

US EPA ARCHIVE DOCUMENT

and pests, Reporting and recordkeeping requirements.

Dated: August 13, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.513 [Amended]

2. In § 180.513, by amending the table in paragraph (b) by revising the date “7/31/99” wherever it appears to read “1/31/01”.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6430–4]

Indiana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Indiana has applied for final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The revision basically covers regulatory changes that appeared in the **Federal Register** between July 1, 1992 and June 30, 1995, in addition, the revision includes Miscellaneous Units, and all minor rules appearing in the **Federal Register** between July 1, 1995 and June 30, 1997. The EPA has reviewed Indiana's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. EPA is authorizing the state program revision through this immediate final action. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and does not anticipate adverse comments.

However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as a proposal to authorize the revision should the Agency receive adverse comment. Unless EPA receives adverse written comments during the review and comment period, the decision to authorize Indiana's hazardous waste program revision will take effect as provided below.

DATES: This final authorization for Indiana will become effective without further notice on November 30, 1999, unless EPA receives adverse comment by October 1, 1999. Should EPA receive such comments it will publish a timely withdrawal informing the public that the rule will not take effect.

ADDRESSES: Send written comments referring to Docket Number Indiana ARA 14, to Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7450. Copies of the Indiana program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 9:00 am to 4:00 pm at the following addresses: Indiana Department of Environmental Management, 100 North Senate, Indianapolis, Indiana, contact Lynn West, (317) 232–3593, and EPA Region 5, contact Gary Westefer at the following address.

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM–7J, 77 West Jackson Boulevard, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise 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. Indiana

Indiana initially received Final Authorization on January 31, 1986, effective January 31, 1986 (51 FR 3955) to implement its base hazardous waste management program. Indiana received authorization for revisions to its program on October 31, 1986 (51 FR 39752) effective December 31, 1986, on January 5, 1988 (53 FR 128), effective January 19, 1988, on July 13, 1989 (54 FR 29557), effective September 11, 1989, on July 23, 1991 (56 FR 33717), effective September 23, 1991, on July 24, 1991 (56 FR 33866), effective September 23, 1991, on July 29, 1991 (56 FR 35831), effective September 27, 1991, on July 30, 1991 (56 FR 36010), effective September 30, 1991, on August 20, 1996 (61 FR 43008), effective October 21, 1996, and on August 20, 1996 (61 FR 43018), effective October 21, 1996.

EPA uses 40 CFR part 272 for codification of the decision to authorize Indiana's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. The authorized Indiana RCRA program was incorporated by reference into the CFR on August 23, 1989 (54 FR 34988) effective October 23, 1989. An update to this incorporation by reference is in process and will appear in 40 CFR part 272, subpart P at a later date.

On May 1, 1997, February 18, 1998 and June 22, 1999, Indiana submitted final complete program revision applications, seeking authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Indiana's applications, and now makes an immediate final decision, subject to receipt of adverse written comment, that Indiana's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Indiana Final Authorization for the program modifications contained in the revision.

Indiana is applying for authorization for changes and additions to the Federal RCRA implementing regulations that were promulgated between December 10, 1987 and June 30, 1997, as listed below:

Description of federal requirement	Federal Register date and page [and/or RCRA statutory authority]	Analogous state authority ¹
Hazardous Waste Miscellaneous Units/Checklist 45 ...	December 10, 1987, 52 FR 46496	329 IAC 3.1–4–1, 3.1–9–1, 3.1–13–1 effective February 24, 1992.

Description of federal requirement	Federal Register date and page [and/or RCRA statutory authority]	Analogous state authority ¹
Hazardous Waste Miscellaneous Units (Clarification and Correction)/Checklist 59.	January 9, 1989, 54 FR 615	329 IAC 3.1-13-1, 3.1-13-2(8),(9) effective February 24, 1992.
Used Oil Filter Exclusion; Technical Correction/Checklist 107.	July 1, 1992, 57 FR 29220	329 IAC 3.1-6-1, 3.1-6-2(6) effective March 5, 1997.
Toxicity Characteristics Revision/Checklist 108	July 7, 1992, 57 FR 30657	329 IAC 3.1-6-1, 3.1-6-2(6), 3.1-10-1, 3.1-10-2(18),(19) effective August 17, 1996.
Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris/Checklist 109.	August 18, 1992, 57 FR 37194	329 IAC 3.1-4-1, 3.1-6-1, 3.1-7-1, 3.1-9-1, 3.1-9-2(8), 3.1-10-1, 3.1-10-2, 3.1-10-2(12), 3.1-10-2(13), 3.1-12-1, 3.1-12-2(1),(2),(3), 3.1-12-2(6), 3.1-12-2(8),(9), 3.1-13-1, 3.1-13-2(8),(9), 3.1-14, 3.1-15, 3.1-15-3 effective August 17, 1996.
Coke By-Product Listings/Checklist 110	August 18, 1992, 57 FR 37284	329 IAC 3.1-6-1, 3.1-6-2(6) effective August 17, 1996.
Financial Responsibility for Third Party Liability, Closure and Post Closure/Checklist 113.	September 16, 1992, 57 FR 42832.	329 IAC 3.1-9-1, 3.1-9-2(8), 3.1-10-1, 3.1-10-2(13), 3.1-14, 3.1-14-26 through 3.1-14-40, 3.1-15, 3.1-15-4, 3.1-15-8, 3.1-15-9, 3.1-15-10 effective May 1, 1996.
Standards Applicable to Owners and Operators of Hazardous Waste treatment, storage and Disposal Facilities; Liability Coverage/Checklist 113.1.	September 1, 1988, 53 FR 33938	329 IAC 3.1-9-1, 3.1-9-2(8), 3.1-10-1, 3.1-10-2(13), 3.1-14, 3.1-14-26 through 3.1-14-40, 3.1-15, 3.1-15-2, 3.1-15-8, 3.1-15-9, 3.1-15-10 effective May 1, 1996.
Liability Requirements; Technical Amendment/Checklist 113.2.	July 1, 1991, 56 FR 30200	329 IAC 3.1-9-1, 3.1-9-2(8), 3.1-10-1, 3.1-10-2(13), 3.1-14, 3.1-15, 3.1-15-8, 3.1-15-9, 3.1-15-10 effective May 1, 1996.
Chlorinated Toluene Production Waste Listing/Checklist 115.	October 15, 1992, 57 FR 47376 ...	329 IAC 3.1-6-1 effective August 17, 1996.
Hazardous Soil Case-By-Case Capacity Variance/Checklist 116.	October 20, 1992, 57 FR 47772 ...	329 IAC 3.1-12-1, 3.1-12-2(10) effective August 17, 1996.
Mixture and Derived-From Rules; Response to Court Remand/Checklist 117A.	March 3, 1992, 57 FR 7628	329 IAC 3.1-6-1 effective August 17, 1996.
Mixture and Derived-From Rules; Technical Correction/Checklist 117A.1.	June 1, 1992 57 FR 23062	329 IAC 3.1-6-1 effective August 17, 1996.
Mixture and Derived-From Rules; Final Rule/Checklist 117A.2.	October 20, 1992 57 FR 49278	329 IAC 3.1-6-1 effective August 17, 1996.
Toxicity Characteristic Revision/Checklist 117B	June 1, 1992 57 FR 23062	329 IAC 3.1-6-1 effective August 17, 1996.
Liquids in Landfills II/Checklist 118	November 18, 1992 57 FR 54452	329 IAC 3.1-4-1, 3.1-9-1, 3.1-10-1, 3.1-10-2(20) effective August 17, 1996.
Toxicity Characteristic Revision; TCLP/Checklist 119 as amended/Checklist 119.1.	November 24, 1992 57 FR 55114	329 IAC 3.1-6-1 effective August 17, 1996.
Wood Preserving; Amendments to Listings and Technical Requirements/Checklist 120.	February 2, 1993 58 FR 6854	
Corrective Action Management Units and Temporary Units; Corrective Action Provisions Under Subtitle C/Checklist 121.	December 24, 1992 57 FR 61492	329 IAC 3.1-6-1, 3.1-9-1, 3.1-10-1 effective August 17, 1996.
Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-By-Case Capacity Variance/Checklist 123.	February 16, 1993 58 FR 8658	329 IAC 3.1-4-1, 3.1-9-1, 3.1-10-1, 3.1-10-2(1),(2),(3), 3.1-12-1, 3.1-12-2(6), 3.1-13-1 effective August 17, 1996.
Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated/Checklist 124.	May 14, 1993 58 FR 28506	329 IAC 3.1-12-1, 3.1-12-2(10) effective August 17, 1996.
Testing and Monitoring Activities/Checklist 126 as amended/Checklist 126.1.	May 24, 1993 58 FR 29860	329 IAC 3.1-9-1, 3.1-9-2(1),(2), 3.1-10-1, 3.1-10-2(1),(2),(3), 3.1-12-1, 3.1-12-2(1),(2),(3),(4),(5),(6), 3.1-12-2(8) effective August 17, 1996.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Wastes from Wood Surface Protection/Checklist 128.	August 31, 1993 58 FR 46040	329 IAC 3.1-1-7, 3.1-5-2, 3.1-6-1, 3.1-9-1, 3.1-10-1, 3.1-10-2(20), 3.1-12-1, 3.1-13-1 effective August 17, 1996.
Hazardous Waste Management System; Identification and Listing of Hazardous Waste, Treatability Studies Sample Exclusion/Checklist 129.	September 19, 1994 59 FR 47980	329 IAC 3.1-1-7, 3.1-6-1 effective August 17, 1996.
Recordkeeping Instructions/Checklist 131	January 4, 1994 59 FR 458	329 IAC 3.1-9-1, 3.1-10-1 effective August 17, 1996.
Hazardous Waste Management System; Identification and Listing of Hazardous Wastes; Wastes from Wood Surface Protection; Correction/Checklist 132.	March 24, 1994 59 FR 13891	329 IAC 3.1-9-1, 3.1-10-1 effective August 17, 1996.
Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Underground Storage Tanks, and Underground Injection Control Systems; Financial Assurance; Letter of Credit/Checklist 133.	March 24, 1994 59 FR 13891	329 IAC 3.1-9-1, 3.1-10-1 effective August 17, 1996.
Hazardous Waste Management System; Correction of Listing of P015-Beryllium Powder/Checklist 134.	June 2, 1994 59 FR 28484	329 IAC 3.1-1-7 effective August 17, 1996.
	June 10, 1994 59 FR 29958	329 IAC 3.1-9-1, 3.1-9-2(8), 3.1-14-26 through 3.1-14-40 effective May 1, 1996.
	June 20, 1994 59 FR 31551	329 IAC 3.1-6-1, 3.1-12-1, 3.1-12-2(1),(2),(3) effective August 17, 1996.

Description of federal requirement	Federal Register date and page [and/or RCRA statutory authority]	Analogous state authority ¹
Identification and Listing of Hazardous Waste; Amendments to Definition of Hazardous Waste/ Checklist 135.	July 28, 1994 59 FR 38536	329 IAC 3.1-6-1, 3.1-6-2(4), 3.1-6-2(6), 3.1-11-1 effective August 17, 1996.
Standards for the Management of Specific Hazardous Wastes; Amendment to Subpart C—Recyclable Materials Used in a Manner Constituting Disposal; Final Rule/Checklist 136.	August 24, 1994 59 FR 43496	329 IAC 3.1-11-1, 3.1-12-1 effective August 17, 1996.
Land Disposal Restrictions Phase II—Universal Treatment Standards, and Treatment Standards for Organic Toxicity Characteristic Waste and Newly Listed Waste/Checklist 137 as amended/Checklist 137.1.	September 19, 1994 59 FR 47982 January 3, 1995 60 FR 242	329 IAC 3.1-5-4, 3.1-6-1, 3.1-6-2(2), 3.1-9-1, 3.1-9-2(1),(2), 3.1-10-1, 3.1-10-2(1),(2),(3), 3.1-11-1, 3.1-11-2(1), 3.1-12-1, 3.1-12-2 (1 through 6), 3.1-12-2(8) effective August 17, 1996.
Hazardous Waste Management System; Testing and Monitoring Activities/Checklist 139.	January 13, 1995 60 FR 3089	329 IAC 3.1-1-7 effective August 17, 1996.
Hazardous Waste Management System; Carbamate Production Identification and Listing of Hazardous Waste; and CERCLA Hazardous Substance Designation and Reportable Quantities/Checklist 140 as amended/Checklist 140.1 as amended/Checklist 140.2.	February 9, 1995 60 FR 7824	329 IAC 3.1-6-1 effective August 17, 1996.
	April 17, 1995 60 FR 19165	
	May 12, 1995 60 FR 25619	
Hazardous Waste Management System; Testing and Monitoring Activities/Checklist 141.	April 4, 1995 60 FR 17001	329 IAC 3.1-1-7 effective August 17, 1996.
Universal Waste Rule (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); General Provisions/Checklist 142A.	May 11, 1995 60 FR 25492	329 IAC 3.1-1-1, 3.1-1-9, 3.1-4-1, 3.1-6-1, 3.1-6-2(3), 3.1-7-1, 3.1-9-1, 3.1-9-2(1),(2), 3.1-10-1, 3.1-10-2(1),(2),(3), 3.1-12-1, 3.1-12-2(4),(5), 3.1-13-1, 3.1-16-1, 3.1-16-2(1), 3.1-16-2(3), 3.1-16-2(5), 3.1-16-2(7) effective September 6, 1996.
Universal Waste Rule (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); Specific Provisions for Batteries/Checklist 142B.	May 11, 1995 60 FR 25492	329 IAC 3.1-4-1, 3.1-6-1, 3.1-6-2(4), 3.1-9-1, 3.1-9-2(1),(2), 3.1-10-1, 3.1-10-2(1),(2),(3), 3.1-11-1, 3.1-12-1, 3.1-12-2(4),(5), 3.1-13-1, 3.1-16-1, 3.1-16-2(1 through 7) effective September 6, 1996.
Universal Waste Rule (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); Specific Provisions for Pesticides/Checklist 142C.	May 11, 1995 60 FR 25492	329 IAC 3.1-4-1, 3.1-6-1, 3.1-9-1, 3.1-9-2(1),(2), 3.1-10-1, 3.1-10-2(1),(2),(3), 3.1-12-1, 3.1-12-2(4),(5), 3.1-13-1, 3.1-16-1, 3.1-16-2(1 through 7) effective September 6, 1996.
Universal Waste Rule (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); Specific Provisions for Thermostats/Checklist 142D.	May 11, 1995 60 FR 25492	329 IAC 3.1-4-1, 3.1-6-1, 3.1-9-1, 3.1-9-2(1),(2), 3.1-10-1, 3.1-10-2(1),(2),(3), 3.1-12-1, 3.1-12-2(4),(5), 3.1-13-1, 3.1-16-1, 3.1-16-2(1 through 7) effective September 6, 1996.
Universal Waste Rule (Hazardous Waste Management System; Modification of the Hazardous Waste Recycling Regulatory Program); Provisions for Petitions to add a New Universal Waste/Checklist 142E.	May 11, 1995 60 FR 25492	329 IAC 3.1-5-2, 3.1-16-1, 3.1-16-2(8) effective September 6, 1996.
Solid Waste, Hazardous Waste, Oil Discharge and Superfund Programs; Removal of Legally Obsolete Rules/Checklist 144.	June 29, 1995 60 FR 33912	329 IAC 3.1-6-1, 3.1-11-1, 3.1-13-1, 3.1-13-2(6), 3.1-13-3 effective August 17, 1996.
Hazardous Waste Management; Liquids in Landfills/ Checklist 145.	July 11, 1995 60 FR 35703	329 IAC 3.1-9-1, 3.1-10-1, 3.1-10-2(20) effective February 8, 1997.
Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste/Checklist 150.	March 26, 1996 61 FR 13103	329 IAC 3.1-6-1, 3.1-6-2(6) effective February 8, 1997.
Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision/Checklist 152.	April 12, 1996 61 FR 16289	329 IAC 3.1-6-1, 3.1-6-2(4), 3.1-7-1, 3.1-7-2(5), 3.1-7-2(7),(8), 3.1-7-16, 3.1-8-1, 3.1-8-2(1 through 3), 3.1-9-1, 3.1-9-2(6), 3.1-10-1, 3.1-10-2(8), 3.1-11-1, 3.1-16-1 effective April 18, 1998.
Criteria for Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste; Requirements for Authorization of State Hazardous Waste Programs/Checklist 153.	July 1, 1996 61 FR 34252	329 IAC 3.1-6-1 effective April 18, 1998.
Land Disposal Restrictions Phase III Emergency Extension of the K088 Capacity Variance/Checklist 155.	January 14, 1997 62 FR 1992	329 IAC 3.1-12-1 effective April 18, 1998.

¹ The Indiana provisions are from the Indiana Administrative Code, unless otherwise stated.

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based

upon the Federal program provisions for which the State is applying for authorization and which were issued by

EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under

the provisions for which the State is being authorized on the effective date of this authorization. This program revision does not grant Indiana the authority to operate the Federal program in Indian country, within the State of Indiana, as defined in 18 U.S.C. 1151.

EPA is publishing this rule without prior proposal because we view this as a noncontroversial program revision and do not anticipate adverse comment. However in the "Proposed Rules" section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to authorize the revision if we receive adverse comments. This authorization will become effective without further notice on November 30, 1999, unless EPA receives adverse comment by October 1, 1999. Should EPA receive such comments it will publish a timely withdrawal informing the public that the rule will not take effect. We will address all public comments in a subsequent final action based on the proposed rule. EPA may not provide additional opportunity for comment. Any parties interested in commenting must do so at this time.

The public may submit written comments on EPA's immediate final decision until October 1, 1999. Copies of Indiana's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document. The **ADDRESSES** section also indicates where to send written comments on this action.

C. Decision

I conclude that Indiana's application for program revision authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants Indiana Final Authorization to operate its hazardous waste program as revised. Indiana now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Indiana also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize Indiana's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will

enforce under sections 3008, 3013 and 7003 of RCRA. EPA reserves amendment of 40 CFR part 272, subpart P until a later date.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" 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. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that 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. Costs to State, local and/or tribal governments already exist under the Indiana program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for 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.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

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 rulemaking for any proposed or final rule, 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 unnecessary, 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 authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on

small entities. This rule, therefore, does not require a regulatory flexibility analysis.

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).

Compliance With Executive Order 12866

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

Compliance with Executive Order 12875

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, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to 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. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental

entities arise from that program, not from this action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

Compliance With Executive Order 13045

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) the Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have 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.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

Compliance With Executive Order 13084

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, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to 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 officials 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."

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affects the communities of Indian tribal governments. Indiana is

not authorized to implement the RCRA hazardous waste program in Indian country.

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.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) 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 consensus standards.

List of Subjects in 40 CFR Part 272

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 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).

David A. Ullrich,

Acting Regional Administrator, Region 5.

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