

US EPA ARCHIVE DOCUMENT

**Subpart MM—Oregon**

■ 2. Section 52.1970 is amended by revising paragraph (c)(145)(i)(A) and adding paragraph (c)(149) to read as follows:

**§ 52.1970 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
(145) \* \* \*

(i) Incorporation by reference.

(A) Oregon Administrative Rules, Chapter 340: 240–0090 and 240–0440, as effective December 15, 2004.

\* \* \* \* \*

(149) On August 9, 2007, the Oregon Department of Environmental Quality submitted a CO maintenance plan and requested redesignation of the Salem CO

nonattainment area to attainment for CO. The State’s maintenance plan and the redesignation request meet the requirements of the Clean Air Act.

(i) Incorporation by reference.

(A) The following revised sections of Oregon Administrative Rule 340: 204–0030 Designation of Nonattainment Areas (1) and (2) and 204–0040 Designation of Maintenance Areas (except (2)(c)), as effective June 28, 2007.

■ 3. Section 52.1973 is amended by adding paragraph (a)(2) to read as follows:

**§ 52.1973 Approval of plans.**

(a) \* \* \*

(2) EPA approves as a revision to the Oregon State Implementation Plan, the

Salem carbon monoxide maintenance plan submitted to EPA on August 9, 2007.

\* \* \* \* \*

**PART 81—[AMENDED]**

■ 4. The authority citation for part 81 continues to read as follows:

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

■ 5. In § 81.338, the table entitled “Oregon-Carbon Monoxide” is amended by revising the entry for “Salem Area” to read as follows:

**§ 81.338 Oregon.**

\* \* \* \* \*

**OREGON—CARBON MONOXIDE**

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * * * *		*		*
		Attainment.		
Salem Area:				
Salem Area Transportation Study Marion County (part).	3/2/08			
Polk County (part) .....	3/2/08			
* * * * *				*

<sup>1</sup> This date is November 15, 1990, unless otherwise noted.

\* \* \* \* \*

[FR Doc. E8–30825 Filed 12–29–08; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[EPA–R07–RCRA–2008–0830; FRL–8758–6]

**Nebraska: 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 EPA to authorize States to operate their hazardous waste management programs in lieu of the Federal program. Nebraska has applied to EPA for final authorization of the 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 rule.

**DATES:** This final authorization will become effective on March 2, 2009, unless EPA receives adverse written comment by January 29, 2009. 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:** Submit your comments, identified by Docket ID No. EPA–R07–RCRA–2008–0830, by one of the following methods:

1. *www.regulations.gov*. Follow the on-line instructions for submitting comments.

2. *E-mail:* [haugen.lisa@epa.gov](mailto:haugen.lisa@epa.gov).

3. *Mail or Hand Delivery:* Lisa Haugen, Environmental Protection Agency, RCRA Enforcement and State Programs Branch, 901 North 5th Street, Kansas City, Kansas 66101.

**Instructions:** Direct your comments to Docket ID No. EPA–R07–RCRA–2008–0830. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any

personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or e-mail information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site 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 *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.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, 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 form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, RCRA Enforcement and State Programs Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:** Lisa Haugen, (913) 551-7877, or by e-mail at [haugen.lisa@epa.gov](mailto:haugen.lisa@epa.gov).

**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, a State must change its program 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, the State must change its program 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 Has EPA Made in This Rule?**

EPA concludes that Nebraska's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, EPA grants Nebraska final authorization to operate its hazardous waste program with the

changes described in the authorization application. Nebraska 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 Nebraska, including issuing permits, until Nebraska is granted authorization to do so.

**C. What Is the Effect of This Authorization Decision?**

This decision means that a facility in Nebraska 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. Nebraska 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; require monitoring, tests, analyses or reports; and, (2) enforce RCRA requirements and suspend or revoke permits.

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

**D. Why Wasn't There a Proposed Rule Published Before This Rule?**

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

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

If EPA receives comments that oppose this authorization, EPA 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. EPA will then address all public comments in a later final rule. 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, EPA will 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 Nebraska Previously Been Authorized for?**

Nebraska initially received final authorization on January 24, 1985, effective February 7, 1985 (50 FR 3345), to implement the RCRA hazardous waste management program. EPA granted authorization for changes to Nebraska's program on October 4, 1985, effective December 3, 1988 (53 FR 38950); June 25, 1996, effective August 26, 1996 (61 FR 32699); April 10, 2003, effective June 9, 2003 (68 FR 17553); and October 4, 2004, effective December 3, 2004.

**G. What Changes Is EPA Authorizing With This Action?**

On April 29, 2008, Nebraska submitted a final complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Nebraska's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Nebraska final authorization for the following program changes:

Description of federal requirement (include checklist number, if relevant)	<i>December 30, 2008 and page (and/or RCRA statutory authority)</i>	Analogous State Authority Nebraska Administrative Code, Nebraska Department of Environmental Quality, Title 128 Nebraska Hazardous Waste Regulations, effective date—August 18, 2007
Permit Modification—Checklist 44D .....	52 FR 45788–45799 .....	15–012.O1B3.
Testing and Monitoring Activities Amendment III—Checklist 158.	62 FR 32452–32463 .....	1–003; 7–008.03; 21–019; 21–020; 21–026; 22–019; 22–020.

Description of federal requirement (include checklist number, if relevant)	<i>December 30, 2008 and page (and/or RCRA statutory authority)</i>	Analogous State Authority Nebraska Administrative Code, Nebraska Department of Environmental Quality, Title 128 Nebraska Hazardous Waste Regulations, effective date—August 18, 2007
Kraft Mill Steam Stripper Condensate Exclusion—Checklist 164.	63 FR 18504–18751 .....	2–008.16.
Hazardous Waste Combustors; Revised Standards—Checklist 168.	63 FR 33782–33829 .....	2–008.17; 3–018; 12–003.03G8 15–012.02S; Appendix V.
Petroleum Refining Process Wastes—Checklist 169 .....	63 FR 42110–42189 .....	2–004.02C3; 2–006.03B; 2–006.03E; 2–008.12; 2–008.12A; 2–008.18–19; 3–013.04/Table 4; 3–014/Table 5; 7–002.07; 7–008.01B3; 20–008.01; 20–009.09/Table 9; Appendix II.
Petroleum Refining Process Wastes—Leachate Exemption—Checklist 178.	64 FR 6806 .....	2–009.13.
Test Procedures for the Analysis of Oil and Grease and Non-Polar Material—Checklist 180.	64 FR 26315–26327 .....	1–003.
Hazardous Air Pollutant Standards for Combustors—Checklist 182.	64 FR 52828–53077 .....	1–037; 1–122; 3–018; 7–008.01C; 7–008.02C; 7–008.03; 12–001.04C; 12–001.04F; 13–012.04; 21–015; 21–018; 22–015; Appendix V.
Accumulation Time for Waste Water Treatment Sludges—Checklist 184.	65 FR 12378–12398 .....	10–004.01H; 10–004.03; 10–004.04; 10–004.05.
Organobromine Production Wastes Vacatur—Checklist 185.	65 FR 14472–14475 .....	3–014/Table 5; 3–016/Table 7; 20–008.01; 20–009/Table 9; 20–012/Table 12; Appendix I, Appendix II.
Petroleum Refining Process Wastes—Clarification—Checklist 187.	64 FR 36365–36367 .....	3–013.01/Table 4; Appendix II.
Hazardous Air Pollutant Standards; Technical Corrections—Checklist 188.	65 FR 42292–42302 .....	3–018; 15–012.02S1; 21–015.
Mixed Waste Rule—Checklist 191 .....	66 FR 27218–27266 .....	7–013.
Mixture and Derived-From Rules Revisions—Checklist 192A.	66 FR 27266–27297 .....	2–004.02C; 2–006.02–04.
Change of Official EPA Mailing List—Checklist 193 .....	66 FR 34374–34376 .....	1–003.
Mixture and Derived-From Rules Revision II—Checklist 194.	66 FR 50332–50334 .....	2–004.02C; 2–007.03C.
Inorganic Chemical Manufacturing Wastes Identification and Listing—Checklist 195.	66 FR 58258–58300 .....	2–009.13; 3–014/Table 5; 20–008.01; 20–Table 9; Appendix II.
Hazardous Air Pollutant Standards for Combustors: Interim Standards—Checklist 197.	67 FR 6792–6818 .....	7–008.01C; 12–001.04C; 12–001.04F; 12–00513–012.04; 21–015; 22–015.
Hazardous Air Pollutant Standards for Combustors—Corrections—Checklist 198.	67 FR 6968–6996 .....	7–008.01A; 7–008.01C; 15–012.02S1.
Zinc Fertilizer Rule—Checklist 200 .....	67 FR 48393–48415 .....	2–008.20; 2–008.21; 2–008.21; 7–007.01B; 7–007.01D; 20–009.08.
Hazardous Air Pollutant Standards for Combustors—Corrections 2—Checklist 202.	67 FR 77687–77692 .....	12–001.04C; 12–001.04F; 13–012.04.
Methods Innovation Rule and SW–846 Final Update IIIB—Checklist 208.	70 FR 34538–34592 .....	1–003; 3–006.013–007.01A–B; 3–017; 3–018; 6–003.03A1; 7–008.01C; 7–008.03; 12–001.04C; 12–001.04F; 13–012.04; 20–009.02; 20–009/Table 9, Footnote 7; 20–012; 20–020; 21–010; 21–014; 21–019; 21–020; 21–026; 22–010; 22–014; 22–019; 22–021.
Cathode Ray Tubes Rule—Checklist 215 .....	71 FR 42928–42949 .....	1–015; 1–029; 1–030; 1–031; 2–008.22A–D; 3–018; 3–019.01E; 3–020; 3–021.

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

Nebraska has chosen not to adopt the following Federal requirements related to the Methods Innovation Rule and SW–846 Final Update IIIB: 40 CFR Part 260.21(d); 40 CFR Part 261.3(a)(2)(v); 40 CFR Part 279.10(b)(1)(ii); 279.44(c); 279.53(c); and, 279.63(c). These requirements were promulgated under non-HSWA authority and are considered equivalent to or less stringent than the previous Federal regulations. Therefore, States are not required to adopt and seek authorization for these requirements, and EPA can not enforce them.

**I. Who Handles Permits After the Authorization Takes Effect?**

Nebraska 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 EPA issued prior to the effective date of this authorization. EPA 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 Nebraska is not yet authorized.

**J. What Is Codification and Is EPA Codifying Nebraska’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. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA reserves the amendment of 40 CFR part 272, subpart CC for this authorization of Nebraska’s program changes until a later date.

**K. 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 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). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175, "Consultation and Coordination With Indian Tribal Governments" (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, "Federalism" (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, "Protection of Children From Environmental Health Risks and Safety Risks" (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, "Civil Justice Reform" (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, "Government Actions and Interference with Constitutionally Protected Property Rights" (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 action will be effective March 2, 2009.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, 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: December 19, 2008.

**John B. Askew,**

*Regional Administrator, Region 7.*

[FR Doc. E8-30978 Filed 12-29-08; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**42 CFR Parts 411, 412, 413, 422, and 489**

[CMS-1390-CN2; CMS-1531-CN; CMS-1385-CN2]

RIN 0938-AP15; RIN 0938-AO35; RIN 0938-AO65

#### Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Correction

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Correction of final rules.

**SUMMARY:** This document corrects errors that appeared in the correction notice published in the October 3, 2008 **Federal Register** entitled "Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Correction."

**DATES:** *Effective Date:* This notice is effective December 30, 2008.

*Applicability Date:* This correction notice is applicable to discharges occurring on or after October 1, 2008.

**FOR FURTHER INFORMATION CONTACT:** Tzvi Hefter (410) 786-4487.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR Doc. E8-23082 of October 3, 2008 (73 FR 57541), the correction notice entitled "Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in