

US EPA ARCHIVE DOCUMENT

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[FRL-7031-5]

Idaho: Final Authorization of State Hazardous Waste Management Program Revision**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Immediate final rule.

SUMMARY: Idaho has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (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. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Idaho's changes to their hazardous waste program will take effect as provided below. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on November 20, 2001 unless EPA receives adverse written comment by September 21, 2001. If EPA receives such comment, it 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: Send written comments to Jeff Hunt, U.S. EPA, Region 10, 1200 Sixth Avenue, Mail stop WCM-122, Seattle, WA 98101, phone, (206) 553-0256. You can view and copy Idaho's application from 9 a.m. to 4 p.m. at the following addresses: Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, phone, (208) 373-0502 and EPA Region 10, Library, 1200 Sixth Avenue, Seattle, WA, 98101, phone (206) 553-1289.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, U.S. EPA Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM-122, Seattle, WA, 98101, 206-553-0256.

SUPPLEMENTARY INFORMATION:**A. Why Are Revisions to State Programs Necessary?**

States which 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 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 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 Idaho's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Idaho final authorization to operate its hazardous waste program with the changes described in the regulations submitted for authorization. Idaho 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 EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Idaho, including issuing permits, until the State is granted authorization to do so.

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

The effect of this decision is that a facility in Idaho 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. Idaho 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:

- Do inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Idaho is being authorized by today's action are already effective, and are not changed by today's action.

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

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes. If EPA receives comments which oppose this authorization, or portion(s) thereof, that document will serve as a proposal to authorize such changes.

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

If 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. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, we may withdraw 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 above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Idaho Previously Been Authorized for?

Idaho initially received final authorization on March 26, 1990, effective April 9, 1990 (55 FR 11015) to implement the RCRA hazardous waste management program. We granted

authorization for changes to their program on April 6, 1992, effective June 5, 1992 (57 FR 11580), June 11, 1992, effective August 10, 1992 (57 FR 24757), April 12, 1995, effective June 11, 1995 (60 FR 18549), and October 21, 1998, effective January 19, 1999 (63 FR 56086).

Through three codification actions dated December 6, 1990 (55 FR 50327), June 11, 1992 (57 FR 24757), and June 25, 1999 (64 FR 34180) the EPA has codified at 40 CFR part 272, subpart N all authorization actions for the State of Idaho RCRA program, which reflect non-HSWA and HSWA requirements promulgated as of July 1, 1996, with the exception of the Organic Air Emission Standards for Tanks, Surface Impoundments and Containers (subpart CC standards).

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

On May 1, 2001, Idaho submitted a final complete program revision application, 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 Idaho's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Idaho final authorization for all delegable hazardous waste regulations promulgated as of July 1, 1998, as incorporated by reference in IDAPA 16.01.05.(002)-(016) and 16.01.05.997.¹

H. What Are the State Rules That Are Not Authorized?

Any subsequent changes to the Federal program that occurred after July 1, 1998 are not part of Idaho's authorized RCRA program. EPA is not authorizing IDAPA 16.01.05.000; 16.01.05.001; 16.01.05.006.02; 16.01.05.015.02(a), (b); 16.01.05.(017)-(996); 16.01.05.998; and 16.01.05.999.

I. Who Handles Permits After the Authorization Takes Effect?

Idaho 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 which we issued prior to the effective date of this authorization until the timing and

process for effective transfer to the State are mutually agreed upon. Until such time as formal transfer of the EPA permit responsibility to the State occurs, EPA and the State agree to coordinate the administration of permits in order to maintain consistency. EPA will continue to implement and issue permits for HSWA requirements for which Idaho is not yet authorized.

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

Idaho is not authorized to carry out its hazardous waste program in Indian country within the State. Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

K. 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. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart N for the codification of Idaho's program changes until a later date.

L. Administrative Requirements

The Office of Management and Budget 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 State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this 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 (Public Law 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 13084 (63 FR 27655, May 10, 1998). 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.

Under RCRA 3006(b), 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, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. 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. 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

¹ Sections of the Federal hazardous waste program are not delegable to the states. These sections are 40 CFR part 262, subparts E, F, & H; 40 CFR 268.5; 40 CFR 268.42(b); 40 CFR 268.44(a)-(g); and 40 CFR 268.6. Authority for implementing the provisions contained in these sections remains with EPA.

action will be effective November 20, 2001.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian 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: August 1, 2001.

Charles E. Findley,

Acting Regional Administrator, Region 10.

[FR Doc. 01-20211 Filed 8-21-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7039-6]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Schuylkill Metals Corporation Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces the deletion of the Schuylkill Metals Corporation Superfund Site from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the Florida Department of Environmental Protection (FDEP) have determined that the Site poses no significant threat to public health or the environment and therefore, further response measures pursuant to CERCLA are not appropriate.

EFFECTIVE DATE: August 22, 2001.

ADDRESSES: Comprehensive information on this site is available through the EPA Region 4 public docket, which is available for viewing at the information repositories at two locations. Locations, contacts, phone numbers and viewing hours are: U.S. EPA Region 4 Records

Center, attn. Ms. Debbie Jourdan, Atlanta Federal Center, 61 Forsyth Street, Atlanta, Georgia 30303-8909, (404) 562-8862, hours: 8:00 a.m. to 4:00 p.m., Monday through Friday by appointment only;

Bruton Memorial Library, 302 McLendon Street, Plant City, Florida 33566-3299, (813) 757-9215, hours: 9:00 a.m. to 9:00 p.m., Monday through Thursday 9:00 a.m. to 6:00 p.m., Friday 10:00 a.m. to 6:00 p.m., Saturday, closed, Sunday.

FOR FURTHER INFORMATION CONTACT: Galo Jackson, U.S. EPA Region 4, Mail Code: WD-SSMB, Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303-8960, (404) 562-8937.

SUPPLEMENTARY INFORMATION: EPA announces the deletion of the Schuylkill Metals Corporation Superfund Site in Plant City, Hillsborough County, Florida from the NPL, which constitutes appendix B of 40 CFR part 300. EPA published a Notice of Intent to Delete the Schuylkill Metal Corporation Superfund Site from the NPL on June 12, 2001 in the *Federal Register*, (66 FR 31580). EPA received no comments on the proposed deletion; therefore, no responsiveness summary is necessary for this Notice of Deletion.

EPA identifies sites on the NPL that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject to remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (Fund). Pursuant to 40 CFR 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed Remedial Actions if conditions at the site warrant such action. Deletion of a site from the NPL does not affect the responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: August 5, 2001.

Russell Wright,

Acting Regional Administrator, Region 4.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321 (c) (2); 42 U.S.C. 9601-9657; E.O. 12777, 56FR 54757, 3 CFR, 1991 Comp.; p. 351; E.O. 12580, 52 FR 2923, 3CFR, 1987 Comp.; p.193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the site “Schuylkill Metals Corp., Plant City, Florida.”

[FR Doc. 01-20896 Filed 8-21-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013-1168-06; I.D. 011101B]

RIN 0648-A082

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures and 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska; Correction

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

ACTION: Emergency interim rule; correction.

SUMMARY: This document corrects the July 17, 2001, emergency interim rule by adding footnote reference numbers and their corresponding footnotes, which were inadvertently omitted or published with errors to tables in the preamble and in the regulatory text.

DATES: Effective July 18, 2001, through December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Melanie Brown, NMFS, 907-586-7228 or e-mail at melanie.brown@noaa.gov.

SUPPLEMENTARY INFORMATION: The emergency interim rule that was published July 17, 2001 (66 FR 37167), implements Steller sea lion protection measures and announces final 2001 harvest specifications for the groundfish fisheries of the Bering Sea and Aleutian Islands Area and the Gulf of Alaska. As published, the final regulations contain errors that need to be corrected in Tables 7 and 27 to the preamble and in Tables 21 through 24 to 50 CFR part 679 by adding footnote reference numbers and footnotes.

Table 7 to the preamble inadvertently omitted a footnote. Table 27 to the