continues to attain the 1997 $PM_{2.5}$ NAAQS.

Subpart NN—Pennsylvania

■ 6. Section 52.2056 is amended by adding paragraph (f) to read as follows:

§ 52.2056 Determinations of Attainment.

* * * * *

(f) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Philadelphia-Wilmington, PA–NJ–DE fine particle ($PM_{2.5}$) nonattainment area attained the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Philadelphia-Wilmington, PA–NJ–DE $PM_{2.5}$ nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

■ 7. Section 52.2059 is amended by adding paragraph (e) to read as follows:

§ 52.2059 Control strategy: Particulate matter.

* * * * *

(e) Determination of Attainment. EPA has determined, as of January 23, 2012, that based on 2007 to 2009 and 2008 to 2010 ambient air quality data, the Philadelphia-Wilmington, PA–NJ–DE nonattainment area has attained the 1997 annual $PM_{2.5}$ NAAQS. This determination, in accordance with 40 CFR 52.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual $PM_{2.5}$ NAAQS.

[FR Doc. 2012–1089 Filed 1–20–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R06–RCRA–2011–0407; FRL–9613–6]

New Mexico: Final Authorization of State-Initiated Changes and Incorporation-by-Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: During a review of New Mexico's regulations, the EPA identified a variety of State-initiated changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We have determined that these changes are minor and satisfy all requirements needed to qualify for Final authorization and are authorizing the State-initiated changes through this Direct Final action.

The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. The EPA uses the regulations entitled ''Approved State Hazardous Waste Management Programs'' to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that will be subject to the EPA's inspection and enforcement. The rule codifies in the regulations the prior approval of New Mexico's hazardous waste management program and incorporates by reference authorized provisions of the State's statutes and regulations.

DATES: This regulation is effective March 23, 2012, unless the EPA receives adverse written comment on this regulation by the close of business February 22, 2012. If the EPA receives such comments, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** informing the public that this rule will not take effect. The Director of the **Federal Register** approves this incorporation by reference as of March 23, 2012 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

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. *Email: patterson.alima@epa.gov.*

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), or Julia Banks, Codification Coordinator, Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–RCRA–201–0407.

EPA's policy is that all comments received will be included in the public docket without change, including 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 *http://www.regulations.gov,* or email. The Federal *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email 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, the 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 the EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, the 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. (For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*).

You can view and copy the documents that form the basis for this codification and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following location: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533 or (214) 665–8178. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Regional Authorization Coordinator (214) 665–8533, or Julia Banks, Codification Coordinator, (214) 665–8178, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, or

email address *patterson.alima@epa.gov* or *banks.julia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Authorization of State-Initiated Changes

A. Why are revisions to State programs necessary?

States which have received Final authorization from the 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 hazardous waste program. As the Federal program changes, the States must change their programs and ask the EPA to authorize the changes. Changes to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279. States can also initiate their own changes to their hazardous waste program and these changes must then be authorized.

B. What decisions have we made in this rule?

We conclude that New Mexico's revisions to its authorized program meet all of the statutory and regulatory requirements established by RCRA. We found that the State-initiated changes make New Mexico's rules more clear or conform more closely to the Federal equivalents and are so minor in nature that a formal application is unnecessary. Therefore, we grant New Mexico final authorization to operate its hazardous waste program with the changes described in the table at Section G below. New Mexico has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out all authorized aspects of the RCRA program, 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, the EPA will implement those requirements and prohibitions in New Mexico, 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 New Mexico subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. New Mexico has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions after notice to and consultation with the State.

This action does not impose additional requirements on the regulated community because the statutes and regulations for which New Mexico is being authorized by this direct action are already effective and are not changed by this action.

D. Why wasn't there a proposed rule before this rule?

The EPA did not publish a proposal before this 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 this **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 the EPA receives comments that oppose this authorization or the incorporation-by-reference of the State program, we will withdraw this rule by publishing a timely document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes, or the incorporation-by-reference, on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. If you want to comment on this authorization and incorporation-by-reference, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program or the incorporation-by-reference of the State program, we may withdraw only that part of this rule, but the authorization of the program changes or the incorporation-by-reference of the State program 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 or incorporation-by-reference of the State program will become effective and which part is being withdrawn.

F. For what has New Mexico previously been authorized?

The State of New Mexico initially received Final authorization effective January 25, 1985, (50 FR 1515) to implement its Base Hazardous Waste Management program. Subsequently, the EPA approved additional program revision applications effective April 10, 1990 (55 FR 4604); July 25, 1990 (55 FR 28397); December 4, 1992 (57 FR 45717); August 23, 1994 (59 FR 29734); December 21, 1994 (59 FR 51122); July 10, 1995 (60 FR 20238); January 2, 1996 (60 FR 53708) as affirmed by the EPA in the **Federal Register** notice published on January 26, 1996 (61 FR 2450)); March 10, 1997 (61 FR 67474); October 9, 2001 (66 FR 42140); October 16, 2007 (72 FR 46165); May 26, 2009 (74 FR 12625), and December 27, 2010 (75 FR 65432).

G. What changes are we authorizing with this action?

The State has made amendments to the provisions listed in the table which follows. These amendments clarify the State's regulations and make the State's regulations more internally consistent. The State's laws and regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than the Federal laws and regulations. These State-initiated changes satisfy the requirements of 40 CFR 271.21(a). We are granting New Mexico final authorization to carry out the following provisions of the State's program in lieu of the Federal program. These provisions are analogous to the indicated RCRA regulations found at 40 CFR as of July 1, 2008. The New Mexico provisions are from the New Mexico Administrative Code (NMAC), Title 20, Chapter 4, effective March 1, 2009.

State requirement	Analogous Federal requirement
NMAC 20.4.1.101 introductory paragraph	40 CFR 260.10 and 270.2 related; no direct Federal analog.
NMAC 20.4.1.301	40 CFR 262 related; no direct Federal analog.
NMAC 20.4.1.401	40 CFR 263.20(e) related; no direct Federal analog.
NMAC 20.4.1.801 introductory paragraph and 801.A	40 CFR 268.1(e)(3) related; no direct Federal analog.
NMAC 20.4.1.801.B	40 CFR 268.5, 268.6, 268.42(b), and 268.44(a)–(g) related; no direct Federal analog.
NMAC 20.4.1.901.B(5)	40 CFR 270.41 and 270.42(c) related; no direct Federal analog.
NMAC 20.4.1.901.B(6)	40 CFR 270.42(a) and (b) related; no direct Federal analog.
NMAC 20.4.1.1001 introductory paragraph	40 CFR 273 related; no direct Federal analog.
NMAC 20.4.1.1001.A(2)	40 CFR 273.12 and 273.32 related; no direct Federal analog.
NMAC 20.4.1.1001.B.	40 CFR 273.14 and 273.34 related; no direct Federal analog.
NMAC 20.4.1.1003	40 CFR 279.22 related; no direct Federal analog.

H. Who handles permits after the authorization takes effect?

This authorization does not affect the status of State permits and those permits issued by the EPA because no new substantive requirements are a part of these revisions.

I. How does this action affect Indian Country (18 U.S.C. 1151) in New Mexico?

New Mexico is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country.

II. Incorporation-by-Reference

A. What is codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs to operate in lieu of the Federal hazardous waste management regulatory program. The EPA codifies its authorization of State programs in 40 CFR part 272 and incorporates by reference State statutes and regulations that the EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and State requirements that can be Federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each State.

B. What is the history of the codification of New Mexico's hazardous waste management program?

The EPA incorporated by reference New Mexico's then authorized hazardous waste program effective December 13, 1993 (58 FR 52677); August 21, 1995 (60 FR 32113); November 18, 1996 (61 FR 49265); July 13, 1998 (63 FR 23224); October 27, 2003 (68 FR 51487); and December 29, 2008 (73 FR 63897). In this document, the EPA is revising Subpart GG of 40 CFR part 272 to include the recent authorization revision actions effective May 26, 2009 (74 FR 12625) and December 27, 2010 (75 FR 65432).

C. What codification decisions have we made in this rule?

The purpose of this **Federal Register** document is to codify New Mexico's base hazardous waste management program and its revisions to that program. The EPA provided notices and opportunity for comments on the Agency's decisions to authorize the New Mexico program, and the EPA is not now reopening the decisions, nor requesting comments, on the New Mexico authorizations as published in the **Federal Register** notices specified in Section B of this document.

This document incorporates by reference New Mexico's hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. By codifying New Mexico's authorized program and by amending the Code of Federal Regulations, the public will be able to more easily discern the status of Federally approved requirements of the New Mexico hazardous waste management program.

The EPA is incorporating by reference the New Mexico authorized hazardous waste program in subpart GG of 40 CFR part 272. Section 272.1601 incorporates by reference New Mexico's authorized hazardous waste statutes and regulations. Section 272.1601 also references the statutory provisions (including procedural and enforcement provisions) which provide the legal basis for the State's implementation of the hazardous waste management program, the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are approved as part of the hazardous waste management program under Subtitle C of RCRA.

D. What is the effect of New Mexico's codification on enforcement?

The EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in authorized States. With respect to these actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than any authorized State analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved New Mexico procedural and enforcement authorities. Section 272.1601(c)(2) of 40 CFR lists the statutory provisions which provide the legal basis for the State's implementation of the hazardous waste management program, as well as those procedural and enforcement authorities that are part of the State's approved program, but these are not incorporated by reference.

E. What State provisions are not part of the codification?

The public needs to be aware that some provisions of New Mexico's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are ''broader in scope'' than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which New Mexico is not authorized, but which have been incorporated into the State regulations because of the way the State adopted Federal regulations by reference.

State provisions that are ''broader in scope'' than the Federal program are not part of the RCRA authorized program and the EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.1601(c)(3) lists the New Mexico regulatory provisions which are ''broader in scope'' than the Federal program and which are not part of the authorized program being incorporated by reference. ''Broader in scope'' provisions cannot be enforced by the EPA; the State, however, may enforce such provisions under State law.

With respect to any requirement pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized, the EPA will continue to enforce the Federal HSWA standards until the State is authorized for these provisions.

F. What will be the effect of Federal HSWA requirements on the codification?

The EPA is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by the EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) takes effect in authorized and not authorized States at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by the EPA (50 FR 28702, July 15, 1985). The EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), the EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirement implemented by the EPA. However, until the EPA authorizes those State requirements, the EPA can only enforce the HSWA requirements and not the State analogs. The EPA will not codify those State requirements until the State receives authorization for those requirements.

G. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) 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. The reference to Executive Order 13563 (76 FR 3821 January 21, 2011) is also exempt from review under Executive orders 12866 (56 FR 51735, October 4, 1993). This rule incorporates by reference New Mexico's authorized hazardous waste management regulations 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 rule merely incorporates by reference certain existing State hazardous waste management program requirements which the EPA already approved under 40 CFR part 271, and with which regulated entities must already comply, 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).

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 incorporates by reference existing authorized State hazardous waste management program requirements without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000).

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. 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.

The requirements being codified are the result of New Mexico's voluntary participation in the EPA's State program authorization process under RCRA Subtitle C. 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, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The 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 amended 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. The 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 action will be effective March 23, 2012.

List of Subjects in 40 CFR Parts 271 and 272

Environmental Protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

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: December 14, 2011.

Al Armendariz,

Regional Administrator, Region 6.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), the EPA is granting final authorization under part 271 to the State of New Mexico for revisions to its hazardous waste program under the Resource Conservation and Recovery Act and is amending 40 CFR part 272 as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Revise § 272.1601 to read as follows:

§ 272.1601 New Mexico State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), the EPA granted New Mexico final authorization for the following elements as submitted to EPA in New Mexico's base program application for final authorization which was approved by EPA effective on January 25, 1985. Subsequent program revision applications were approved effective on April 10, 1990, July 25, 1990, December 4, 1992, August 23, 1994, December 21, 1994, July 10, 1995, January 2, 1996, March 10, 1997, October 9, 2001, October 16, 2007, May 26, 2009, and December 27, 2010.

(b) The State of New Mexico has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.*

(1) The New Mexico statutes and regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the New Mexico regulations that are incorporated by reference in this paragraph from the New Mexico Commission of Public Records, State Records Center and Archives, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507. The statutes are available from Conway Greene Company, 1400 East 30th Street, Suite #402, Cleveland, OH 44114. You may inspect a copy at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202 (Phone number (214) 665–8533), or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(i) The binder entitled ''EPA-Approved New Mexico Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program'' dated December 2010.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) New Mexico Rules Annotated, Rules of Civil Procedure for the District Courts, Article 4, (1995), Section 1–024.

(ii) New Mexico Statutes 1978 Annotated, Inspection of Public Records Act, Chapter 14, Article 2, (2009 Cumulative Supplement), Sections 14–2–1 *et seq.*

(iii) New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4, (2000 Replacement Pamphlet), Sections 74–4–4.1, 74–4–4.7.B and .C, 74–4–5, 74–4–7, 74–4–10.1 (except 74–4–10.1.C), and 74–4–14.

(iv) New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4, (2009 Cumulative Supplement), Sections 74–4–4, 74–4–4.2.C through 74–4–4.2.F, 74–4–4.2.G(1), 74–4–4.2.H, 74–4–4.2.I, 74–4–4.3 (except 74–4–4.3.A(2) and 74–4–4.3.F), 74–4–10, 74–4–11 through 74–4–13.

(v) Title 20, Chapter 4, Part 1, New Mexico Administrative Code, effective March 1, 2009, unless otherwise indicated: Sections 20.4.1.901 (except 20.4.1.901.B.1 through 20.4.1.901.B.7, and 20.4.1.901.E), 20.4.1.1100 (June 14, 2000), 20.4.1.1104 (June 14, 2000), 20.4.1.1105 (June 14, 2000), and 20.4.1.1107 (October 1, 2003).

(3)(i) The following statutory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(ii) New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4, (2000 Replacement Pamphlet), Section 74–4–3.3.

(iii) New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4, (2009 Cumulative Supplement), Sections 74–4–4.2.J and 74–4–4.2.K.

(4) *Unauthorized State Amendments.*

(i) The State's adoption of the Federal rules listed in the following table is not approved by the EPA and is therefore, not enforceable:

Federal requirement	**Federal Register** reference	Publication date
Biennial Report	48 FR 3977	01/28/83
Permit Rules; Settlement Agreement	48 FR 39611	09/01/83
Interim Status Standards; Applicability	48 FR 52718	11/22/83
Chlorinated Aliphatic Hydrocarbon Listing (F024)	49 FR 5308	02/10/84
National Uniform Manifest	49 FR 10490	03/20/84
National Performance Track Program	69 FR 21737	04/24/04
	69 FR 62217	10/24/04
Performance Track provisions addressed in the Burden Reduction Initiative Rule	71 FR 16862	04/04/06

(ii) In the New Mexico's Program Revision Application package for RCRA Clusters XIII through XVIII, the State indicates that it is seeking authorization for breaking and crushing of universal waste lamps under the universal waste program, in order to reduce their volume to facilitate management or transport to destination facilities (see 75

FR 65432, Oct. 25, 2010). However, EPA did not authorize the breaking and crushing of universal waste lamps. The Agency needs further analysis to determine if the breaking and crushing of universal waste lamps will be authorized as part of the State's authorized program. Therefore, in this codification notice EPA has determined to exclude the lamp crushing provisions from this codification.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the State of New Mexico, signed by the EPA Regional Administrator on October 12, 2010, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* ''Attorney General's Statement for Final Authorization'', signed by the Attorney General of New Mexico January 1985, and revisions, supplements and addenda to that Statement dated April 13, 1988; September 14, 1988; July 19, 1989; July 23, 1992; February 14, 1994; July 18, 1994; July 20, 1994; August 11, 1994; November 28, 1994; August 24, 1995; January 12, 1996; June 14, 2000, August 3, 2006, September 15, 2008, and March 18, 2009, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the listing for ''New Mexico'' to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

New Mexico

The statutory provisions include:

New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4 (2000 Replacement Pamphlet). Please note that for a few provisions the version found in the 2009 Cumulative Supplement to NMSA 74–4 is the approved version of the statutes.

Chapter 74, Article 4, Sections 74–4–2, 74–4–3 (except 74–4–3.A, 74–4–3.N, and 74–4–3.R) (2009 Cumulative Supplement), 74–4–3.1, 74–4–4.2.A and 74–4–4.2.B (2009 Cumulative Supplement), 74–4–4.2.G introductory paragraph (2009 Cumulative Supplement), 74–4–4.2.G(2) (2009 Cumulative Supplement), 74–4–4.3.F (2009 Cumulative Supplement), 74–4–4.7 (except 74–4–4.7.B and 74–4–4.7.C), 74–4–9, and 74–4–10.1.C, as published by Conway Greene Company, 1400 East 30th Street, Suite #402, Cleveland, OH 44114; Phone: (216) 619–8091; Web site: *http://www.conwaygreene.com/nmsu/lpext.dll?f=templates&fn=main-h.htm&2.0.*

The regulatory provisions include:

Title 20, Chapter 4, Part 1, New Mexico Annotated Code, effective March 1, 2009, unless otherwise indicated, Sections 20.4.100, 20.4.1.101, 20.4.1.200, 20.4.1.300, 20.4.1.301, 20.4.1.400, 20.4.1.401, 20.4.1.500, 20.4.1.501, 20.4.1.600, 20.4.1.601, 20.4.1.700, 20.4.1.701, 20.4.1.702, 20.4.1.800, 20.4.801, 20.4.1.900, 20.4.1.901.B.1 through 20.4.1.901.B.7, 20.4.1.901.E, 20.4.1.902, 20.4.1.1000, 20.4.1.1001 introductory paragraph, 20.4.1.1001.A(2), 20.4.1.1001.B, 20.4.1.1002, 20.4.1.1003, 20.4.1.1102 (June 14, 2000), and 20.4.1103 (October 1, 2003). Copies of the New Mexico regulations can be obtained from the New Mexico Commission of Public Records, State Records Center and Archives, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507; Phone: (505) 476–7907; Web site: *http://www.nmcpr.state.nm.us/nmac/titles.htm.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 101126521–0640–02]

RIN 0648–XA947

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Greater Than or Equal To 60 Feet (18.3 Meters) Length Overall Using Pot Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by pot catcher vessels greater than or equal to 60 feet (18.3 meters (m)) length overall (LOA) in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season apportionment of the 2012 Pacific cod total allowable catch (TAC) specified for pot catcher vessels greater than or equal to 60 feet (18.3 m) LOA in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 20, 2012, through 1200 hrs, A.l.t., September 1, 2012.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, (907) 586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season apportionment of the 2012 Pacific cod TAC allocated as a directed fishing allowance to pot catcher vessels greater than or equal to 60 feet (18.3 m) LOA in the BSAI is 9,950 metric tons as established by the final 2011 and 2012 harvest specifications for groundfish in the BSAI (76 FR 11139, March 1, 2011) and inseason adjustment (76 FR 81875, December 29, 2011).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the A season apportionment of the 2012 Pacific cod TAC allocated as a directed fishing allowance to pot catcher vessels greater than or equal to 60 feet (18.3 m) LOA in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by pot catcher vessels greater than or equal to 60 feet (18.3 m) LOA in the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by pot catcher vessels greater than or equal to 60 feet (18.3 m) LOA in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of January 17, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C.