

US EPA ARCHIVE DOCUMENT

VII. PREPARING THE CODIFICATION PACKAGE

OVERVIEW

This chapter describes how to prepare and organize the materials (referred to as the "codification package") that you would submit to the Office of the Federal Register for the codification. The following topics are discussed in this chapter:

- A. Content of the Codification Package,
- B. Developing the "Table of Contents" for the Materials Incorporated By Reference,
- C. Preparing Clean Copies of the State's Statutes and Regulations,
- D. Preparing a Redlined Copy of the State's Statutes and Regulations,
- E. Preparing and Organizing the Contents of the EPA Binders, and
- F. Preparing the Letter to the Director of the Office of the Federal Register.

A. CONTENT OF THE CODIFICATION PACKAGE

KEY CONCEPTS

The codification package must include the codification Federal Register notice, the EPA binder, a chargeback form and a letter to the Director of the Office of the Federal Register requesting approval of the incorporation by reference.

CONTENTS

The codification package submitted to the Office of the Federal Register must include:

CODIFICATION <u>FR</u>	P	The codification <u>Federal Register</u> notice, prepared as described in Chapter V. The notice must be double spaced, signed and dated by the Regional Administrator.
EPA BINDER	P	The EPA Binder, properly labeled and containing (1) a "Table of Contents" showing the relationship between the provisions incorporated by reference and the State's statutes and regulations; and (2) clean, clear, redlined copies of the statutes and regulations incorporated by reference.
CHARGEBACK FORM	P	The Federal Register Typesetting Request (EPA Chargeback Form 2340-15) with the appropriate accounting information. A blank copy is shown in Appendix J.
LETTER TO DIRECTOR	P	A letter to the Director of the Office of the Federal register requesting approval of the incorporation by reference (IBR).

The remaining sections of this chapter give specific instructions on how to prepare, develop and organize the contents of the EPA Binder, as well we how to prepare the letter to the Director of the Office of the Federal Register.

B. DEVELOPING THE "TABLE OF CONTENTS" FOR THE MATERIALS INCORPORATED BY REFERENCE**KEY CONCEPTS**

The EPA Binder must include a "Table of Contents" or other documentation showing the relationship between the incorporated materials and the official State statutes and regulations.

**OFR
REQUIREMENTS**

The Office of the Federal Register (OFR) requires that the EPA binder must include a "Table of Contents" or other appropriate documentation showing the relationship between the incorporated materials and the official State statutes and regulations.

**USE OF PART 272,
APPENDIX A**

You will recall from the discussions in Chapters III through V that not all provisions found in the State's official statutes and regulations are incorporated by reference. For example, procedural/enforcement and broader-in-scope provisions are not incorporated by reference. Similarly, unauthorized words, phrases, sentences and paragraphs that are easily redlined are crossed out and excluded from the incorporation by reference. You will also recall, from Chapter V, that Appendix A of Part 272 lists the State's specific statutory and regulatory provisions incorporated by reference, and specifies the exceptions to the incorporation by reference. Thus, the State's insert for Appendix A of Part 272 in the codification Federal Register notice may be used as the basis for developing the "Table of Contents" or documentation for the materials incorporated by reference. This approach assures that the listing of the statutory and regulatory provisions in the "Table of Contents" is identical to the State's provisions listed in Appendix A to Part 272.

**CONTENT AND
STRUCTURE**

The manner in which you organize the "Table of Contents" depends on the nature of the document incorporated by reference. In general, it should include a heading, the title and date of the materials, followed by a listing of the specific requirements incorporated by reference organized in one column. Additional columns may be added to provide a description for the requirement and the page numbers of the State statutes or regulations where the requirements may be found in the EPA Binder.

EXAMPLES

The two examples below illustrate "Table of Contents" that are acceptable to the Office of the Federal Register. Exhibit VII-1 is based on a State's statutory provisions taken from two separate documents. The columns show the specific sections of the statutes incorporated by reference, a brief description of each statutory section and the page number in the statutes where the section can be found. Including the page numbers is especially useful for the State's statutes because only selected statutory requirements are incorporated by reference. Thus, specifying the page numbers makes it easier to quickly find the IBR provisions.

EXAMPLE
ADDRESSING
STATUTES

Exhibit VII-1. Sample "Table of Contents" -- Statutory Requirements

**EPA APPROVED ARKANSAS STATUTORY REQUIREMENTS
APPLICABLE TO THE HAZARDOUS WASTE MANAGEMENT
PROGRAM
September, 1993**

**Arkansas Hazardous Waste Management Act, as amended, Act 406
of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.),
1991 Replacement**

Sections	Description	Page
8-7-215	Permits--Requirement	333
8-7-223	Location of landfill	337
8-7-224	Rules for transporting hazardous waste	337
8-7-225(a)	Records and examinations	337

**Arkansas Hazardous Waste Management Act, as amended, Act 406
of 1979, as amended, Arkansas Code of 1987 Annotated (A.C.A.),
1991 Supplement**

Sections	Description	Page
8-7-216	Permits--Issuance generally--Interim operations	122- 123

Exhibit VII-2 is based on a State's regulatory requirements and shows the Subchapters from the State's regulations, the specific section incorporated by reference, and the associated phrases, sentences, etc., excluded from the IBR. Note that, in this case, no page numbers are provided. This is because most of the State's regulatory requirements are incorporated by reference and the regulatory citations themselves can be used to easily find specific provisions.

**Exhibit VII-2. Sample "Table of Contents" --
Regulatory Requirements**

**EPA APPROVED OKLAHOMA REGULATORY
REQUIREMENTS APPLICABLE TO THE HAZARDOUS WASTE
MANAGEMENT PROGRAM**

September, 1993

**Industrial Waste Management Regulations, Chapter 270, Title 310
*The Oklahoma Administrative Code, December 31, 1991***

Subchapter	Section
Subchapter 1	310:270-1-2 (excluding definitions for "Annulus", "Cone of influence", "Fresh water" and "Maximum total pressure gradient")
Subchapter 3	310:270-3-1 (excluding the phrase "and the Underground Injection Control Program, as amended through July 1, 1990)
	310:270-3-2 introductory paragraph
	310:270-3-4(a)
	310:270-3-5 (excluding "40 CFR 144.3, 40 CFR 146.3, or")

C. PREPARING CLEAN COPIES OF THE STATE'S STATUTES AND REGULATIONS

KEY CONCEPTS

- Each document must include a title page and the associated effective date.
- Do not combine materials from different sources as part of the same document.
- Do not combine materials from volumes of different dates as part of the same document.
- Include the certification or letter, if any, from the State as part of the document to be incorporated by reference.
- Copies of all documents must be first rate, high quality, clean and legible.

STANDARDS FOR COPIED DOCUMENTS

The Office of the Federal Register (OFR) will only accept copies of materials that meet its strict standards concerning organization of the materials and copy quality.

TITLE PAGE

Each document to be incorporated by reference must include a cover page showing the **full title** and **effective date** as it appears in the codification Federal Register notice.

UNACCEPTABLE DOCUMENTS

Specifically, do not submit as a document for OFR approval:

- P Materials combined from different sources; or
- P Materials combined from volumes of different dates.

CERTIFICATION

Any certification or letter from the State stating that the statutes or regulations are the official versions must be included with the materials.

COPY QUALITY

In order to meet OFR's copy standards, you must take great care in preparing clean, legible copies before and after redlining. The print quality must be first rate and must also meet the following requirements:

- P It must be high quality, clean, legible copies; there should be no "blotches" or black spots on any page.
- P The print quality must be uniform on each page; i.e., there should be no light and dark contrasts on the page.
- P If the initial copy has black strips around the edges as a result of copying from a book, you should trim the black strips, place the trimmed copy on a clean sheet of white paper and completely tape the edges and make a new copy of the page. Make sure the tape does not show in the new copy.
- P The text on each page must be straight.

D. PREPARING A REDLINED COPY OF THE STATE'S STATUTES AND REGULATIONS**KEY CONCEPTS**

- Use the regulatory and statutory crosswalks to identify provisions that are not incorporated by reference and should be redlined.
- Use a ruler to neatly redline (cross out) the provisions not incorporated by reference.
- Use the "Table of Contents" document from Section B of this chapter to verify your redlining.

REDLINING

To "redline" a copy of a State's statutes or regulations means to cross out those portions of the statutes or regulations that are not incorporated by reference. In order to prepare the redline copies of the IBR materials, you will need:

- P** The statutory crosswalks from Chapter III,
P The regulatory crosswalk from Chapter IV, and
P The "Table of Contents" document from Section B of this chapter.

**IDENTIFYING
PROVISIONS FOR
REDLINING**

Most of the specific provisions to be redlined can be found in columns 6, 7 and 8 (the last three columns) of both the statutory crosswalk and the regulatory crosswalk. These are the columns that are used to document provisions that are not incorporated by reference, namely (1) the procedural/enforcement provisions, (2) broader-in-scope provisions and (3) unauthorized RCRA provisions and those provisions that are outside the scope of RCRA. In addition, Column 4 of both crosswalks should have specified those unauthorized words, phrases, sentences and paragraph that should be redlined from the authorized provisions.

**REDLINING
PROCEDURES**

The process of redlining the statutes and regulations is the same; thus, no distinction is made between them in this discussion. The following steps are recommended for the redlining:

1. Use a ruler to neatly redline the unauthorized provisions.
2. Using the crosswalk, start from the beginning of the State's statutes/regulations to systematically identify and redline the provisions in columns 6, 7 and 8 and the extra language from column 4 that needs to be excluded from the IBR.
3. If an entire paragraph is to be redlined, use a "Z" format to cross it out, making sure that the first and last lines are crossed out, as shown for §340-101-033(3)(c) in Exhibit VII-3 below. Phrases and sentences can be crossed out by simply drawing a straight horizontal line through them as shown for §340-101-033(3)(b) in Exhibit VII-3.

4. If an entire section is to be redlined, be sure to cross out the section number and heading.

EXAMPLE OF
REDLINING

**Exhibit VII-3. Redline of Unauthorized Provisions
from a State's Regulations**

Additional Hazardous Wastes

340-101-033 (1) The residues identified in sections (2) and (3) of this rule are hazardous wastes and are added to and made a part of the list of hazardous wastes in **40 CFR 261.33**.

(2) Any residue, including but not limited to manufacturing process wastes and unused chemicals that has either:

(a) A three percent or greater concentration of any substance or mixture of substances listed in **40 CFR 261.33(e)**; or

(b) A ten percent or greater concentration of any substance or mixture of substances listed in **40 CFR 261.33(f)**, except U075 (Dichlorodifluoro-methane) and U121 (Trichloromonofluoromethane) when they are intended to be recycled.

(3) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water, of either:

(a) A residue identified in subsection (2)(a) of this rule; or

(b) A residue identified in subsection (2)(b) of this rule;

(c) A residue identified in subsections (2)(a) or (b) of this rule as a hazardous waste has the hazardous waste letters "OR" followed by the corresponding hazardous waste number(s) in **40 CFR 261.33(e) and (f)**.

[Taken from the Oregon Administrative Rules, Chapter 340 as amended June 9, 1992.]

QA/QC After using the crosswalk to redline the relevant provisions in the entire statutes/regulations,

P Use the "Table of Contents" document developed under Section B to verify that only those provisions that are being incorporated by reference are not crossed out. The State provisions that are not redlined in the official code should match, exactly, the listing of the provisions incorporated by reference in Part 272. For example, if the entry in the "Table of Contents" and

Appendix A of Part 272 specifies "§335.10(b)(22), except the first sentence", only the first sentence of the paragraph must be redlined. This verification process acts as a final check for quality assurance and control. Remember that the listing of the statutory and regulatory provisions in the "Table of Contents" must be identical to the State's provisions listed in Appendix A to Part 272.

E. PREPARING AND ORGANIZING THE CONTENTS OF THE EPA BINDER

KEY CONCEPTS

- Use a three-ring presentation-style binder, with cover and spine title pockets, for the EPA binder.
- Label the binder as shown in Exhibits VI-5 and VI-6.
- The EPA binder contains, in the following order:
 - (1) the "Table of Contents" for the statutory requirements,
 - (2) a redlined copy of the State's statutes incorporated by reference,
 - (3) the "Table of Contents" for the regulatory requirements, and
 - (4) a redlined copy of the State's regulations incorporated by reference.

THREE-RING EPA BINDER

At this point, you should have prepared the "Table of Contents" and redlined "clean" copies of the State's statutes and regulations incorporated by reference. This information will be placed in a three-ring binder to form the EPA binder. A recommended binder is a presentation binder with cover page and spine pockets. The cover page and spine should be labeled as shown below in Exhibits VII-4 and VII-5, respectively:

COVER PAGE

Exhibit VII-4: Model Cover Page for EPA Binder

EPA-Approved
[Insert State's name] Regulatory and
Statutory Requirements
Applicable to the
Hazardous Waste Management Program

[Insert month and year]

SPINE

Exhibit VII-5: Model Insert for Spine of EPA Binder

INSERT STATE'S NAME]: EPA-Approved Regulatory and Statutory Requirements,
[INSERT MONTH, YEAR]

F. PREPARING THE LETTER TO THE DIRECTOR OF OFFICE OF THE FEDERAL REGISTER

KEY CONCEPTS

Use the Model provided to prepare the letter to the Office of the Federal Register.

**MODEL
LANGUAGE**

Exhibit VII-6 shows a copy of model language for the letter to the Director of Federal Register. The places where you need to insert specific information are shaded. To prepare the letter, simply follow the embedded instruction the model letter.

MODEL LETTER

Exhibit VII-6. Model Letter to the Office of the Federal Register

[Date]

Martha L. Girard
Director
Office of the Federal Register
800 North Capitol Street, N.W., suite 700
Washington, DC

Dear Ms. Girard:

Enclosed is a package containing a Federal Register notice to incorporate by reference approval of the RCRA hazardous waste program of the State of [Insert State's Name]. Also enclosed is a copy of the material to be incorporated by reference. Our office requests that the Director incorporate by reference the enclosed statutes and regulations of the State of [Insert State's Name] into 40 CFR § 272. __1. This incorporation by reference will substantially reduce the volume of material that will need to be published in the Federal Register.

These materials are available to the public and copies may be inspected at the U.S. EPA Region __ Library, [Insert Address], the EPA Hazardous Waste Division Docket at 401 M Street, SW, Washington, DC 20460, the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC, or at the [Insert State lead agency's name and address].

Any questions or comments regarding this incorporation by reference should be addressed to [Insert name of Regional Contact], EPA Region __, at phone number _____.

Sincerely yours,

[Insert name, title and complete address of
Regional Administrator]

Enclosures

G. EXERCISES

PURPOSE The following exercises are designed to reinforce the topics presented in Chapters VII and VIII and provide hands-on experience in completing specific tasks associated with the submission of a codification package. Be sure to read Chapter VIII, in addition to Chapter VII, before completing this exercise.

EXERCISE VII-1 Three scenarios addressing the development and submission of the codification package.

ANSWERS The answers to these exercises are in Appendix L, pages L-19.

EXERCISE VII-I

Submitting the Codification Package

PURPOSE

- To reinforce the requirements for submitting the codification package.

**WORKBOOK
REFERENCE**

Chapters VII & VIII

**BACKGROUND
MATERIALS
PROVIDED**

None

ASSUMPTIONS

This exercise assumes that you have read Workbook Chapters VII and VIII and that you have already:

- P Prepared both the statutory and regulatory crosswalks.
- P Prepared the codification Federal Register notice.
- P Prepared the Addendum.

INSTRUCTIONS

Three scenarios follow with each describing the package that will be submitted to the EPA Federal Register Liaison. In the space below each scenario, list what is wrong with the package being submitted.

ANSWERS

See Appendix L, pages L-19.

EXERCISE VII-1 SCENARIO 1

The package submitted contains the following materials:

- P A transmittal memo to the EPA Liaison to the Office of Federal Register.
- P One copy of the signed codification Federal Register notice, single spaced, double sided, and numbered consecutively starting with the preamble through the last page of the text.
- P One copy of the EPA binder, properly labelled, containing only the materials to be incorporated by reference.
- P A memo to the Director of the Office of the Federal Register requesting approval of the incorporation by reference.
- P A diskette version of the codification Federal Register notice with a memo verifying that the disk matches the signed document.

This package was submitted to only the EPA Liaison to the Office of the Federal Register.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

(See Appendix L, page L-19 for the answer to this exercise.)

EXERCISE VII-1

SCENARIO 2

The package submitted contains the following:

- | | |
|---|---|
| P | A transmittal memo to the Liaison to the Office of Federal Register. |
| P | Five copies of the signed codification Federal Register Notice, double spaced, single sided, and numbered consecutively starting with the preamble through the last page of the text. |
| P | The Chargeback form (Federal Register Typesetting Request (EPA Form 2340-15)) with all the appropriate accounting information. |
| P | Two copies of the regulations and statutes to be incorporated by reference. |
| P | A letter to the Director of the Office of the Federal Register requesting approval of the Incorporation by Reference. |

This package was submitted to both the EPA Liaison to the Office of the Federal Register and to the State and Regional Programs Branch.

[illegible]

(See Appendix L, page L-19 for the answer to this exercise.)

**EXERCISE VII-1
SCENARIO 3**

The package submitted contains the following:

- P Five copies of the codification Federal Register notice, double spaced, single sided, and numbered consecutively starting with the preamble through the last page of the text.
- P The Chargeback form (Federal Register Typesetting Request (EPA Form 2340-15)) with all the appropriate accounting information.
- P Two copies of the EPA binder, properly labeled and prepared according to the instructions in Chapter VI, Sections B-D.
- P A letter to the EPA Liaison to the Office of the Federal Register requesting approval of the incorporation by reference.
- P A diskette version of the codification Federal Register notice.

This package was submitted to both the EPA Liaison to the Office of Federal Register and to the State and Regional Programs Branch.

(See Appendix L, page L-19 for the answer to this exercise.)