

US EPA ARCHIVE DOCUMENT

program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. 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.

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 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 rule will be effective on November 30, 2001.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 4, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: November 29, 2001.

Lawrence E. Starfield,

*Acting Deputy Regional Administrator,
Region 6.*

For the reasons set out in the preamble, Appendix A of Part 70 of title 40 of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended under the entry for Texas by adding paragraph (b) to read as follows:

Appendix A to part 70—Approval Status of State and Local Operating Permits Programs

*	*	*	*	*
Texas				
*	*	*	*	*

(b) The Texas Natural Resource Conservation Commission submitted program revisions on June 12, 1998, and June 1, 2001, and supplementary information on August 22, 2001; August 23, 2001; September 20, 2001; and November 5, 2001. The rule revisions adequately addressed the conditions of the IA effective on July 25, 1996, and which will expire on December 1, 2001. The State is hereby granted final full approval effective on November 30, 2001.

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[FR Doc. 01–30270 Filed 12–5–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7110–7]

Indiana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is granting Indiana final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on August 17, 2001 at 66 FR 43143 and provided for public comment. The public comment period ended on September 17, 2001. We received no comments. No further opportunity for comment will be provided. EPA has determined that Indiana's revisions satisfy all the requirements needed to qualify for final authorization, and is authorizing the State's changes through this final action. **DATES:** This final authorization will be effective on December 6, 2001.

ADDRESSES: You can view and copy Indiana's application from 9 am to 4 pm at the following addresses: Indiana Department of Environmental Management, 100 North Senate, Indianapolis, Indiana, (mailing address

P.O. Box 6015, Indianapolis, Indiana 46206) 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, (312) 886–7450.

SUPPLEMENTARY INFORMATION: On August 17, 2001, U.S. EPA published a proposed rule proposing to grant Indiana authorization for changes to its Resource Conservation and Recovery Act program, listed in section E of that notice, which was subject to public comment. No comments were received. We hereby determine that Indiana's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization.

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 Indiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant Indiana Final authorization to operate its hazardous waste program with the changes described in the authorization application. Indiana 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 Indiana, 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 Indiana 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. Indiana 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
- 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 Indiana is being authorized by today's action are already effective, and are not changed by today's action.

D. Proposed Rule

On August 17, 2001 (66 FR 43143) EPA published a proposed rule. In that rule we proposed granting authorization of changes to Indiana's hazardous waste program and opened our decision to public comment. The Agency received no comments on this proposal. EPA found Indiana's RCRA program to be satisfactory.

E. What Has Indiana Previously Been Authorized for?

Indiana initially received Final authorization on January 31, 1986, effective January 31, 1986 (51 FR 3955) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on October 31, 1986, effective December 31, 1986 (51 FR 39752); January 5, 1988, effective January 19, 1988 (53 FR 128); July 13, 1989,

effective September 11, 1989 (54 FR 29557); July 23, 1991, effective September 23, 1991 (56 FR 33717); July 24, 1991, effective September 23, 1991 (56 FR 33866); July 29, 1991, effective September 27, 1991 (56 FR 35831); July 30, 1991, effective September 30, 1991 (56 FR 36010); August 20, 1996, effective October 21, 1996 (61 FR 43018); September 1, 1999, effective November 30, 1999 (64 FR 47692), and January 4, 2001, effective January 4, 2001 (66 FR 733).

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

On March 16, 2001, Indiana submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision, that Indiana's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we propose to grant Indiana Final authorization for the following program changes: n

Description of Federal Requirement (include Checklist #, if relevant)	FEDERAL REGISTER date and page (and/or RCRA statutory authority)	Analogous State Authority
Hazardous and Used Oil Fuel Criminal Penalties; Checklist CP	November 8, 1984 SWDA 3006(h), 3008(d), 3014	IC 13-30-6 Effective 1996 previously codified at IC 13-17-13-4 Effective 1985 IC 13-17-13-3 Effective 1986
Hazardous Waste Management System; Testing and Monitoring Activities; Checklist 158.	June 13, 1997 62 FR 32452	329 IAC 3.1-1-7; 3.1-9-1; 3.1-10-1; 3.1-11-1 Effective April 5, 2000
Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Checklist 159.	June 17, 1997 62 FR 32974	329 IAC 3.1-6-1; 3.1-6-2(17); 3.1-6-2(18); 3.1-6-2(19); 3.1-6-2(20); 3.1-12-1; 3.1-12-2(10); 3.1-12-2(12) Effective April 5, 2000
Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance; Checklist 160.	July 14, 1997 62 FR 37694	329 IAC 3.1-12-1; 3.1-12-2(10) Effective April 5, 2000
Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment; Checklist 163.	December 8, 1997 62 FR 64636	329 IAC 3.1-9-1; 3.1-10-1; 3.1-13-1; 3.1-13-2(8), (9) Effective April 5, 2000
Kraft Mill Steam Stripper Condensate Exclusion; Checklist 164	April 15, 1998 63 FR 18504	329 IAC 3.1-6-1 Effective April 5, 2000
Recycled Used Oil Management Standards; Technical Correction and Clarification; Checklist 166; as amended Checklist 166.1.	May 6, 1998 63 FR 24963 July 14, 1998 63 FR 37780	329 IAC 3.1-6-1; 3.1-6-2(4); 13-1-1; 13-1-2; 13-3-1; 13-3-1(b)(2); 13-4-3; 13-6-6; 13-7-5; 13-8-5; 13-9-5 Effective April 5, 2000
Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes. Checklist 167A	May 26, 1998 63 FR 28556	329 IAC 3.1-12-1; 3.1-12-2(6); 3.1-12-2(10); 3.1-12-2(12); 3.1-12-2(13) Effective April 5, 2000
Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions Checklist 167B.	May 26, 1998 63 FR 28556	329 IAC 3.1-12-1; 3.1-12-2(1)(D); 3.1-12-2(2)(D); 3.1-12-2(3); 3.1-12-2(6) Effective April 5, 2000
Land Disposal Restrictions Phase IV—Corrections; Checklist 167C; as amended Checklist 167C.1.	May 26, 1998 63 FR 28556 June 8, 1998 63 FR 31266	329 IAC 3.1-12-1; 3.1-12-2(1)(C); 3.1-12-2(2)(C); 3.1-12-2(3); 3.1-12-2(12); 3.1-12-2(13) Effective April 5, 2000

Description of Federal Requirement (include Checklist #, if relevant)	FEDERAL REGISTER date and page (and/or RCRA statutory authority)	Analogous State Authority
Bevill Exclusion Revisions and Clarification; Checklist 167E	May 26, 1998	329 IAC 3.1-6-1
	63 FR 28556	Effective April 5, 2000
Exclusion of Recycled Wood Preserving Wastewaters; Checklist 167F	May 26, 1998	329 IAC 3.1-6-1
	63 FR 28556	Effective April 5, 2000
Hazardous Waste Combustors Revised Standards; Checklist 168	June 19, 1998	329 IAC 3.1-6-1; 3.1-13-1
	63 FR 33782	Effective April 5, 2000
Petroleum Refining Process; Checklist 169; as amended; Checklist 169.1.	August 6, 1998	329 IAC 3.1-6-1; 3.1-6-2(4); 3.1-6-2(17); 3.1-6-2(19); 3.1-11-1;
	63 FR 42110	3.1-12-1; 3.1-12-2(12)
	October 9, 1998	Effective April 5, 2000
	63 FR 54356	329 IAC 3.1-12-1; 3.1-12-2(12)
Land Disposal Restrictions Phase IV; Checklist 170	August 31, 1998	Effective April 5, 2000
Emergency Revisions of LDR Treatment Standards (Carbamate Production); Checklist 171.	September 4, 1998	329 IAC 3.1-12-1; 3.1-12-2(12); 3.1-12-2(13)
	63 FR 47409	Effective April 5, 2000
Emergency Revisions of LDR Treatment Standards (Characteristic Slags); Checklist 172.	September 9, 1998	329 IAC 3.1-12-1; 3.1-12-2(10)
	63 FR 48124	Effective April 5, 2000
Land Disposal Restrictions Treatment Standards (Spent Potliners); Checklist 173.	September 24, 1998	329 IAC 3.1-12-1; 3.1-12-2(10); 3.1-12-2(12)
	63 FR 51254	Effective April 5, 2000
Standards Applicable to Owners and Operators of Closed/Closing Facilities; Checklist 174.	October 22, 1998	329 IAC 3.1-9-1; 3.1-9-2(9); 3.1-10-1; 3.1-10-2(11); 3.1-10-2(12); 3.1-10-2(13); 3.1-10-2(14); 3.1-13-1; 3.1-13-2(1),(2),(3),(4); 3.1-13-2(8),(9); 3.1-13-3; 3.1-13-4; 3.1-13-5; 3.1-13-6; 3.1-13-7; 3.1-13-8; 3.1-13-9; 3.1-13-10; 3.1-13-11; 3.1-13-12; 3.1-13-13; 3.1-13-14; 3.1-13-15; 3.1-13-16; 3.1-13-17; 3.1-14; 3.1-15
	63 FR 56710	Effective April 5, 2000
Hazardous Remediation Waste Management Requirements (HWIR Media); Checklist 175.	November 30, 1998	329 IAC 3.1-4-1; 3.1-4-1(b); 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),(4); 3.1-12-1; 3.1-12-2(6); 3.1-13-1; 3.1-13-2(15)
	63 FR 65874	Effective April 5, 2000
Universal Waste Rule; Technical Amendment; Checklist 176	December 24, 1998	329 IAC 3.1-11-1; 3.1-11-2(3); 3.1-16-1; 3.1-16-2(3)
	63 FR 71225	Effective April 5, 2000
Organic Air Emission Standards; Checklist 177	January 21, 1999	329 IAC 3.1-7-1; 3.1-9-1
	64 FR 3381	Effective April 5, 2000
Petroleum Refining Process Wastes; Checklist 178	February 11, 1999	329 IAC 3.1-6-1
	64 FR 6806	Effective April 5, 2000

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

Indiana has excluded the non-delegable Federal requirements at 40 CFR 268.5, 268.6, 268.42(b), 268.44, and 270.3 in their Incorporation by Reference at 3.1-12-2 and 3.1-13-2(4). EPA will continue to implement those requirements.

H. Who Handles Permits After the Authorization Takes Effect?

Indiana 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 they expire or are terminated. We will not issue any more

new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Indiana is not yet authorized.

I. What Is Codification and Is EPA Codifying Indiana'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 P for this authorization of Indiana's program changes until a later date.

J. 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 (Pub. L. 104-4).

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes." This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Indiana is not approved to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State. Thus, Executive Order 13175 does not apply to this rule.

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), 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 F.R. 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).

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: November 2, 2001.

Robert Springer,

Acting Regional Administrator, Region 5.

[FR Doc. 01-30269 Filed 12-5-01; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3600, 3610, 3620, and 3800

[WO-320-1430-PB-24 1A]

RIN: 1004-AD29

Mineral Materials Disposal; Sales; Free Use; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule; correction.

SUMMARY: The Bureau of Land Management (BLM) published in the **Federal Register** of November 23, 2001, a final rule revising the regulations on Mineral Materials Disposal. The final rule inadvertently contained an incorrect effective date.

EFFECTIVE DATES: The effective date of the final rule published on November 23, 2001 (66 FR 58892), is corrected to read January 22, 2002.

FOR FURTHER INFORMATION CONTACT: Ted Hudson, Federal Register Liaison Officer, at (202) 452-5042. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION: On November 23, 2001, BLM published a final rule in the **Federal Register** (66 FR 58892) revising the regulations on Mineral Materials Disposal in 43 CFR part 3600. In FR Doc. 01-29001, we stated the wrong effective date in the first column of page 58892. The effective date should have been 60 days after the date of publication, or January 22, 2002.

Dated: November 26, 2001.

Michael H. Schwartz,

Group Manager, Regulatory Affairs.

[FR Doc. 01-30231 Filed 12-5-01; 8:45 am]

BILLING CODE 4310-84-P

DEPARTMENT OF DEFENSE

48 CFR Parts 202, 215, and 242

Defense Federal Acquisition Regulation Supplement; Technical Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement to