1,3-PDA).	71 FR 6209, 2/7/06 .....	9 VAC §§ 20–60–18 and 20–60–268 A.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Amendment.	71 FR 9723, 2/27/06 .....	9 VAC §§ 20–60–18 and 20–60–261 A.

<sup>1</sup> A Revision Checklist is a document that addresses the specific revisions made to the Federal regulations by one or more related final rules published in the FEDERAL REGISTER. EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal Regulations. For more information see EPA's RCRA State Authorization web page at <http://www.epa.gov/epaoswer/hazwaste/state>.

<sup>2</sup> A RCRA "Cluster" is a set of Revision Checklists for Federal rules, typically promulgated over a 12-month period starting on July 1 and ending on June 30 of the following year.

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

### 1. Virginia Requirements That Are Broader in Scope Than the Federal Program

The Virginia hazardous waste program contains certain provisions that are beyond the scope of the Federal program. Virginia's statutory provision § 10.1–1426 F, which is related to the Federal Regulations at 40 CFR 261.5 and 261.4(b)(1), explains the requirements allowing local or state agencies to collect hazardous waste from exempt small quantity generators. The Virginia code is broader in scope because there is not a corresponding part of the Federal program that has such a restriction. These broader in scope provisions are not part of the program being authorized by today's action. EPA cannot enforce requirements that are broader in scope, although compliance with such provisions is required by Virginia law.

### 2. Virginia Requirements That Are More Stringent Than the Federal Program

The Virginia hazardous waste program contains no new provisions that are more stringent than those required by the RCRA program as codified in the July 1, 2006 edition of title 40 of the Code of Federal Regulations (CFR).

### 3. Virginia's Adoption of EPA's Site-Specific Delisting and Variance Decisions

In its regulations, Virginia has adopted EPA's decisions relative to the site-specific delistings published between September 21, 2004 and February 27, 2006 (69 FR 56357, 69 FR 60557, 70 FR 21153, 70 FR 42499, 70 FR 44496, 70 FR 49187, 70 FR 51638, 70 FR

71002, 70 FR 71002, 70 FR 76168, 71 FR 9723), as well as the site specific treatment variances from the Land Disposal Restrictions (LDR) treatment standards published on August 3, 2005 (70 FR 44505) and February 7, 2006 (71 FR 6209). EPA today is not authorizing Virginia to delist wastes or to grant treatment variances. With regard to waste delisted as a hazardous waste by EPA, the authority of the Department of Environmental Quality is limited to recognition of the waste as a delisted waste in Virginia, and the supervision of waste management activities for the delisted waste when the activities occur within the Commonwealth of Virginia. Virginia is not authorized to delist wastes on behalf of the EPA, or to otherwise administer any case decision to issue, revoke, or continue a delisting of a waste by EPA. Similarly, while Virginia is recognizing EPA's decision regarding the site-specific treatment variances, the authority to grant such variances remains with the EPA.

### 4. EPA Is Not Authorizing Portions of the Uniform Hazardous Waste Manifest Rule (70 FR 10776)

Virginia has adopted the Uniform Hazardous Waste Manifest Rule (70 FR 10776, March 4, 2005) without exception; however, there are non-delegable Federal functions addressed in that Rule. Specifically, authority must be left with the federal government as set forth in 40 CFR 262.21, 262.60(e), 263.20(g)(4), 264.71(a)(3), and 265.71(a)(3). In its incorporation by reference of 40 CFR Part 263, Virginia appropriately does not substitute the term "U.S. Customs Official" that appears in 40 CFR 263.20(g)(4). As a result, this provision is herein included in Virginia's authorized program.

However, Virginia must make the following modifications to its incorporation by reference of 40 CFR parts 262, 264, and 265 in order to clarify that the enforcement authority for the non-delegable provisions in those parts remains with EPA:

- 9 VAC 20–60–262 B must state that, at 40 CFR 262.21 and 262.60(e), "EPA" means the United States Environmental Protection Agency, in order to maintain the Federal authority for the EPA Manifest Registry functions and the notification requirements for imports of hazardous waste;

- 9 VAC 20–60–264 B must state that, at 40 CFR 264.71(a)(3), "U.S. Environmental Protection Agency" means the United States Environmental Protection Agency, in order to maintain Federal authority for the notification requirements for imports of hazardous waste;

- 9 VAC 20–60–265 B must state that, at 40 CFR 265.71(a)(3), the term "U.S. Environmental Protection Agency" means the United States Environmental Protection Agency, in order to maintain the Federal Authority for the notification requirements for imports of hazardous waste.

Because these provisions have not yet been amended, EPA is not authorizing them at this time. EPA will authorize Virginia to administer the above regulations after they are modified accordingly.

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

After authorization, Virginia 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 EPA issued prior to the

effective date of this authorization until the timing and process for effective transfer to the State are mutually agreed upon. EPA and Virginia agree to coordinate the administration of permits in order to maintain consistency.

EPA will not issue any more new permits or new portions of permits for the provisions included in this revised authorization after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Virginia is not yet authorized.

#### **J. How Does This Action Affect Indian Country (18 U.S.C. 115) in Virginia?**

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

#### **K. What is Codification and Is EPA Codifying Virginia'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 VV for this authorization of Virginia's revised program until a later date.

#### **L. 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 would not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). In any case, Executive Order 13175 does not apply to this rule since there are no Federally recognized tribes in Region 3.

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 that may disproportionately affect children. 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**. Although this action is not a "major rule" as defined by 5 U.S.C. 804(2), this action will be effective June 2, 2008.

#### **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: March 18, 2008.

**William T. Wisniewski,**

*Acting Regional Administrator, EPA Region III.*

[FR Doc. E8-6724 Filed 4-2-08; 8:45 am]

**BILLING CODE 6560-50-P**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Centers for Medicare & Medicaid Services**

#### **42 CFR Parts 422 and 423**

[CMS-4133-F]

RIN 0938-AP25

#### **Medicare Program; Modification to the Weighting Methodology Used To Calculate the Low-Income Benchmark Amount**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule changes the weighting methodology used to calculate the low-income benchmark premium amount (benchmark) for 2009 and thereafter. Under this final rule, the benchmark weighting methodology is adjusted so that the relative weights of the Medicare Advantage Prescription Drug (MA-PD) plan premiums and Prescription Drug Plan (PDP) plan premiums in the low-income benchmark premium amount reflect the