List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 29, 2019.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In the table in § 180.658(a)(1):
■ a. Remove the entries ''Brassica, head and stem, subgroup 5A'' and ''Brassica, leafy greens, subgroup 5B'';
■ b. Add alphabetically the commodities ''Brassica, leafy greens, subgroup 4–16B'', ''Bushberry subgroup 13–07B'', and ''Caneberry subgroup 13–07A'';
■ c. Remove the entry ''Canola'';
■ d. Add alphabetically the commodity ''Celtuce'';
■ e. Remove the entry ''Cotton, seed'';
■ f. Add alphabetically the commodity ''Fennel, Florence, fresh leaves and stalk'';
■ g. Remove the entry ''Fruit, stone, group 12'';
■ h. Add alphabetically the commodities ''Fruit, stone, group 12–12'', ''Kohlrabi'', ''Leaf petiole vegetable subgroup 22B'', and ''Leafy greens subgroup 4–16A'';
■ i. Revise the entry ''Nut, tree, group 14'';
■ j. Add alphabetically the commodities ''Nut, tree, group 14–12'' and ''Oilseed group 20'';
■ k. Revise the entry ''Pistachio'';
■ l. Remove the entry ''Sunflower, seed'';
■ m. Add alphabetically the commodity ''Vegetable, brassica, head and stem, group 5–16'';
■ n. Remove the entry ''Vegetable, leafy, except brassica, group 4''; and
■ o. Add footnote 1 to the table.

The additions and revisions read as follows:

§ 180.658 Penthiopyrad; tolerances for residues.

(a) * * *

(1) * * *

Commodity	Parts per million
* * * * *	
Brassica, leafy greens, subgroup 4–16B	50
Bushberry subgroup 13–07B	6
Caneberry subgroup 13–07A	10
Celtuce	30
* * * * *	
Fennel, Florence, fresh leaves and stalk	30
* * * * *	
Fruit, stone, group 12–12	4
* * * * *	
Kohlrabi	5
Leaf petiole vegetable subgroup 22B	30
Leafy greens subgroup 4–16A	30
* * * * *	
Nut, tree, group 14 [1]	0.06
Nut, tree, group 14–12	0.05
* * * * *	
Oilseed group 20	1.5
* * * * *	
Pistachio [1]	0.06
* * * * *	
Vegetable, *brassica,* head and stem, group 5–16	5
* * * * *	

[1] This tolerance expires on December 6, 2019.

* * * * *

[FR Doc. 2019–11676 Filed 6–5–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R05–RCRA–2018–0228; FRL–9994–75–Region 5]

Michigan: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is granting Michigan final authorization for changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on October 10, 2018, and provided for public comment. No comments were received on the proposed revisions. No further opportunity for comment will be provided.

DATES: This final authorization is effective June 6, 2019.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R05–RCRA–2018–0228. The Docket ID No. was identified as EPA–R05–RCRA–2017–0381 in the proposed rule published in the October 10, 2018, **Federal Register** at 83 FR 50868, but that Docket ID No. was incorrect. All documents in the docket are listed on the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Judith Greenberg, RCRA C and D Section, Land and Chemicals Branch, Land, Chemicals and Redevelopment Division, U.S. Environmental Protection Agency, 77 W Jackson Blvd., Chicago, IL 60604, phone number: (312) 886–4179, email: *greenberg.judith@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. What changes to Michigan's hazardous waste program is EPA authorizing with this action?

On March 2, 2018, Michigan submitted a complete program revision application seeking authorization of changes to its hazardous waste program in accordance with 40 CFR 271.21. EPA now makes a final decision that Michigan's hazardous waste program revisions that are being authorized are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all the requirements necessary to qualify for final authorization. For a list of State rules being authorized with this final rule, please see the proposed rule published in the October 10, 2018, **Federal Register** at 83 FR 50869.

B. Which revised state rules are different from the federal rules?

See the October 10, 2018, proposed rule for a description of which state rules are different from the federal rules, with one exception. The proposed rule incorrectly stated that Michigan has proposed additions to its Universal Wastes that will add Antifreeze, Aerosol Cans and Paint Wastes that are not already regulated as hazardous waste. This statement should be disregarded.

C. What is codification and is EPA codifying the Michigan's hazardous waste program as authorized in this rule?

Codification is the process of placing citations and references to the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by adding those citations and references to the authorized state rules in 40 CFR part 272. EPA is not codifying the authorization of Michigan's revisions at this time. However, EPA reserves the ability to amend 40 CFR part 272, subpart X for the authorization of Michigan's program changes at a later date.

D. Statutory and Executive Order Reviews

This final authorization revises Michigan's authorized hazardous waste management program pursuant to Section 3006 of RCRA and imposes no requirements other than those currently imposed by state law. For further information on how this authorization complies with applicable executive orders and statutory provisions, please see the proposed rule published in the October 10, 2018 **Federal Register** at 83 FR 50869. 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final action will be effective on June 6, 2019.

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, and 6974(b).

Dated: May 21, 2019.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

[FR Doc. 2019–11895 Filed 6–5–19; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 412

[CMS–1708–N]

Medicare Program; Explanation of Federal Fiscal Year (FY) 2004, 2005, and 2006 Outlier Fixed-Loss Thresholds as Required by Court Rulings

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

ACTION: Clarification.

SUMMARY: In accordance with court rulings in cases that challenge the federal fiscal year (FY) 2004, 2005, and 2006 outlier fixed-loss threshold (FLT) rulemakings, this document provides further explanation of certain methodological choices made in the FLT determinations for those years.

DATES: June 6, 2019.

FOR FURTHER INFORMATION CONTACT: Don Thompson, (410) 786–6504.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 2015, in *District Hospital Partners* v. *Burwell,* 786 F.3d 46 (D.C. Cir. 2015), the Court of Appeals for the District of Columbia Circuit held that the FY 2004 fixed-loss threshold (FLT) was inadequately explained in the federal fiscal year (FY) 2004 hospital inpatient prospective payment systems (IPPS) final rule. The court of appeals ordered the district court to remand to CMS for further explanation of the handling of data pertaining to 123 hospitals the agency had identified as likely to have engaged in ''turbocharging,'' that is, manipulating their charges to obtain greater outlier payments. The United States District Court for the District of Columbia then remanded to the Secretary in accordance with the decision of the Court of Appeals. Order, *Dist. Hosp. Partners, L.P.* v. *Burwell,* Civil Action No. 11–0116 (ESH) (D.D.C. August 13, 2015).

On September 2, 2015, the District Court issued an order in a separate case, *Banner Health* v. *Burwell,* No. 10–1638 (ECF Nos. 149 and 150), 126 F. Supp. 3d 28 (D.D.C. 2015), remanding for additional explanation of the FLT from the FY 2004 final rule consistent with the D.C. Circuit's decision in *District Hospital Partners.* The court stated that the agency should explain further why it did not exclude data from the 123 hospitals from the outlier charge inflation calculation used to produce estimates of future Medicare payments for FY 2004.

In the January 22, 2016 **Federal Register** (81 FR 3727), we published an additional explanation in response to these court orders. In the October 14, 2016 **Federal Register** (81 FR 70980), we published a minor, non-substantive correction to the January 2016 document.

In *Banner Health* v. *Price,* 867 F.3d 1323 (D.C. Cir. 2017), the court of appeals reviewed the January 2016 document and found that the agency still had not adequately explained why the agency, in the FY 2004 rulemaking, did not exclude the charge data from the 123 hospitals it had identified as likely turbochargers when calculating the charge inflation factor used to transform historical charges into future charges for purposes of the agency's projections. The court of appeals also found that the agency had not adequately explained why it did not apply a downward adjustment to hospitals' cost-to-charge ratios when determining the FLTs for FYs 2004, 2005, and 2006, an issue not addressed in the Court of Appeals decision in *District Hospital Partners.* The court in *Banner Health* ordered the district court to remand to CMS to provide additional explanation on these two points. The district court issued a remand order on April 12, 2018. The district court also entered a similar order with respect to the FY 2004 determination in another case, *District Hospital Partners, L.P.* v. *Azar,* 320 F. Supp. 3d 42 (D.D.C. 2018).

We are issuing this document to provide the additional explanation required by these decisions.

II. Provisions of the Explanation

A. Inclusion of Data Pertaining to 123 Hospitals Identified as Likely Turbochargers in the Calculation of Estimated Charge Inflation for FY 2004

The first issue pertains to the use of data pertaining to 123 hospitals whom we described in a March 5, 2003 proposed rule (68 FR 10420), as hospitals likely to have engaged in turbocharging. We chose to calculate the FY 2004 charge inflation adjustment using data that incorporated data