

US EPA ARCHIVE DOCUMENT

§ 180.155 1-Naphthaleneacetic acid; tolerances for residues.

- (a) *General.* (1) * * *
- (2) * * *
- (b) *Section 18 emergency exemptions.* Time-limited tolerances specified in the

following table are established for residues of the ethyl ester of 1-naphthaleneacetic acid in or on the following raw agricultural commodities resulting from use of the pesticide

pursuant to FIFRA section 18 emergency exemptions. The tolerances expire and are revoked on the date specified in the following table.

Commodity	Parts per million	Expiration/revocation date
avocado	0.05	December 31, 2012

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R08-RCRA-2009-0341; FRL-8941-1]

Colorado: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: 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. Colorado has applied to the EPA for final authorization of changes to its hazardous waste program under RCRA. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the state's changes through this immediate final action.

DATES: This final authorization will become effective on October 13, 2009 unless the EPA receives adverse written comments by September 11, 2009. If adverse written comments are received, EPA will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R08-RCRA-2009-0341, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *E-mail:* cosentini.christina@epa.gov.
- *Fax:* (303) 312-6341.

- *Mail:* Christina Cosentini, Region 8, Solid and Hazardous Waste Program, U.S. EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, phone number: (303) 312-6231.

- *Hand Delivery or Courier:* Deliver your comments to Christina Cosentini, Region 8, Solid and Hazardous Waste Program, Mailcode 8P-HW, U.S. EPA, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, phone number: (303) 312-6231.

Instructions: Direct your comments to Docket ID No. EPA-R08-RCRA-2009-0341. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information, disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected from disclosure through <http://www.regulations.gov>, or e-mail. The federal Web site, <http://www.regulations.gov>, is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail 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, 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 EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, 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 EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.
Docket: All documents in the docket are listed in the <http://www.regulations.gov>.

www.regulations.gov. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy from 9 a.m. to 4 p.m. at: EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, contact: Christina Cosentini, phone number (303) 312-6231, or the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80222-1530, contact: Randy Perila, phone number (303) 692-3364. The public is advised to call in advance to verify business hours.

FOR FURTHER INFORMATION CONTACT: Christina Cosentini, (303) 312-6231, cosentini.christina@epa.gov or Randy Perila, (303) 692-3364, randy.perila@state.co.us.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States that have received final authorization from 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 program. As the Federal program changes, states must change their programs and ask the EPA to authorize the changes. 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 the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Colorado's application to revise its authorized program meets all of the statutory and

regulatory requirements established by RCRA. Therefore, we grant Colorado Final Authorization to operate its hazardous waste program with the changes described in the authorization application. Colorado has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian country, and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that the 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 Colorado including issuing permits, until Colorado is authorized to do so.

C. What Is the Effect of Today's Authorization Decision?

This decision means that a facility in Colorado 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. Colorado has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to: (1) Conduct inspections, and require monitoring, tests, analyses, or reports; (2) enforce RCRA requirements, suspend or revoke permits, and, (3) take enforcement action regardless of

whether Colorado has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Colorado is being authorized by this action are already effective under state law, and are not changed by this action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before this rule because we view this as a routine program change. We are providing an opportunity for the public to comment now. In addition to this rule, we are publishing a separate document that proposes to authorize the state program changes in the proposed rules section of today's **Federal Register**.

E. What Happens if the EPA Receives Comments That Oppose This Action?

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. We will then address all public comments in a later **Federal Register** notice. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the Colorado hazardous waste program, we will withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified in this document. The **Federal Register** withdrawal document will specify which part of the

authorization will become effective, and which part is being withdrawn.

F. For What Has Colorado Previously Been Authorized?

Colorado initially received final authorization on October 19, 1984, effective November 2, 1984 (49 FR 41036), to implement the RCRA hazardous waste management program. We granted authorization for changes to the state's program on: October 24, 1986, effective November 7; 1986 (51 FR 37729), May 15, 1989, effective July 14, 1989 (54 FR 20847); May 10, 1991, effective July 9, 1991 (56 FR 21601); April 7, 1994, effective June 6, 1994 (59 FR 16568); November 14, 2003, effective January 13, 2004 (68 FR 64550) and March 12, 2008 (73 FR 13141) effective May 12, 2008.

G. What Changes Are We Approving With Today's Action?

Colorado submitted a final complete program application on December 20, 2006, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Colorado's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. The state of Colorado is not seeking to be authorized for Methods Innovation Rule and SW-846 Update (Checklist 208). Rather, Colorado's revisions consist of regulations that specifically govern Federal Hazardous Waste revisions promulgated from July 1, 2004 through June 30, 2005 (RCRA Clusters XV). Colorado's requirements are included in a chart with this document.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Nonwastewaters from Dyes and Pigments. (Checklist 206).	70 FR 9138-9180 February 24, 2005.	Colorado Hazardous Regulations, 6 CCR 1007-3 effective July 2, 2006; 261.4, 261.4(b)(15), 261.4(b)(15)(i)-(v), 261.32, 261.32(a)-(d), 261.32(d)(1)-(d)(2), 261.32(d)(2)(i)-(iv), 261.32(iv)(A)-(C), 261.32(d)(3), 261.32(d)(3)(i)-(iii), 261.32(d)(iii)(A)-(D), 261.32(d)(3)(iv), 261.32(d)(3)(iv)(A)-(B), 261.32(d)(3)(v)-(x), 261.32(x)(A)-(D), 261.32(d)(3)(xi), 261.32(d)(xi)(A)-(C), 261.32(d)(4)-(5), 261 Appendices VII-VIII, 268.20, 268.20(a)-(b), 268.20(b)(1)-(5), 268.20(c) 268.40/Treatment Standard Table and 268.48/Universal Waste Treatment Standard Table.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
Uniform Hazardous Waste Manifest Rule (Checklist 207).	70 FR 10776 March 4, 2005	Colorado Hazardous Regulations, 6 CCR 1007–3 effective July 2, 2006; 260.10, 261.7(b)(1)(iii)(A)–(B), 262.20, 262.20(a)(1), 262.20(a)(2), 262.21/Section heading, 262.21(a)(1)–(2), 262.21(b), 262.21(b)(1)–(5), 262.21(b)(5)(i)–(iii), 262.21(b)(6)–(8), 262.21(c), 262.21(d)(1)–(2), 262.21(d)(2)(i)–(iv), 262.21(d)(3), 262.21(e)–(f), 262.21(f)(1)–(6), 262.21(f)(6)(i)–(vi), 262.21(f)(7), 262.21(f)(7)(i), 262.21(f)(7)(i)(A)–(C), 262.21(f)(7)(ii), 262.21(f)(7)(ii)(7)(A)–(C), 262.21(g)(1), 262.21(g)(i)–(iv), 262.21(g)(2), 262.21(h)(1)–(3), 262.21(i)–(l), 262.21(m)(1), 262.21(m)(1)(i)–(ii), 262.21(m)(2), 262.27, 262.27/Section heading, 262.27, 262.27(a)–(b), 262.32, 262.32(b), 262.33, 262.34, 262.34(n), 262.34(n)(1)–(2), 262.54(c), 262.54(e), 262.60, 262.60(c)–(e), 262/Appendix, 262/Appendix 8700–22, 262/Appendix/8700–22/I, International Shipment Block, 262/Appendix 8700–22/II, 262/Appendix 8700–22/III, 262/Appendix 8700–22/IV, 262/Appendix 8700–22A/Instructions–Continuation Sheet, 263.20, 263.20(a)(1)–(3), 263.20(g), 263.20(g)(1)–(4), 263.21.
Checklist 207 Continues	70 FR 10776 March 4, 2005	263.21(b)(1)–(2), 263.21(b)(2)(i)–(ii), 264.70(a), 264.70(b), 264.71, 264.71(a)(1)–(2), 264.71(a)(2)(i)–(v), 264.71(a)(3)–(4), 264.71(e), 264.72, 264.72(a), 264.72(a)(1)–(3), 264.72(b)–(c), 264.72(d)(1)–(2), 264.72(e), 264.72(e)(1)–(7), 264.72(f), 264.72(1)–(7), 264.72(g), 264.76, 264.76(a), 264.76(a)(1)–(7), 264.76(b), 265.70(a), 265.70(b), 265.71, 265.71(a)(1)–(2), 265.71(a)(2)(i)–(v), 265.71(a)(3), 265.71(b)(4), 265.71(e), 265.72, 265.72(a), 265.72(a)(1)–(3), 265.72(b)–(c), 265.72(d)(1)–(2), 265.72(e), 265.72(e)(1)–(7), 265.72(f), 265.72(f)(1)–(7), 265.72(g), 265.76(a), 265.76(a)(1)–(7) and 265.76(b).

H. Where Are the Revised State Rules Different From the Federal Rules?

Colorado has requirements that are more stringent than the federal rules at (references are to the Code of Colorado Regulations, except where there is no state analog, then the reference is to the federal citation): state analog Section 261.32 includes two additional state-added listings (K901 and K902) related to military munitions; in 261 Appendix VII; and state analog 261 Appendix VIII includes additional state-added listings (K901, K902, P909, P910, and P911) related to military munitions. The State of Colorado’s hazardous waste rules are more stringent at 40 CFR 266.203 because the state has not adopted state analogs to the federal standards applicable to the transportation of solid waste military munitions. Specifically, the state regulations do not provide the exemptions that exist in 40 CFR 266.203; under the state’s regulations, waste military munitions that are being transported and that exhibit a hazardous waste characteristic or are listed as hazardous waste under Part 261, are not exempted from manifest requirements as in 40 CFR 264.70(a) and 265.70(a).

I. Who Issues and Administers Permits After the Authorization Takes Effect?

Colorado will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that were issued

prior to the effective date of this authorization until Colorado has equivalent instruments in place. We will not issue any new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Colorado is not yet authorized.

J. How Does Today’s Action Affect Indian Country (18 U.S.C. 1151) in Colorado?

Colorado is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. This includes: (1) Lands within the exterior boundaries of the following Indian reservations located within or abutting the State of Colorado, (a) Southern Ute Indian Reservation and (b) Ute Mountain Ute Indian Reservation; (2) any land held in trust by the United States for an Indian tribe, and (3) any other areas that are “Indian country” within the meaning of 18 U.S.C. 1151.

Therefore, this program revision does not extend to Indian country where EPA will continue to implement and administer the RCRA program.

K. What Is Codification and Is EPA Codifying Colorado’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 CFR, which occurs when EPA references the authorized state rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart G, for this authorization of Colorado’s program changes until a later date. EPA is not codifying the rules documented in this **Federal Register** notice in this authorization application.

L. 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. This action authorizes Colorado state requirements for the purpose of RCRA 3006, and imposes no additional requirements beyond those imposed by Colorado 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 action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the

communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). 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 authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. 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.

Under RCRA 3006(b), the EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a state authorization application to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. 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 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 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 October 13, 2009.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, 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: July 14, 2009.

Carol Rushin,

Acting Regional Administrator, Region 8.

[FR Doc. E9-19315 Filed 8-11-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

49 CFR Part 89

[Docket No. OST-2008-0329]

RIN 2105-AD78

Administrative Wage Garnishment

AGENCY: Office of the Secretary of Transportation (OST), DOT.

ACTION: Final rule.

SUMMARY: This final rule will implement the authority established under the Debt Collection Improvement Act of 1996 (DCIA) for DOT to collect the Department's past due indebtedness through administrative wage garnishment. The final rule will adopt, without change, the hearing procedures issued by the Department of the Treasury implementing administrative wage garnishment under the DCIA. This final rule would apply only to individuals who are not Federal employees. The final rule also will amend regulations on procedures for the collection of claims to conform DOT

regulations to applicable provisions of the DCIA.

DATES: This rule is effective September 11, 2009.

FOR FURTHER INFORMATION CONTACT:

Edward C. Ramos, Collections Specialist, Office of the Secretary of Transportation, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590; (202) 366-5905. Hearing and speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

In 1996, Congress enacted the Debt Collection Improvement Act of 1996 (Pub. L. 104-134, 110 Stat. 1321-1358, approved April 26, 1996), which amended the Debt Collection Act of 1982. Section 31001(o) of the DCIA authorizes collection of Federal agency debt by administrative wage garnishment (section 31001(o) is codified at 31 U.S.C. 3720D). Wage garnishment is a legal process whereby an employer withholds amounts from an employee's wages and pays those amounts to the employee's creditor in satisfaction of a withholding order. The DCIA authorizes Federal agencies to garnish up to 15% of the disposable pay of a debtor to satisfy delinquent nontax debt owed to the United States. Prior to the enactment of the DCIA, agencies were required to obtain a court judgment before garnishing the wages of non-Federal employees.

The DCIA directed the Secretary of the Treasury to issue implementing regulations (see 31 U.S.C. 3720D(h)) on this subject. On May 6, 1998 (63 FR 25136), the Department of the Treasury published a final rule implementing the statutory administrative wage garnishment requirements at 31 CFR 285.11. Paragraph (f) of 31 CFR 285.11 provides that "[a]gencies shall prescribe regulations for the conduct of administrative wage garnishment hearings consistent with this section or shall adopt this section without change by reference." Under the DCIA, the Treasury Department serves as a coordinator for Federal debt collection through its Treasury Offset Program.

This final rule would amend DOT's regulations at 49 CFR part 89, subpart B to adopt 31 CFR 285.11 in its entirety. Specifically, the final rule would establish a new 49 CFR 89.35 that would contain a cross-reference to 31 CFR 285.11.

On December 5, 2008, the DOT published a notice of proposed