(5) Construction deficiencies deemed by VA to be the participant's responsibility;

(6) Falsely certifying in connection with any VA program, whether or not the certification was made directly to VA;

(7) Commission of an offense or other cause listed in § 44.800;

(8) Violation of any law, regulation, or procedure relating to the application for guaranty, or to the performance of the obligations incurred pursuant to a commitment to guaranty;

(9) Making or procuring to be made any false statement for the purpose of influencing in any way an action of the Department;

(10) Imposition of a limited denial of participation by any other VA field facility;

(b) *Indictment.* A criminal indictment or information shall constitute adequate evidence for the purpose of limited denial of participation actions.

(c) *Limited denial of participation.* Imposition of a limited denial of participation by a VA field facility shall, at the discretion of any other VA field facility, constitute adequate evidence for a concurrent limited denial of participation. Where such a concurrent limited denial of participation is imposed, participation may be restricted on the same basis without the need for an additional conference or further hearing.

**§ 44.1110 Scope and period of a limited denial of participation.**

(a) *Scope and period.* The scope of a limited denial of participation shall be as follows:

(1) A limited denial of participation extends only to participation in the VA Loan Guaranty Program and shall be effective only within the geographic jurisdiction of the office or offices imposing it.

(2) The sanction may be imposed for a period not to exceed 12 months except for unresolved construction deficiencies. In cases involving construction deficiencies, the builder may be excluded for either a period not to exceed 12 months or for an indeterminate period which ends when the deficiency has been corrected or otherwise resolved in a manner acceptable to VA.

(b) *Effectiveness.* The sanction shall be effective immediately upon issuance and shall remain effective for the prescribed period. If the cause for the limited denial of participation is resolved before the expiration of the prescribed period, the official who imposed the sanction may terminate it. The imposition of a limited denial of participation shall not affect the right of the Department to suspend or debar any person under this part.

(c) *Affiliates.* An affiliate or organizational element may be included in a limited denial of participation solely on the basis of its affiliation, and regardless of its knowledge of or participation in the acts providing cause for the sanction. The burden of proving that a particular affiliate or organizational element is capable of meeting VA requirements and is currently a responsible entity and not controlled by the primary sanctioned party (or by an entity that itself is controlled by the primary sanctioned party) is on the affiliate or organizational element.

**§ 44.1111 Notice.**

(a) *Generally.* A limited denial of participation shall be initiated by advising a participant or contractor, and any specifically named affiliate, by certified mail, return receipt requested:

(1) That the sanction is effective as of the date of the notice;

(2) Of the reasons for the sanction in terms sufficient to put the participant or contractor on notice of the conduct or transaction(s) upon which it is based;

(3) Of the cause(s) relied upon under § 44.1105 for imposing the sanction;

(4) Of the right to request in writing, within 30 days of receipt of the notice, a conference on the sanction, and the right to have such conference held within 10 business days of receipt of the request;

(5) Of the potential effect of the sanction and the impact on the participant's or contractor's participation in Departmental programs, specifying the program(s) involved and the geographical area affected by the action.

(b) *Notification of action.* After 30 days, if no conference has been requested, the official imposing the limited denial of participation will notify VA Central Office of the action taken and of the fact that no conference has been requested. If a conference is requested within the 30-day period, VA Central Office need not be notified unless a decision to affirm all or a portion of the remaining period of exclusion is issued. VA Central Office will notify all VA field offices of sanctions imposed and still in effect under this subpart.

**§ 44.1112 Conference.**

Upon receipt of a request for a conference, the official imposing the sanction shall arrange such a conference with the participant or contractor and may designate another official to conduct the conference. The participant shall be given the opportunity to be heard within 10 business days of receipt of the request. This conference precedes, and is in addition to, the formal hearing provided if an appeal is taken under § 44.1113. Although formal rules of procedure do not apply to the conference, the participant or contractor may be represented by counsel and may present all relevant information and materials to the official or designee. After consideration of the information and materials presented, the official shall, in writing, advise the participant or contractor of the decision to withdraw, modify or affirm the limited denial of participation. If the decision is made to affirm all or a portion of the remaining period of exclusion, the participant shall be advised of the right to request a formal hearing in writing within 30 days of receipt of the notice of decision. This decision shall be issued promptly, but in no event later than 20 days after the conference and receipt of materials.

**§ 44.1113 Appeal.**

Where the decision is made to affirm all or a portion of the remaining period of exclusion, any participant desiring an appeal shall file a written request for a hearing with the Under Secretary for Benefits, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. This request shall be filed within 30 days of receipt of the decision to affirm. If a hearing is requested, it shall be held in accordance with the procedures set forth at §§ 44.825 through 44.855. Where a limited denial of participation is followed by a suspension or debarment, the limited denial of participation shall be superseded and the appeal shall be heard solely as an appeal of the suspension or debarment.

[FR Doc. 06–4332 Filed 5–9–06; 8:45 am]

**BILLING CODE 8320–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 271

**[EPA–R03–RCRA–2006–0381; FRL–8165–7]**

## Virginia: Final Authorization of State Hazardous Waste Management Program Revisions

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

**ACTION:** Immediate final rule.

**SUMMARY:** Virginia has applied to EPA for final authorization of revisions to 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 Virginia'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 revisions 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 the relevant amendments, section or paragraph of this rule before they take effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize revisions to Virginia's program that were the subject of adverse comments.

**DATES:** This final authorization will become effective on July 10, 2006, unless EPA receives adverse written comments by June 9, 2006. If EPA receives any such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization, or portions thereof, will not take effect as scheduled.

**ADDRESSES:** Submit your comments, identified by [EPA–R03–RCRA–2006–0381] 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: *ellerbe.lillie@epamail.epa.gov.*
3. Mail: Lillie Ellerbe, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.
4. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

You may inspect and copy Virginia's application from 8:15 a.m. to 4:30 p.m., Monday through Friday at the following addresses: Virginia Department of Environmental Quality, Division of Waste Program Coordination, 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 III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5254.

*Instructions:* Direct your comments to [EPA–R03–RCRA–2006–0381]. EPA's policy is that all comments received will be included in the public file without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The federal www.regulations.gov Web site is an ''anonymous access'' system which means that 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 www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public file and made available on the Internet. If you submit an electronic comment, 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 and any form of encryption, and be free of any defects or viruses.

**FOR FURTHER INFORMATION CONTACT:** Lillie Ellerbe, Mailcode 3WC21, RCRA State Programs Branch, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814–5454.

**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. Program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or supplemented. 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?

EPA concludes that Virginia's application 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 its application for program revisions, subject to the procedures described in section E, below. 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 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 before they are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions for which Virginia has not been authorized, including issuing HSWA permits, until the State is granted authorization to do so.

### C. What Is the Effect of This Authorization Decision?

This decision serves to authorize revisions to Virginia's authorized hazardous waste program. 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. Virginia has enforcement responsibilities under its state hazardous waste program for violations of its program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether Virginia has taken its own actions.

### 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 Virginia's program revisions. If EPA receives comments that oppose this authorization, or portions thereof, that document will serve as a proposal to authorize the revisions to Virginia's program that were the subject of adverse comment.

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

If EPA receives comments that oppose this authorization, or portions thereof, we will withdraw this rule, or portions thereof, by publishing a document in the **Federal Register** before the rule would become effective. EPA will base any further decision on the authorization of Virginia's program revisions on the proposal mentioned in the previous section. 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 the authorization of a particular revision to Virginia's 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); and June 20, 2003 (68 FR 36925).

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

On May 6, 2005, Virginia submitted a program revision application, seeking authorization of additional 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, 2001 through July 1, 2004, 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 revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Virginia's final authorization for the following program revisions:

*1. Program Revision Changes for Federal Rules*

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 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 the 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 references are to Title 9, Virginia Administrative Code (9 VAC) effective September 8, 2004.

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

| Description of Federal Requirement (Revision Checklists) [1] | **Federal Register** | Analogous Virginia Authority |
|---|---|---|
| **RCRA Cluster XI [2], Non-HSWA** | | |
| Hazardous Air Pollutant Standards; Technical corrections, Checklist 188. | 66 FR 35087, 7/3/01 ..... | Title 9, Virginia Administrative Code (9 VAC) §§ 20–60–18 and 20–60–264 A. |
| **RCRA Cluster XII, HSWA/Non-HSWA** | | |
| Hazardous Waste Identification Rule Corrections: Revisions to Mixture and Derived-From Rules, Checklist 194. | 66 FR 50332, 10/3/01 ... | 9 VAC §§ 20–60–18 and 20–60–261 A. |
| Identification and Listing of Hazardous Waste: Inorganic Chemical Manufacturing Wastes; Land Disposal Restrictions for Newly Identified Wastes, Checklist 195. | 66 FR 58258, 11/20/01; 67 FR 17119, 4/9/02. | 9 VAC §§ 20–60–18, 20–60–261 A and 20–60–268 A. |
| **RCRA Cluster XII, HSWA** | | |
| CAMU Amendments, Checklist 196 ..... | 67 FR 2962, 1/22/02 ..... | 9 VAC §§ 20–60–18, 20–60–260 A and 20–60–264 A. |
| **RCRA Cluster XII, HSWA/Non-HSWA** | | |
| Interim Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, Checklist 197. | 67 FR 6792, 2/13/02 ..... | 9 VAC §§ 20–60–18, 20–60–264 A, 20–60–265 A, 20–60–266 A and 20–60–270 A. |
| Hazardous Air Pollutant Standards for Hazardous Waste Combustors, Checklist 198. | 67 FR 6968, 2/14/02 ..... | 9 VAC §§ 20–60–18, 20–60–266 A and 20–60–270 A. |
| **RCRA Cluster XII, Non-HSWA** | | |
| Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste, Checklist 199. | 67 FR 11251, 3/13/02 ... | 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) [1] | Federal Register | Analogous Virginia Authority |
|---|---|---|
| **RCRA Cluster XIII, HSWA/Non-HSWA** | | |
| Zinc Fertilizers Made From Recycled Hazardous Secondary Materials, Checklist 200. | 67 FR 48393, 7/24/02 ... | 9 VAC §§ 20–60–18, 20–60–261 A, 266 A and 20–60–268 A. |
| **RCRA Cluster XIII, HSWA** | | |
| Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium-, Mercury-, and Silver-, Containing Batteries, Checklist 201. | 67 FR 62618, 10/7/02 ... | 9 VAC §§ 20–60–18 and 20–60–268 A. |
| NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors-Corrections, Checklist 202. | 67 FR 77687, 12/19/02 | 9 VAC §§ 20–60–18 and 20–60–270 A. |
| **RCRA Cluster XIV, Non-HSWA** | | |
| Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Recycled Used Oil Standards, Checklist 203. | 68 FR 44659, 7/30/03 ... | 9 VAC §§ 20–60–8, 20–60–261 A and 20–60–279 A. |
| National Environmental Performance Track Program, Checklist 204. | 69 FR 21737, 4/22/04 ... | 9 VAC §§ 20–60–18 and 20–60–262A. |
| NESHAP: Surface Coating of Automobiles and Light-Duty Trucks, Checklist 205. | 69 FR 22601, 4/26/04 ... | 9 VAC §§ 20–60–18, 20–60–264A, and 20–60–265A. |

[1] 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*.

[2] 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.

*2. Miscellaneous Changes*

In addition to adopting the Federal program revisions discussed in Section G.1, Virginia has made various regulatory revisions to its authorized program. Virginia is seeking authorization for these miscellaneous changes. In a number of the revisions, Virginia has made wording changes and technical corrections in order to clarify its regulations. For example, ''director'' has been replaced by ''department'' in many provisions. Virginia has also removed a portion of the provision that was at 9 VAC § 20–60–70 B. The Commonwealth previously required that permits for hazardous waste management facilities, including permits by rule, be the subject of a public hearing. The provision was more stringent than the Federal requirements. By removing a portion of the 9 VAC § 20–60–70 B provision from its regulations, Virginia's requirement for public hearings is now the same as the analogous Federal regulation.

Finally, Virginia has made various additional regulatory revisions which are listed following this paragraph. While some of the changes clarify Virginia's regulations, others make the Virginia program more stringent or broader in scope than the Federal program. The broader-in-scope provisions are discussed in Section H.1 below. Regulatory citations annotated with an asterisk are deemed to be more stringent than the Federal program. EPA has evaluated the changes described in this section and has determined that they are consistent with and no less stringent than the corresponding Federal regulations.

Title 9, Virginia Administrative Code (9 VAC) §§ 20–60–264 B 8*, 20–60–264 B 9*, 20–60–264 B 10*, 20–60–264 B 11, 20–60–264 B 12, 20–60–264 B 13*, 20–60–264 B 14*, 20–60–264 B 15*, 20–60–264 B 16*, 20–60–264 B 17*, 20–60–264 B 18*, 20–60–264 B 19*, 20–60–264 B 20, 20–60–264 B 21, 20–60–264 B 22*, 20–60–265 B 8*, 20–60–270 B 15, 20–60–315 D and 20–60–420 A.

A further discussion of Virginia's miscellaneous regulatory changes is found in the following application document for Virginia: ''Demonstration of Adequate Authority for Virginia Hazardous Waste Program Revisions, Program Revision III, 2004.''

**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. As part of the miscellaneous changes discussed in Section G.2, Virginia amended its hazardous waste regulations to (1) change the fee structure for permit applicants, (2) add annual fees for facilities and large quantity generators, and (3) shift the cost of certain public participation activities to applicants and petitioners. The requirements, which are listed below, are beyond the scope of the Federal program. 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.

(a) Virginia's regulations at 9 VAC § 20–60–124 B9 now require the petitioners for variances to publish and announce the required public hearings at their expense.

(b) Virginia's regulations at 9 VAC §§ 20–60–262 B8, 20–60–270 B16 and 20–60–1260 through 9 VAC 20–60–1286 require that beginning July 1, 2004, large quantity generators, permitted facilities, interim status facilities and all facilities subject to an order or agreement, must pay an annual fee to help fund the regulatory programs.

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

The Virginia hazardous waste program contains some provisions that are more stringent than those required by the RCRA program as codified in the July 1, 2004 edition of title 40 of the

Code of Federal Regulations (CFR). These more stringent provisions are hereby incorporated into the Federally-authorized program. The specific more stringent provisions are noted in Section G.2.

*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 on July 30, 2003 (68 FR 44652), August 7, 2003 (68 FR 46951), September 11, 2003 (68 FR 53517), February 26, 2004 (69 FR 8828), April 22, 2004 (69 FR 21754), as well as the site-specific treatment variances from the Land Disposal Restrictions (LDR) treatment standards published on February 11, 2004 (69 FR 6567). 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.

**I. Who Handles Permits After This 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 that we issued prior to the effective date of this authorization until the timing and process for effective transfer to the State are mutually agreed upon. Until such time as formal transfer of EPA permit responsibility to Virginia occurs and EPA terminates its permit, EPA and Virginia agree to coordinate the administration of permits in order to maintain consistency. We will not issue any more new permits or new portions of permits for the provisions listed in section G above 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 program revisions until a later date.

**L. Statutory and Executive Order Reviews**

This rule only authorizes hazardous waste requirements pursuant to RCRA section 3006 and imposes no requirements other than those imposed by State law (see Supplementary Information: section A. Why are Revisions to State Programs Necessary?). Therefore, this rule complies with applicable executive orders and statutory provisions as follows.

*1. Executive Order 12866: Regulatory Planning Review*

The Office of Management and Budget has exempted this rule from its review under Executive Order 12866.

*2. Paperwork Reduction Act*

This rule does not impose an information collection burden under the Paperwork Reduction Act.

*3. Regulatory Flexibility Act*

After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

*4. Unfunded Mandates Reform Act*

Because this rule approves 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.

*5. Executive Order 13132: Federalism*

Executive Order 13132 does not apply to this rule because it will not have federalism implications (*i.e.*, 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).

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

Executive Order 13175 does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects 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).

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

This rule is not subject to Executive Order 13045 because it is not economically significant and it is not based on health or safety risks.

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

This rule is not subject to Executive Order 13211 because it is not a significant regulatory action as defined in Executive Order 12866.

*9. National Technology Transfer and Advancement Act*

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, section 12(d) of the National Technology Transfer and Advancement Act does not apply to this rule.

*10. Congressional Review Act*

EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) 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 on July 10, 2006.

**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: April 13, 2006.

**Donald S. Welsh,**

*Regional Administrator, EPA Region III.*

[FR Doc. 06–4200 Filed 5–9–06; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 600

**[Docket No. 050520139–6102–04; I.D. 030305A]**

**RIN 0648–AS46**

## Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Program; Bering Sea/Aleutian Islands King and Tanner Crabs; Industry Fee System for Fishing Capacity Reduction Loan

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

**ACTION:** Final rule.

**SUMMARY:** NMFS publishes this final rule to exempt any crab landed under the Community Development Quota (CDQ) Program from the fee regulations for the Bering Sea/Aleutian Islands King and Tanner Crab Fishing Capacity Reduction Program, to provide that crab buyers disburse fee collections to NMFS not later than the 7th calendar day of each month, and to provide that the annual report from each crab buyer shall be submitted to NMFS by July 1 of each calendar year. The fee regulations otherwise remain unchanged. The intent of this final rule is to modify the fee rules so that they do not apply to any crab allocated pursuant to the CDQ Program, and to ease the fee collection burden for crab buyers.

**DATES:** This final rule is effective June 9, 2006.

**FOR FURTHER INFORMATION CONTACT:** Michael A. Sturtevant, Financial Services Division, NMFS headquarters, at 301–713–2390.

**SUPPLEMENTARY INFORMATION:**

### Electronic Access

This **Federal Register** document is also accessible via the Internet at the Office of the **Federal Register**'s website at *http://www.access.gpo.gov/su-docs/aces/aces140.html*.

### Background

Sections 312(b)-(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b) through (e)) generally authorized fishing capacity reduction programs. In particular, section 312(d) authorized industry fee systems for repaying the reduction loans which finance reduction program costs.

Subpart L of 50 CFR part 600 is the framework rule generally implementing sections 312(b)-(e).

Sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1279f and 1279g) generally authorized reduction loans.

The Consolidated Appropriations Act of 2001 (Public Law 106–554) directed the Secretary of Commerce to establish a $100 million fishing capacity reduction program in the Bering Sea/Aleutian Islands king and Tanner crab fishery. Congress amended the authorizing act twice (Public Law 107–20 and Public Law 107–117), once to change the crab reduction program's funding from a $50 million appropriation and a $50 million loan to a $100 million loan and once to clarify provisions about crab fishery vessels.

NMFS published the crab reduction program's proposed implementation rule on December 12, 2002 (67 FR 76329) and its final rule on December 12, 2003 (68 FR 69331). Anyone interested in the program's full implementation details should refer to these two documents. NMFS initially proposed and adopted the program's implementation rule as section 600.1018 of Subpart L of 50 CFR part 600, but NMFS has since, without other change, re-designated the rule as section 600.1103 in a new subpart M of part 600.

NMFS allocated the prospective $97,399,357.11 million reduction loan to the six reduction endorsement fisheries involved, as the following sub-amounts:

1. Bristol Bay red king, $17,129,957.23,
2. BSAI *C. opilio* and *C. bairdi*, $66,410,767.20,
3. Aleutian Islands brown king, $6,380,837.19,
4. Aleutian Islands red king, $237,588.04,
5. Pribilof red king and blue king, $1,571,216.35, and
6. St. Matthew blue king, $5,668,991.10.

On November 24, 2004, NMFS published another **Federal Register** notice (69 FR 68313) advising the public that NMFS would, beginning on December 27, 2004, tender the crab reduction program's reduction payments to the 25 accepted bidders. On December 27, 2004, NMFS required all accepted bidders to then permanently stop all further fishing with the reduction vessels and permits.

Subsequently, NMFS:

1. Disbursed $97,399,357.11 in reduction payments to 25 accepted bidders;
2. Revoked the relinquished reduction permits;
3. Revoked each reduction vessel's fishing history;
4. Notified the National Vessel Documentation Center to revoke the reduction vessels' fishery trade endorsements and appropriately annotate the reduction vessel's document; and
5. Notified the U.S. Maritime Administration to prohibit the reduction vessel's transfer to foreign ownership or registry.

On July 28, 2005, NMFS published a **Federal Register** document (70 FR 43673) proposing regulations to implement the crab buyback program's industry fee system.

On September 16, 2005, NMFS published a **Federal Register** document (70 FR 54652) implementing the crab buyback program's industry fee system regulations. Fee collection and payment began on October 17, 2005.

On March 1, 2006, NMFS published a **Federal Register** document (71 FR 10459) proposing to exempt any crab landed by the recipients of the CDQ allocations from the fee regulations because they did not vote in the crab buyback program's fee referendum and NMFS did not include the ex-vessel value of crab landed under the CDQ allocations in the required formula for establishing the reduction loan sub-amounts for whose repayment the reduction fishery was responsible. The recipients of the CDQ allocations do not directly benefit from the crab buyback.

In addition, NMFS was informed by crab buyers that requiring fee principal disbursement to NMFS on the last business day of the month presents problems in properly accounting for crab landings in a timely fashion. Crab buyers are unable to complete their accounting process prior to the end of that business day. Therefore, in order to allow crab buyers sufficient time to disburse fee principal, NMFS proposed that deposit principal disbursement shall be made to NMFS not later than the 7th calendar day of each month.

NMFS also proposed that the annual report from each crab buyer shall be