

decision as to whether or not to authorize Virginia's program revisions. EPA received adverse written comments during the public comment period and on May 2, 2003, published a document withdrawing the immediate final rule (68 FR 23407–23408). Since all of the comments received related only to the Hazardous Waste Lamps Rule, EPA is authorizing the remaining provisions. Today's action grants final authorization for all program revisions described in EPA's proposed rule, with the exception of the provisions of the Hazardous Waste Lamps Rule. EPA will respond to comments on the Hazardous Waste Lamps Rule in a separate action and publish EPA's final decision as to whether or not to authorize the Hazardous Waste Lamps Rule for Virginia. Further background on EPA's immediate final rule and its tentative determination to grant authorization to Virginia for its program revisions appears in the aforementioned **Federal Register** documents.

#### **B. What Were the Comments and Responses to EPA's Proposal?**

The Agency received comments from twelve (12) sources. All comments received specifically related to the Hazardous Waste Lamps Rule. Of these comments, four (4) favored the authorization of these provisions and eight (8) were adverse. One of the eight adverse comments was postmarked one day after the deadline. EPA will address all public comments regarding authorization of the Hazardous Waste Lamps Rule for Virginia in a later final rule.

#### **C. What Decisions Have We Made in This Rule?**

The Agency has determined that approval of Virginia's RCRA program revisions, with the exception of the Hazardous Waste Lamps Rule, should occur. EPA has made a final determination that Virginia's application to revise its authorized program, with the exception of the Hazardous Waste Lamps Rule, 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 changes described in its application for program revisions, with the exception of the Hazardous Waste Lamps 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 application for program revisions, with the exception of the Hazardous Waste Lamps Rule,

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 any such HSWA requirements and prohibitions in Virginia, including issuing HSWA permits, until the State is granted authorization to do so.

For further background on the scope and effect of today's action to approve Virginia's RCRA program revisions, please refer to the preambles of EPA's March 13, 2003 proposed and immediate final rules to grant authorization to Virginia for its program revisions, at 68 FR 12015 and 68 FR 11981–11986, respectively.

#### **D. Statutory and Executive Order Reviews**

##### *Statutory and Executive Order Reviews*

This rule only authorizes hazardous waste requirements pursuant to RCRA 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 (EO) 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*—EO 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*—EO 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 and Safety Risks*—This rule is not subject to EO 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 EO 13211 because it is not a significant regulatory action as defined in EO 12866.

9. *National Technology Transfer 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 Advance 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 June 20, 2003.

#### **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).