mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

List of Subjects in 40 CFR Part 271

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

Authority: This notice 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).

W.B. Hathaway,

Acting Regional Administrator, Region 6.

[FR Doc. 98–25200 Filed 9–21–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6165–3]

Washington: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Response to comment and final rule.

SUMMARY: On July 7, 1998, the EPA published a proposed rule (63 FR 36652) and an immediate final rule (63 FR 36587) to approve a revision to the State of Washington hazardous waste management program which would give the program jurisdiction over ''non-trust lands'' within the exterior boundaries of the Puyallup Indian reservation located in Tacoma, Washington. The EPA stated in the immediate final rule that if the Agency received adverse written comment it would publish a notice withdrawing the immediate final rule before its effective date, and then would address comments in a final rule based on the proposed rule. Because EPA received an adverse comment, the Agency withdrew the immediate final rule in a withdrawal notice published on August 21, 1998 in the **Federal Register** (63 FR 44795). The EPA has reviewed and analyzed the concerns raised by the comment, and now issues this final rule. After consideration of these concerns, EPA is approving the State of Washington authorization revision to include non-trust lands within the 1873 Survey Area as part of its approved program.

DATES: This final rule will become effective on October 22, 1998.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WCM–122, Seattle, WA 98101, Telephone: (206) 553–6502.

SUPPLEMENTARY INFORMATION:

A. Background

The State of Washington seeks revision of its authorized program to include ''non-trust lands'' within the exterior boundaries of the Puyallup Indian reservation (hereafter referred to as the ''1873 Survey Area'' or ''Survey Area'') pursuant to a settlement agreement finalized in 1988 and ratified by Congress in 1989, which allows Washington to seek authorization under federal environmental laws for such lands after consultation and communication with the Puyallup Tribe. The revision requested by Washington in its current application is not a result of a change to EPA's rules or regulations, nor is it a result of changes to Washington's rules and regulations. Rather, Washington's application for revision results from the unique agreements between Washington, the United States and the Puyallup Tribe of Indians. A complete discussion of the background of the matter addressed by this final rule can be found in the immediate final rule located in the final rules section of the July 7, 1998 (63 FR 36587) **Federal Register.**

B. Comment Regarding the Immediate Final Decision

Reichhold Chemical, Inc. (Reichhold), which has an EPA-issued RCRA corrective action permit for it's Tacoma facility, commented that its permit and the corrective action process should not be subjected to the jurisdictional uncertainties that it believes would result if EPA authorizes the revisions to the Washington program. Reichhold wrote that it is negotiating with the Puyallup Tribe of Indians (the Tribe) and Puyallup International, Inc. concerning the acquisition and/or long-term lease of all or a portion of the Reichhold property. Reichhold is concerned that transferring jurisdiction authority to the State for Reichhold's permit will cause delays and uncertainty should the Tribe acquire a fee or leasehold interest in the land. Reichhold did not specify what it considers to be ''jurisdictional uncertainties.'' They claim that EPA's authorization of the Washington program will further delay Reichhold's ability to make the property available to the Tribe or any other suitable user for productive use consistent with the RCRA program and public health and safety. Reichhold requested that EPA withdraw its approval until the issues of jurisdiction over the Tribe's activities on Reichhold's property are resolved.

The EPA has reviewed the issues raised by Reichhold, and does not find sufficient merit to its objection to withhold approval of this authorization revision. Reichhold did not dispute that the State has the authority to implement the hazardous waste program on non-trust lands pursuant to the agreement and did not assert the state program fails to meet the statutory criteria of being equivalent and consistent, and providing adequate enforcement. The information Reichhold provided did not address how ''jurisdictional uncertainties'' will interfere with Washington's ability to properly administer the hazardous waste management program at the Reichhold facility in Tacoma.

The EPA, the State of Washington and the Puyallup Tribe already have established a process for working together to address issues of jurisdiction under the Settlement Agreement. As part of the process to revise the Washington authorization, EPA, the Tribe, and Washington consulted on implementation of the programs in a cooperative fashion, and EPA expects that the cooperation established in the Settlement Agreement and other agreements will continue to provide avenues for addressing issues that arise

in a timely and efficient manner. Specifically, the State and EPA developed an addendum to its Memorandum of Agreement (May 1998), which includes an agreed upon implementation strategy for how the EPA and Ecology will share information and communicate all jurisdictional changes within the 1873 Survey Area.

In addition, the approval in today's document specifically addresses an aspect of Reichhold's concerns by clarifying that the revised program does not extend to Indian or Indian activities within the 1873 Survey Area. EPA will retain jurisdiction over trust lands and over Indians and Indian activities on non-trust lands within the Survey Area. Should Reichhold transfer ownership of all or a portion of the facility to the Tribe, EPA and Washington, in consultation with the Tribe, will address any effects in accordance with the May 1998, State and EPA Memorandum of Agreement Addendum.

C. Today's Action

EPA is today taking final action to grant final authorization revising the State of Washington's hazardous waste program to include non-trust lands within the 1873 Survey Area of the Puyallup Indian Reservation, but limiting the authorization so that the revised program does not extend to Indian or Indian activities within the 1873 Survey Area.

Washington will implement the revised authorized program in the same manner that the program is implemented elsewhere in the State. This includes all aspects of the authorized State program such as waste designation requirements; generator, transporter, and recycling requirements; treatment, storage and disposal (TSD) facility requirements; all permitting procedures; corrective action requirements; and compliance monitoring, and enforcement procedures. EPA will continue to implement and enforce Hazardous and Solid Waste Amendments of 1984 (HSWA) provisions for which the State is not authorized.

All permits issued by U.S. EPA Region 10 on non-trust lands within the 1873 Survey Area prior to final authorization of this revision will continue to be administered by U.S. EPA Region 10 until the issuance or reissuance after modification of a State RCRA permit. Upon the effective date of the issuance, or reissuance after modification to incorporate authorized State requirements, of a State RCRA permit, those EPA-issued permit provisions which the State is authorized to administer and enforce will expire. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit.

I conclude that Washington's application for a program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Washington is granted Final Authorization to operate its hazardous waste program as revised for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. Washington now has responsibility for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA and excluding from its revised program authority over Indians or Indian activities within the 1873 Survey Area. Washington also has primary enforcement responsibilities for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. EPA will retain jurisdiction over trust lands and over Indians and Indian activities on non-trust lands within the Survey Area. EPA retains the right to conduct inspections under section 3007 of RCRA, 42 U.S.C. 6927, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA, 42 U.S.C. sections 6928, 6934 and 6973.

D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize Washington's program and for incorporation by reference of those provisions of the State's authorized statutes and regulations EPA will enforce under sections 3008, 3013 and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR part 272, subpart WW, until a later date.

E. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on state, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate or to the private sector of $100 million or more in any one year. The section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of $100 million or more for State, local and/or tribal governments in the aggregate, or the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program. Today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. To the extent that the State's hazardous waste program is more stringent than the Federal program, any new requirements imposed on the regulated community apply by virtue of state law, not because of any new Federal requirement imposed pursuant to today's rule.

The requirements of section 203 of UMRA also do not apply today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments.

F. Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of proposed rulemaking under the Administrative Procedure Act or any other statute, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is not required, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities. Today's rule does not impose any federal requirements on regulated entities, whether large or small. Instead, today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and

Indian activities within the 1873 Survey Area. Today's rule carries out Congress' intent under both RCRA and the Settlement Act that states should be authorized to implement their own hazardous waste programs as long as those programs are equivalent to, and no less stringent than, the Federal hazardous waste program. In this case, to the extent that the State's hazardous waste program is more stringent than the Federal program, any new requirements imposed on the regulated community apply by virtue of state law, not because of any new Federal requirement imposed pursuant to today's rule.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

G. Submission to Congress and the Comptroller General

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. The 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 today's **Federal Register.** This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

I. Compliance With Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not impose a mandate upon a State, local or Tribal government.

Today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the Area. As such, the final rule is not subject to the requirements of Executive Order 12875.

J. Compliance With Executive Order 13045

Executive Order 13045 applies to any rule that the Office of Management and Budget determines is ''economically significant,'' as defined under Executive Order 12866, and where EPA determines the environment health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The Agency has determined that the final rule is not a covered regulatory action as defined in the Executive Order because it is not economically significant and is not a health or safety risk-based determination. Today's rule effects an administrative change by authorizing the State to implement its hazardous waste program in lieu of the Federal RCRA program for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. As such, the final rule is not subject to the requirements of Executive Order 13045.

K. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. The rule specifically grants Washington Final Authorization to operate its hazardous waste program as revised for the non-trust lands within the 1873 Survey Area except over Indians and Indian activities within the 1873 Survey Area. EPA will retain jurisdiction over trust lands and over Indians and Indian activities on non-trust lands within the Survey Area. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

L. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501, et seq., Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

M. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. No. 104–113, section 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 standards 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 action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary standards.

List of Subjects in 40 CFR Part 27

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

Authority: This notice 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. sections 6912(a), 6926, 6974(b).

Dated: September 10, 1998.

Chuck Clarke,

Regional Administrator, Region 10.

[FR Doc. 98–25321 Filed 9–21–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MARITIME COMMISSION

46 CFR Parts 502, 503, 510, 514, 540, 572, 585, 587 and 588

[Docket No. 98–09]

Update of Existing and Addition of New Filing and Service Fees

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission (''Commission'') is revising its existing fees for filing petitions and complaints; various public information services, such as record searches, document copying, and admissions to practice; filing freight forwarder applications; various ATFI-related services; passenger vessel performance and casualty certificate applications; and agreements. These revised fees reflect current costs to the Commission. In addition, the Commission adds three new fees for the publication of the Regulated Persons Index (''RPI'') on diskette; the application to amend a passenger vessel operator's Certification of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation and Certification of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages (''Certificates'') for the addition or substitution of a vessel to the applicant's fleet; and the agency's review of corrections of clerical errors in service contracts, as requested by parties to a service contract.

EFFECTIVE DATE: November 2, 1998

FOR FURTHER INFORMATION CONTACT: Sandra L. Kusumoto, Director, Bureau of Administration, Federal Maritime Commission, 800 North Capitol Street, NW, Washington, D.C. 20573–0001, (202) 523–5866, E-mail: sandrak@fmc.gov.

SUPPLEMENTARY INFORMATION: On July 1, 1998, the Commission published in the **Federal Register** a Notice of Proposed Rulemaking (''NPR'' or ''Proposed Rule'') in Docket No. 98–09, *Update of Existing and Addition of New Filing and Services Fees*, 63 FR 35896. No comments were received.

This rule updates the Commission's current filing and service fees which have been in effect since 1995, and are no longer representative of the Commission's actual costs for providing such services. Fee increases primarily reflect increases in salary and indirect (overhead) costs. For some services, the increase in processing or review time accounts for the increase in the level of proposed fees.

The Commission is eliminating several fees. Fees associated with the provision of subscription services will be discontinued because of diminished public demand for them and because most of the information can be found on the Internet, the Commission's website, or requested from the Office of the Secretary on an *ad hoc* basis. Some fees associated with ATFI Subscriber Tapes have been eliminated in accordance with Docket No. 95–13, *Automated Tariff Filing and Information System* (60 FR 56122, November 7, 1995).

The Commission is instituting three new user fees for: The provision of the RPI on diskette, the issuance of Pub. L. 89–777 Certificates to add or substitute a vessel to the applicant's fleet, and the agency's review of corrections of clerical errors in service contracts, as requested by parties to a service contract under 46 CFR 514.7(k)(2). Provisions of parts 585, 587, and 588 are amended to clarify that fees governing the filing of petitions are applicable.

The Commission intends to update its fees biennially in keeping with OMB guidance. In updating its fees, the Commission will incorporate changes in the salaries of its employees into direct labor costs associated with its services, and recalculate its indirect costs (overhead) based on current level of costs.

This regulatory action was not subject to OMB review under Executive Order 12866, dated September 30, 1993. It is not a major rule under 5 U.S.C. 804(2). In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chairman of the Federal Maritime Commission has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule will not have a significant economic impact on a substantial number of small entities. In the NPR, the Commission stated its intention to certify this rulemaking because it is required to collect fees from the general public to recover the cost of providing certain, specific services; the proposed increases are generally *de minimis;* and in addition, its regulations provide for waiver of fees for those entities that can make the required showing of undue hardship (46 CFR 503.41). No comments were received in this proceeding. Therefore, based on the lack of comments, the *de minimis* nature of the increase, and the statutory requirement that the fees be collected, the certification is continued. This Rule does not contain any collection of information requirements as defined by the Paperwork Reduction Act of 1980, as amended. Therefore, OMB review is not required.

List of Subjects

46 CFR Part 502

Administrative practice and procedure, Claims, Equal Access to Justice, Investigations, Lawyers, and Reporting and record keeping requirements.

46 CFR Part 503

Classified information, Freedom of Information, Privacy, and Sunshine Act.

46 CFR Part 510

Freight forwarders, Maritime carriers, Reporting and record keeping requirements, and Surety bonds.

46 CFR Part 514

Freight, Harbors, Maritime carriers, and Reporting and record keeping requirements.

46 CFR Part 540

Insurance, Maritime carriers, Penalties, Reporting and record keeping requirements, and Surety bonds.

46 CFR Part 572

Administrative practice and procedure, Freight, Maritime carriers, and Reporting and record keeping requirements.

46 CFR Part 585

Administrative practice and procedure, Maritime carriers.