Electric arc furnace means any furnace wherein electrical energy is converted to heat energy by transmission of current between electrodes partially submerged in the furnace charge.

Electrometallurgical operations means the use of electric and electrolytic processes to purify metals or reduce metallic compounds to metals.

Fugitive emissions means any pollutant released to the atmosphere that is not discharged through a ventilation system that is specifically designed to capture pollutants at the source, convey them through ductwork, and exhausts them from a control device. Fugitive emissions include pollutants released to the atmosphere through windows, doors, vents, or other building openings. Fugitive emissions also include pollutants released to the atmosphere through other general building ventilation or exhaust systems not specifically designed to capture pollutants at the source.

Sealed EAF means a furnace equipped with the cover with seals around the electrodes and outer edges of the cover to eliminate air being drawn in under the cover.

Tapping means the removal of product from the EAF or other reaction vessel under normal operating conditions, such as removal of metal under normal pressure and movement by gravity down the spout into the ladle.

§ 63.11533–63.11543 [Reserved]

As required in § 63.11530, you must meet each requirement in the following table that applies to you.

TABLE 1 TO SUBPART YYYYYY OF PART 63—APPLICABILITY OF GENERAL PROVISIONS

Citation	Subject
63.1[1]	Applicability.
63.2	Definitions.
63.3	Units and abbreviations.
63.4	Prohibited activities.
63.5	Construction/reconstruction.
63.6	Compliance with standards and maintenance.
63.8	Monitoring.
63.9	Notification.
63.10	Recordkeeping and reporting.
63.12	State authority and delegations.
63.13	Addresses of State air pollution control agencies and EPA regional offices.
63.14	Incorporation by reference.
63.15	Availability of information and confidentiality.
63.16	Performance track provisions.

[1] § 63.11524(d), ''Am I subject to this subpart?'' exempts affected sources from the obligation to obtain title V operating permits.

[FR Doc. E8–30424 Filed 12–22–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R10–RCRA–2008–0588; FRL–8755–9]

Idaho: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Idaho applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act, as amended (RCRA). On September 30, 2008, EPA published a proposed rule to authorize the changes and opened a public comment period under Docket ID No. EPA–R10–RCRA–2008–0588. On October 28, 2008, EPA published notification of an extension of the comment period for the proposed rule. The comment period closed on November 20, 2008. EPA has decided that the revisions to the Idaho hazardous waste management program satisfy all of the requirements necessary to qualify for final authorization and EPA is authorizing these revisions to Idaho's authorized hazardous waste management program in this final rule.

DATES: *Effective Date:* Final authorization for the revisions to the hazardous waste program in Idaho shall be effective at 1 p.m. EST on December 23, 2008.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, Mail Stop AWT–122, U.S. EPA Region 10, Office of Air, Waste and Toxics, 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, phone (206) 553–6502. E-mail: *kocourek.nina@epa.gov*.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under section 3006(b) of RCRA, 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to and consistent with the Federal program. States are required to have enforcement authority which is adequate to enforce compliance with the requirements of the hazardous waste program. Under section 3009, States are not allowed to impose any requirements which are less stringent than the Federal program. Changes to State 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 EPA's regulations in Title 40 of the Code of Federal Regulations (CFR) Parts 124, 260 through 266, 268, 270, 273 and 279.

Idaho's hazardous waste management program received final authorization effective on April 9, 1990 (55 FR 11015, March 29, 1990). EPA also granted authorization to revisions to Idaho's program effective on: June 5, 1992 (57 FR 11580, April 6, 1992), August 10, 1992 (57 FR 24757, June 11, 1992), June 11, 1995 (60 FR 18549, April 12, 1995), January 19, 1999 (63 FR 56086, October 21, 1998), July 1, 2002 (67 FR 44069, July 1, 2002), March 10, 2004 (69 FR 11322, March 10, 2004), July 22, 2005 (70 FR 42273, July 22, 2005) and February 26, 2007 (72 FR 8283, February 26, 2007).

This final rule addresses a program revision application that Idaho submitted to EPA in June 2008, in accordance with 40 CFR 271.21, seeking authorization of changes to the State program. On September 30, 2008, EPA

published a proposed rule (73 FR 56775) stating the Agency's intent to grant final authorization for revisions to Idaho's hazardous waste program. EPA published an administrative extension of the comment period on October 28, 2008 (73 FR 63917), to extend the public comment period from October 30, 2008 to November 20, 2008.

B. What Were the Comments on EPA's Proposed Rule?

EPA received two sets of comments on the proposed rule from two separate commenters. The first set of comments came from a commenter who submitted written comments on each proposed revision to the authorized Idaho hazardous waste program for the past several years. The comments submitted for this revision restated past arguments concerning revisions to the authorized Idaho hazardous waste program. The commenter objected to EPA's action to revise Idaho's hazardous waste program because the commenter objects to certain aspects of how the Idaho Department of Environmental Quality (IDEQ) carries out the authorized program at the Idaho National Laboratory (INL) facility. In 2007, the same commenter, on the basis of the same objections, petitioned the Office of the Inspector General (OIG) to initiate a formal investigation into EPA's decision to revise the Idaho authorized program at that time. The OIG responded to the 2007 petition on July 13, 2008, by closing the case without further action. EPA respects the commenter's participation in the public process but believes no new concerns are raised in the current comments.

The comments received from the second commenter raised numerous issues, which are addressed in this response. The commenter questioned whether EPA impermissibly adopted rules promulgated pursuant to non-HSWA authority and rules promulgated as ''less stringent'' under HSWA. HSWA, the Hazardous and Solid Waste Amendments of 1984 to the Resource Conservation and Recovery Act (RCRA), changed many aspects of hazardous waste management under RCRA. The legislative history of HSWA (98 Cong. Senate Report 284, HSWA Leg. Hist. 30, pages 6–7) explains, in part:

> These amendments also recognize that safe disposal, storage and treatment opportunities are limited and that the most effective way to protect human health and the environment is to minimize the opportunities for exposure by reducing or eliminating the generation of hazardous waste as expeditiously as possible. Rather than creating a rigorous regulatory program, provisions are included to encourage generators to voluntarily reduce the quantity and toxicity of all wastes. The amendments do not authorize the EPA or any other organization or person to intrude into the production-process or production decisions of individual generators. Taken as a whole, the reported bill emphasizes two concepts. First, wherever feasible, the generation of hazardous waste is to be reduced or eliminated as expeditiously as possible. Second, waste that is nevertheless generated should be treated, stored, or disposed of so as to minimize the present and future threat to human health and the environment.

After passage of HSWA, EPA distinguished rules promulgated by EPA pursuant to the new HSWA authority from rules promulgated pursuant to the authority that pre-dated, but was not supplanted by, HSWA; EPA referred to the latter as ''non-HSWA'' rules. The issue of which authority, HSWA or non-HSWA, EPA exercises in each EPA rulemaking is distinguishable from EPA's determination of whether a new rule promulgated by EPA under either authority is ''more stringent'' or ''less stringent'' than the regulations that had been promulgated earlier and are being revised. EPA explains the authority it is using, HSWA or non-HSWA, in each rulemaking. That explanation is generally found in the **Federal Register** notice for each proposed and final rule in the discussion of how the regulatory changes will be administered and enforced in the State.

Regulations determined to be ''more stringent'' under HSWA or non-HSWA authority are regulations which each state must adopt to retain authorization for its hazardous waste program. Regulations determined to be ''less stringent'' under HSWA or non-HSWA authority are regulations which each state is encouraged, but not required, to adopt to retain its authorized hazardous waste program. HSWA regulations are not all ''more stringent'' than the regulations promulgated under RCRA before HSWA. Nor did Congress require all HSWA regulations to be more stringent; nothing in the statute, and no language in the legislative history, directs EPA to promulgate only ''more stringent'' provisions under HSWA authority.

Since the passage of HSWA, EPA has been highly selective when designating which new regulations will apply directly in every State immediately upon the effective date of the new regulations. New regulations EPA characterizes as promulgated under HSWA authority and as more stringent apply directly in all states, including states with authorized hazardous waste programs, upon their effective dates and are implemented and enforced directly and immediately by EPA until the State is authorized to implement and enforce those regulations. Upon authorization, those regulations authorized as a part of the State hazardous waste program are the federally enforceable requirements in that State.

The commenter questioned whether it was permissible for EPA to allow a state to adopt rules promulgated by EPA as ''less stringent than federal requirements.'' EPA exercises discretionary authority as provided by Congress in section 2002 of RCRA, 42 U.S.C. 6912, to regulate hazardous waste to protect human health and the environment and, barring explicit language in the statute, nothing in the act or amendments thereto prohibits EPA from promulgating new regulations that are ''less stringent'' or ''neutral'' relative to regulations that were promulgated earlier. If EPA promulgates new regulations to replace existing regulations, the newer regulations are, upon their effective date, the federal requirements against which a state program is compared when reviewing a revision to an authorized state hazardous waste program. The ''less stringent'' requirements are the federal requirements under RCRA in States without authorized hazardous waste programs. Those newer regulations which are less stringent than former regulations, may be, but are not required to be, adopted by states to retain an authorized hazardous waste program.

Section 3009 of RCRA, 42 U.S.C. 6929, bars a state from imposing less stringent requirements than those authorized under Subchapter III of RCRA respecting the same matter governed by such regulations. There is no bar prohibiting a state from imposing more stringent requirements and there is no bar prohibiting a state from adopting federal requirements which are promulgated by EPA as less stringent or neutral requirements as compared to regulations that were promulgated by EPA earlier. If a state adopts and is authorized for those ''less stringent'' regulations, the federally enforceable RCRA requirements in the State are those newly authorized requirements.

The commenter questioned whether EPA was allowing the Attorney General (AG) of Idaho to ''circumvent'' a rule-by-rule comparison of the federal regulations adopted by Idaho and the Idaho Statutes. The Idaho AG did submit a rule-by-rule statement citing specific statutory authority for each rule adopted by Idaho. EPA reviewed this statement, which was included in the docket for the rule and is Appendix I to the Idaho application. The ''Revised Attorney General's Statement for Final Authorization of Changes to the Federal

RCRA Program Through July 1, 2007'' amends and supplements the AG statements in previous authorization applications. The table presented in the AG statement and certified by the AG contains a rule-by-rule review. EPA reviewed each state rule and state statute cited in the AG statement. This independent EPA review was the basis for EPA's decision to propose authorizing the revision to the Idaho authorized hazardous waste program. Pursuant to 40 CFR 271.1(e), the Administrator (or delegated authority, in this case, the Regional Administrator) shall approve State programs which conform to the applicable requirements of that rule in Subpart A—Requirements for Final Authorization. Based on its review of the complete Idaho application, EPA concluded that the revisions to Idaho's program conformed to the applicable requirements of Subpart A.

The commenter also questioned whether optional rules, not required to be adopted, must be compared to the Idaho Statutes to ensure 40 CFR 271.1 is met in light of the fact, according to the commenter, that the Idaho AG claims the State of Idaho must adopt all regulations promulgated by EPA, even those promulgated which are less stringent than existing regulations. EPA did not see any language in the AG statement, or elsewhere in Idaho's application, indicating that the State of Idaho must adopt all regulations promulgated by EPA, even those less stringent. However, the AG does cite directly to Idaho Statute 39–4404 (Consistency with federal law) in the AG Statement and in the rule-by-rule comparison. That provision of the Idaho Statutes, acknowledging the desire of the legislature to avoid the existence of duplicative, overlapping or conflicting state and regulatory systems, directs the Idaho Board of Environmental Quality (Board) to promulgate rules which are consistent with RCRA and the federal regulations adopted by EPA to implement RCRA. The Board is barred from promulgating any rule that would impose conditions or requirements more stringent or broader in scope than RCRA and the RCRA regulations promulgated by EPA.

There is no statutory language directing the Board to immediately adopt less stringent rules promulgated by EPA to replace earlier, more stringent requirements. However, the AG has opined that the statutory language acts as a directive to the Board to promulgate rules which are consistent with RCRA and allows and encourages Idaho to adopt all less-stringent and optional rules promulgated by EPA. In reviewing each of Idaho's rules against the Idaho Statutes, EPA agreed with the AG that adopting such rules was permissible under both Idaho state law and under RCRA, as amended by HSWA, and that such adoption met the requirements of 40 CFR 271.1.

Finally, the commenter questioned whether the RCRA Burden Reduction Initiative impermissibly removed the manifest notification required to be sent to each state with the shipment of waste-derived fertilizers citing to sections 3002 and 3009 of RCRA, 42 U.S.C. 6922 and 6929. Section 3002(a)(5) of RCRA, 42 U.S.C. 6922(a)(5), directs the Administrator to promulgate regulations to establish standards applicable to generators as may be necessary to protect human health and the environment regarding the use of a manifest system and any other reasonable means necessary to assure that all hazardous waste generated is designated for treatment, storage, or disposal in, and arrives at, treatment, storage, or disposal facilities (except where waste was generated) for which a permit was issued. Pursuant to section 3009 of RCRA, 42 U.S.C. 6929, no regulation adopted under RCRA can be construed to prohibit any State from requiring the State be provided with a copy of each manifest used in connection with hazardous waste generated in that State or transported to a treatment, storage, or disposal facility within that State. The Burden Reduction Initiative (BRI), which became effective as an optional rule on May 4, 2006, streamlines EPA's information collection requirements to ensure that only information actually needed and used to implement the RCRA program is collected while retaining the goals of protecting human health and the environment.

Changes in manifest requirements made to earlier federal requirements by the BRI generally concern notice under the land disposal regulations at 40 CFR Part 268. The BRI does not prohibit any State from requiring a copy of a manifest. States were not required to adopt the BRI and States that do not adopt the BRI can require a copy of the manifest. A State is not barred from adopting the BRI by section 3009 of RCRA.

EPA believes the Agency has the necessary authority to promulgate the rules in the federal program, including those in this revision to Idaho's authorized hazardous waste program. Moreover, EPA believes that Idaho has the necessary authority to adopt the rules that are included in this revision of the Idaho authorized hazardous waste program.

C. What Decisions Have We Made in This Rule?

EPA has made a final determination that Idaho's revisions to the Idaho authorized hazardous waste program meet all of the statutory and regulatory requirements established by RCRA for authorization. Therefore, EPA is authorizing the revisions to the Idaho hazardous waste program and authorizing the State of Idaho to operate its hazardous waste program as described in the revision authorization application. Idaho's authorized program will be responsible for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of RCRA, including the HSWA.

New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA as more stringent are implemented by EPA and take effect in States with authorized programs before such programs are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions in Idaho, including issuing permits or portions of permits, until the State is authorized to do so.

D. What Will Be the Effect of This Action?

The effect of this action is that a facility in Idaho subject to RCRA must comply with the authorized State program requirements and with any applicable Federally-issued requirement, such as, for example, the federal HSWA more stringent provisions for which the State is not authorized, and RCRA requirements that are not supplanted by authorized State-issued requirements, in order to comply with RCRA. Idaho has enforcement responsibilities under its State hazardous waste program for violations of its currently authorized program and will have enforcement responsibilities for the revisions which are the subject of this final rule. EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

—Conduct inspections; require monitoring, tests, analyses or reports;

—Enforce RCRA requirements, including State program requirements that are authorized by EPA and any applicable Federally-issued statutes and regulations; suspend, modify or revoke permits; and

—Take enforcement actions regardless of whether the State has taken its own actions.

This final action approving these revisions will not impose additional requirements on the regulated community because the regulations for which Idaho's program is being authorized are already effective under State law.

E. What Rules Are We Authorizing With This Action?

In June 2008, Idaho submitted a complete program revision application, seeking authorization for all delegable federal hazardous waste regulations codified as of July 1, 2007, as incorporated by reference in IDAPA 58.01.05(002)–(016) and (018). EPA is authorizing those rules in this action.

F. Who Handles Permits After This Authorization Takes Effect?

Idaho will continue to issue permits for all the provisions for which it is authorized and administer the permits it issues. If EPA issued permits prior to authorizing Idaho for these revisions, these permits would continue in force until the effective date of the State's issuance or denial of a State hazardous waste permit, at which time EPA would modify the existing EPA permit to expire at an earlier date, terminate the existing EPA permit for cause, or allow the existing EPA permit to otherwise expire by its terms, except for those facilities located in Indian Country. EPA will not issue new permits or new portions of permits for provisions for which Idaho is authorized after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Idaho is not yet authorized.

G. What Is Codification and Is EPA Codifying Idaho'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 (CFR) by referencing the authorized State's authorized rules in 40 CFR Part 272. EPA is reserving the amendment of 40 CFR Part 272, Subpart F for codification of Idaho's program at a later date.

H. How Does This Action Affect Indian Country (18 U.S.C. 1151) in Idaho?

EPA's decision to authorize the Idaho hazardous waste program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' as defined in 18 U.S.C. 1151. This includes: (1) All lands within the exterior boundaries of Indian reservations within or abutting the State of Idaho; (2) Any land held in trust by the U.S. for an Indian tribe; and (3) Any other land, whether on or off an Indian reservation that qualifies as Indian country. Therefore, this action has no effect on Indian country. EPA retains jurisdiction over ''Indian Country'' as defined in 18 U.S.C. 1151.

I. Statutory and Executive Order Reviews

This final rule revises the State of Idaho's authorized hazardous waste program pursuant to section 3006 of RCRA and imposes no requirements other than those currently imposed by State law. This final rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant,'' and therefore subject to OMB review and the requirements of the Executive Order. The Executive Order defines ''significant regulatory action'' as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. EPA has determined that this final rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act

This final action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this final rule does not establish or modify any information or recordkeeping requirements for the regulated community and only seeks to authorize the pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing, and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR are listed in 40 CFR Part 9.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this final rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR Part 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA has determined that this action will not have a significant economic impact on small entities because the final rule will only have the effect of authorizing pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law. After considering the economic impacts of this final rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title

II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. The action imposes no new enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of UMRA because it contains no regulatory requirements that might significantly or uniquely affect small governments. Those entities are already subject to the regulatory requirements that are included in the revisions to the State program in this final action.

5. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' Policies that have federalism implications is defined in the Executive Order to include regulations that 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 various levels of government.'' This final rule does not have federalism implications. It 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 various levels of government, as specified in Executive Order 13132. This final rule authorizes pre-existing State rules. Thus, Executive Order 13132 does not apply to this final rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (59 FR 22951, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175 because EPA retains its authority over Indian Country. EPA specifically solicited additional comment on the proposed rule from tribal officials and no tribe commented on this action. Thus, Executive Order 13175 does not apply to this final rule.

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

EPA interprets EO 13045 (62 F.R. 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it approves a state program.

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

This final 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'' as defined under Executive Order 12866.

9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order (EO) 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This final rule does not affect the level of protection provided to human health or the environment because this rule authorizes pre-existing State rules which are equivalent to, and no less stringent than existing federal requirements.

11. Congressional Review Act

The Congressional Review Act (CRA), 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule 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).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—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: December 16, 2008.

Elin D. Miller,

Regional Administrator, Region 10.

[FR Doc. E8–30516 Filed 12–22–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 312

[EPA–HQ–SFUND–2008–0873; FRL–8755–6]

RIN 2050–AG47

Amendment to Standards and Practices for All Appropriate Inquiries Under CERCLA

AGENCY: Environmental Protection Agency (EPA).