than the baseline used to develop the analysis.[11]

As previously stated, a document will be published in the **Federal Register** announcing the agency's final decision to deny your administrative petition. If you should have any questions, please contact Alan Carpien, EPA's Office of General Counsel at (202) 564–5507.

Sincerely,

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

Dated: April 3, 2012.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 2012–8921 Filed 4–12–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261 and 266

[EPA–RCRA–2008–0678; FRL–9659–7]

RIN 2050–AG52

Hazardous Waste Technical Corrections and Clarifications Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is taking final action on two of six technical amendments that were withdrawn in a June 4, 2010, **Federal Register** partial withdrawal notice. The two amendments that are the subject of today's final rule are: A correction of the typographical error in the entry ''K107'' in a table listing hazardous wastes from specific sources; and a conforming change to alert certain recycling facilities that they have existing certification and notification requirements under the Land Disposal Restrictions regulations. The other four amendments that were withdrawn in the June 2010 partial withdrawal notice will remain withdrawn unless and until EPA determines action is warranted in the future.

DATES: This final rule is effective on May 14, 2012.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–RCRA–2008–0678. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at *www.regulations.gov* or in hard copy at the OSWER Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270.

FOR FURTHER INFORMATION CONTACT: Jim O'Leary, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery, MC 5304P, 1200 Pennsylvania Avenue NW., Washington, DC 20460, Phone: (703) 308–8827; or email: *oleary.jim@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is EPA publishing this final rule?

On March 18, 2010, EPA published in the **Federal Register** a Direct Final rule entitled, *Hazardous Waste Technical Corrections and Clarifications Rule* (75 FR 12989) (hereafter the Direct Final rule). This Direct Final rule included approximately 90 specific technical amendments to correct or clarify parts of the Resource Conservation and Recovery Act (RCRA) hazardous waste regulations. At the same time, EPA also published a parallel proposed rule (75 FR 13006) that requested comment on the same changes.

We stated in that Direct Final rule that if we received adverse comment on any of the amendments by May 3, 2010, the affected amendments would not take effect and we would publish a timely withdrawal in the **Federal Register** of those specific amendments. We received some adverse comments and as a result withdrew six amendments on June 4, 2010 (75 FR 31716). The remaining amendments for which we did not receive adverse comment became effective on June 16, 2010.

The six amendments that were withdrawn are:

- 40 CFR 262.34(a)—related to the hazardous waste accumulation time for large quantity generators;
- 40 CFR 262.34(a)(2)—related to the date upon which each period of accumulation begins and which must be clearly marked and visible for inspection on each container and tank;
- 40 CFR 262.34(a)(5)—related to the closure requirements for tanks, containers, drip pads and containment buildings;
- 40 CFR 262.34(a)(1)(iv)(B)—also related to the closure requirements for tanks, containers, drip pads and containment buildings;
- 40 CFR 266.20(b)—related to recyclable materials used in a manner constituting disposal; and
- 40 CFR 261.32(a)—related to the entry for hazardous waste number K107 in a table.

EPA is publishing today's final rule to address the adverse comments received on the last two amendments listed above and to finalize these amendments. The amendments we are finalizing are: (1) Making the conforming change to 40 CFR 266.20(b); and (2) correcting the entry ''K107'' in the table at 40 CFR 261.32(a). The other four amendments that were withdrawn will remain withdrawn unless and until EPA decides to take action on them in the future.[1]

II. Does this action apply to me?

Entities potentially affected by this action include facilities subject to the RCRA hazardous waste regulations and states implementing the RCRA hazardous waste regulations.

III. Acronyms

Acronym	Definition
CFR	United States Code of Federal Regulations.
EPA	United States Environmental Protection Agency.
HSWA	Hazardous and Solid Waste Amendments.
OMB	Office of Management and Budget.
RCRA	Resource Conservation and Recovery Act.
U.S.C	United States Code.

[11] The rule is projected to result in benefit-cost savings for petroleum refineries using the exclusion. Petroleum refineries choosing not to take advantage of the exclusion would experience no direct impact from the rule. The benefit-cost analysis showed between $5.2 million and $48.7 million in net social benefits per year with avoided waste management costs constituting the most significant share of the benefits, followed by the energy savings from increased fuel production. The analysis further showed that the areas potentially affected by the rule showed disproportionately high minority/low income populations, but that gasification of oil-bearing hazardous secondary materials does not represent a greater risk to the public than baseline management, and that as less material is received by hazardous waste management facilities, low income and minority populations would likely experience a potential reduction in risk under the rule.

[1] See the public docket for this rule regarding the specific comments that were submitted on the four amendments that are not being finalized today.

IV. Background

A. What is the legal authority for this final rule?

This rule is authorized under Sections 1004 and 3001 through 3005 of the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6903, 6921–6925.

B. Description of Final Rule Amendments to Parts 261 and 266

For each of the two technical corrections being finalized today, the following sections provide a summary of the Agency's original proposal, a discussion of the adverse comments received on the proposal, and the Agency's response to those comments.

1. Correction to 40 CFR 261.32(a)

In our March 18, 2010, Direct Final rule (and companion proposed rule), we amended the entry for K107 in the table at 40 CFR 261.32 by correcting the misspelled chemical name ''* * * carboxylic acid hydrazines'' to read ''* * * carboxylic acid hydrazides.'' We explained that this was a misspelling as evidenced by the original listing background document supporting the K107 listing, which discusses ''carboxylic acid hydrazides.''

However, in the process of making this correction in the Direct Final rule, we inadvertently omitted the word ''acid'' in ''carboxylic acid hydrazides'' from the entry for K107. We withdrew this correction given the omission of the word ''acid'' on June 4, 2010 (see 75 FR 31716). Today's final rule corrects the misspelled chemical name.

2. Conforming Change to 40 CFR 266.20(b)

In 1988, EPA promulgated various certification and notification requirements under the Land Disposal Restrictions (''LDR'') regulatory program (53 FR 31138, August 17, 1988). This rule included, in 40 CFR 268.7(b)(8), specific certification and notification requirements for recyclers using recyclable materials in a manner constituting disposal. This provision included a reference to 40 CFR 266.20(b), a separate provision that specifies regulatory requirements for certain use constituting disposal activities. However, at that time, the Agency failed to add a similar reference in 40 CFR 266.20(b) alerting recyclers to the LDR certification and notification requirements in 40 CFR 268.7(b)(8). The LDR certification and notification requirement for use constituting disposal was later renumbered from 40 CFR 268.7(b)(8) to 40 CFR 268.7(b)(6).

In the March 18, 2010, Direct Final rule (and parallel proposed rule), 40 CFR 266.20(b) was revised by adding the phrase ''and the recycler complies with § 268.7(b)(6) of this chapter'' to alert recyclers to the existing LDR certification and notification requirement that is located elsewhere in the regulations.

EPA received one adverse comment concerning this amendment from Safe Food and Fertilizer (hereafter referred to as Safe Food), a grassroots citizens' organization. In their comments, Safe Food stated that making this change to 40 CFR 266.20(b) would not be a 'technical correction' but rather the promulgation of a new rule. Safe Food stated that when, in 2006, EPA amended 40 CFR 268.7(b)(6) as part of a larger RCRA Burden Reduction Initiative to require less frequent notification and certification (71 FR 16862, April 4, 2006), many states did not adopt this less-stringent provision and retained the more frequent notification and certification requirements.[2] Safe Food believes that because the amendment to 40 CFR 266.20(b) references the federal requirements in 40 CFR 268.7(b)(6), a state that adopts this amendment will also be inadvertently forced to adopt the more recent federal less-stringent notification and certification provision in 40 CFR 268.7(b)(6).

EPA disagrees. The amendment simply alerts persons subject to 40 CFR 266.20(b) that they also have an existing obligation to certify and notify under the LDR regulations. If and when states adopt this reference, they will translate the reference into their own existing regulatory structure and the reference will point to the existing state LDR certification and notification requirements, not the federal requirements. Thus, adoption of today's amendment by a state as part of their authorized RCRA program will not change that state's existing authorized LDR notification and certification requirements for recyclers using materials in a manner constituting disposal. The proposed addition to section 40 CFR 266.20(b) is an informational reference to alert recyclers to the existing LDR certification and notification obligations applicable to their activities. When incorporated into state regulations, the reference will refer to the appropriate existing state LDR requirements.

Safe Food also commented that the proposed change would be contrary to law, specifically, to 42 U.S.C. 6929. They believe such a change would ''prohibit a State from requiring that the State be provided with a copy of each manifest used in conjunction with hazardous waste which is generated within that State or transported to a treatment, storage, or disposal facility.'' Safe Food argues that the proposed amendment would change states' regulations governing materials used in a manner constituting disposal, including any state manifesting requirements, because the change made to the federal regulations would go into effect immediately on the effective date in all states.

The Agency disagrees. In the Direct Final rule (and parallel proposed rule), EPA explained that amendments to 40 CFR part 266 would only go into effect in authorized states if and when a state adopts the amendment. When an authorized state adopts this amendment, it will not retain the federal regulatory citation. The state will translate the citation into the appropriate state citation to refer to the existing state LDR certification and notification requirements for materials used in a manner constituting disposal (see section V.B. of this notice). Thus, this amendment will not change a state's existing regulations for materials used in a manner constituting disposal, including any existing state manifesting requirements.

Finally, Safe Food argued that the clarification to 40 CFR 266.20(b) is not necessary because recyclers subject to 40 CFR 266.20(b) are also subject to 40 CFR 266.23, which references all of 40 CFR part 268 (which would include 40 CFR 268.7(b)(6)). Again, the Agency disagrees. The parenthetical phrase at the end of 40 CFR 266.23(a), ''these requirements do not apply to products which contain these recycled materials under the provisions of 40 CFR 266.20(b) of this chapter,'' specifically exempts materials regulated under 40 CFR 266.20(b) from 40 CFR 266.23. This means that the reference in 40 CFR 266.23 to 40 CFR part 268 (which would include 40 CFR 268.7(b)(6)) is not applicable to, and not likely to be seen by, persons managing materials under 40 CFR 266.20(b). Thus, the amendment being promulgated today is a useful and important informational aid alerting recyclers managing hazardous wastes under 40 CFR 266.20(b) to their existing

[2] When 40 CFR 268.7(b)(6) was revised in 2006, it was deemed less stringent than the previous version, and therefore states with final authorization for their RCRA base program were not required to adopt it. Section 3009 of RCRA allows states to be more stringent than the federal hazardous waste rules. Specifically, it states, ''* * * Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements, including those for site selection, which are more stringent than those imposed by such regulations * * *''

LDR notification and certification requirements.

As explained above, EPA does not agree that the proposed amendment will have any of the consequences that Safe Food is concerned about. Thus, to better alert recyclers to their existing LDR certification and notification requirements, EPA is today promulgating the change to add a reference to 40 CFR 266.20(b) as was proposed.

V. State Authorization

A. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize a qualified state to administer its own hazardous waste program within the state in lieu of the federal program. Following authorization, EPA retains enforcement authority under Sections 3008, 3013, and 7003 of RCRA, although authorized states have primary enforcement responsibility. The standards and requirements for state authorization are found at 40 CFR part 271.

Prior to enactment of the Hazardous and Solid Waste Amendments of 1984 (HSWA), a state with final RCRA authorization administered its hazardous waste program entirely in lieu of EPA administering the federal program in that state. The federal requirements no longer applied in the authorized state, and EPA could not issue permits for any facilities in that state, since only the state was authorized to issue RCRA permits. When new, more stringent federal requirements were promulgated, the state was obligated to enact equivalent authorities within specified time frames. However, the new federal requirements did not take effect in an authorized state until the state adopted the federal requirements as state law.

In contrast, under RCRA section 3006(g) (42 U.S.C. 6926(g)), which was added by HSWA, new requirements and prohibitions imposed under HSWA authority take effect in authorized states at the same time that they take effect in unauthorized states. EPA is directed by the statute to implement these requirements and prohibitions in authorized states, including the issuance of permits, until the state is granted authorization to do so. While states must still adopt HSWA related provisions as state law to retain final authorization, EPA implements the HSWA provisions in authorized states until the states do so.

RCRA section 3009 allows states to impose standards more stringent than those in the federal program (see also 40 CFR 271.1). Therefore, authorized states may, but are not required to, adopt federal regulations, both HSWA and non-HSWA, that are considered less stringent than previous federal regulations.

B. Effect on State Authorization

Today's Final rule promulgates two technical corrections to regulations in 40 CFR parts 261 and 266 under non-HSWA authority. Thus, the technical corrections and clarifications finalized today under non-HSWA authority would be applicable on the effective date only in those states that do not have final authorization of their base RCRA programs. Moreover, authorized states are required to modify their programs only when EPA promulgates federal regulations that are more stringent or broader in scope than the authorized state regulations. For those changes that are less stringent or reduce the scope of the federal program, states are not required to modify their program. This is a result of section 3009 of RCRA, which allows states to impose more stringent regulations than the federal program. Today's final rule is considered to be neither more nor less stringent than the current standards. Therefore, authorized states are not required to modify their programs to adopt the technical corrections promulgated today, although we strongly urge authorized states to adopt these technical corrections to avoid any confusion or misunderstanding by the regulated community and the public.

VI. Statutory and Executive Order Reviews

As explained above, this rule takes final action on two amendments for which we received adverse comment in response to our March 18, 2010, RCRA Technical Corrections and Clarifications Direct Final rule (and parallel proposed rule). Because today's Final rule does not create any new regulatory requirements, but rather makes technical corrections, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866: Regulatory Planning and Review (58 FR 51735, October 4, 1993) or Executive Order 13563: Improving Regulation and Regulatory Review (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132: Federalism (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045: Protection of Children from Environmental Health and Safety Risks (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001);
- Does not involve technical standards; thus the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply; and
- Does not have tribal implications as specified by Executive Order 13175: Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 9, 2000), because as the rule does not make any substantive change, it will not impose substantial direct costs on tribal governments or preempt tribal law.

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to the 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 defined by the Small Business Administration's regulations at 13 CFR 121.201; (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.

After considering the economic impact of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not create any new regulatory requirements, but rather

clarifies existing requirements and makes conforming changes.

B. 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 information required by the Congressional Review Act (5 U.S.C. 801 *et seq.,* as amended) 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 rule will be effective May 14, 2012.

List of Subjects

40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

40 CFR Part 266

Environmental protection, Energy, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Dated: April 4, 2012.

Mathy Stanislaus,

Assistant Administrator, Office of Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

■ 1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

■ 2. In § 261.32(a), the table is amended by revising the entry for ''K107'' to read as follows:

§ 261.32 Hazardous wastes from specific sources.

* * * * *

(a) * * *

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code
*	*	*
Organic chemicals		
*	*	*
K107	Column bottoms from product separation from the production of 1,1-dimethylhydrazine (UDMH) from carboxylic acid hydrazides.	(C,T)
*	*	*

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

■ 3. The authority citation for part 266 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912, 6922–6925, 6935–6937, unless otherwise noted.

■ 4. Amend § 266.20 by revising paragraph (b) to read as follows:

§ 266.20 Applicability.

* * * * *

(b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in subpart D of part 268 (or applicable prohibition levels in § 268.32 of this chapter or RCRA section 3004(d), where no treatment standards have been established) for each recyclable material (i.e., hazardous waste) that they contain, and the recycler complies with § 268.7(b)(6) of this chapter.

* * * * *

[FR Doc. 2012–8924 Filed 4–12–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

46 CFR Parts 2, 24, 30, 70, 90, 91, and 188

[Docket No. USCG–2011–0363]

RIN 1625–AB71

Seagoing Barges

AGENCY: Coast Guard, DHS.

ACTION: Direct final rule; withdrawal of correction.

SUMMARY: The Coast Guard is withdrawing its correction published on March 29, 2012, to a direct final rule published on December 14, 2011 and withdrawn on April 6, 2012. The correction was published to correct an inadvertent transposition in the titles of two tables in our amendatory instructions and to publish vessel inspection tables in their entirety so that the format of the tables would be consistent with current **Federal Register** format requirements. The direct final rule was withdrawn on April 6, 2012, because we received two adverse comments and the direct final rule will not become effective as scheduled. Therefore, we must also withdraw the vessel inspection tables published as part of the correction because they are not consistent with the current regulatory text.

DATES: The correction published March 29, 2012, (77 FR 18929), is withdrawn on April 11, 2012.

ADDRESSES: The docket for this withdrawn rulemaking is available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet by going to *http://www.regulations.gov,* inserting