

US EPA ARCHIVE DOCUMENT

subsequently received a timely relevant adverse comment on the direct final rule. Therefore, EPA is withdrawing the direct final approval, as well as the finding of adequacy for the MVEBs. EPA will address the comment in a subsequent final action based on the parallel proposal also published on January 23, 2007 (72 FR 2825).

DATES: The direct final rule published on January 23, 2007 (72 FR 2776), is withdrawn as of March 26, 2007.

FOR FURTHER INFORMATION CONTACT: Jeffrey Riley, Air Planning Section, (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-8542; fax number 214-665-7263; e-mail address riley.jeffrey@epa.gov.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations.

40 CFR Part 82

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 16, 2007.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

■ Accordingly, the amendments to 40 CFR 52.2270(e) and to 40 CFR 81.344 published in the **Federal Register** on January 23, 2007 (72 FR 2776), which were to become effective on March 26, 2007, are withdrawn.

[FR Doc. E7-5482 Filed 3-23-07; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[EPA-R02-RCRA-2006-0518; FRL-8278-2]

New York: Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. EPA uses the regulations entitled "Approved State

Hazardous Waste Management Programs" to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State regulations that will be subject to EPA's inspection and enforcement. This rule does not incorporate by reference the New York hazardous waste statutes. The rule codifies in the regulations the prior approval of New York's hazardous waste management program and incorporates by reference authorized provisions of the State's regulations. In addition, this document corrects errors made in the program revision table in Section G published in the January 11, 2005 **Federal Register** authorization document for New York.

DATES: This regulation is effective May 25, 2007, unless EPA receives adverse written comment on this regulation by the close of business April 25, 2007. If EPA receives such comments, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** informing the public that this rule will not take effect. The Director of the Federal Register approves this incorporation by reference as of May 25, 2007 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R02-RCRA-2006-0518, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *E-mail:* infurna.michael@epa.gov.
- *Fax:* (212) 637-3056.
- *Mail:* Send written comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007.
- *Hand Delivery or Courier:* Deliver your comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R02-RCRA-2006-0518. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov, or e-mail. The Federal 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 or any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>).

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy. You can inspect the records related to this codification effort in the EPA Region 2 Library, 290 Broadway, 16th Floor, New York, NY 10007, Phone number: (212) 637-3185. The public is advised to call in advance to verify the business hours.

FOR FURTHER INFORMATION CONTACT: Michael Infurna, Division of Environmental Planning and Protection, EPA Region 2, 290 Broadway, 22nd floor, New York, NY 10007; telephone number (212) 637-4177; fax number: (212) 637-3056; e-mail address: infurna.michael@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Correction

There were typographical errors and omissions in the table published as part of the January 11, 2005 (70 FR 1827) authorization document for New York. The affected entries for that table are

shown in the table below. The corrections are **bolded** and *italicized*.

Description of Federal requirement (revision checklists ¹)	Analogous State regulatory authority ²
* * * * * Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes (5/26/98, 63 FR 28556; Revision Checklist 167 A).	* * * * * 6 NYCRR 376.1(b)(1)(xii), 376.1(c)(4), 376.3(b)(1)–(3), (5) and (6), 376.4(a)(5) and (8), 376.4(a)/Table, and 376.4(j)/Table UTS. (More stringent provisions: 376.3(b)(5)(iii).)
* * * * * Hazardous Waste Combustors; Revised Standards; Part 1: RCRA Comparable Fuel Exclusion; Permit Modifications for Hazardous Waste Combustion Units; Notification of Intent To Comply; Waste Minimization and Pollution Prevention Criteria for Compliance Extensions (6/19/98, 63 FR 33782; Checklist 168).	* * * * * 6 NYCRR 371.1(e)(1)(xvi), 371.4(i), 373–1.3(g)(2)(viii), 373–1.7(c)(12)(iii), 373–1.7(j) introductory paragraph, and 371.7(j)(1). (More stringent provisions: 373–1.7(c)(12)(iii).)

II. Incorporation By Reference

A. What Is Codification?

Codification is the process of including the statutes and regulations that comprise the State's authorized hazardous waste management program into the CFR. Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs. The State regulations authorized by EPA supplant the Federal regulations concerning the same matter with the result that after authorization EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by EPA with the consequence that EPA enforces the authorized statutory provision. EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. EPA codifies the authorized State program in 40 CFR part 272 and incorporates by reference State statutes and regulations that make up the approved program which is federally enforceable in accordance with Sections 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973, and any other applicable statutory and regulatory provisions.

B. What Is the History of the Authorization and Codification of New York's Hazardous Waste Management Program?

New York initially received final authorization for its hazardous waste management program, effective on May 29, 1986 (51 FR 17737) to implement its base hazardous waste management program. Subsequently, EPA authorized revisions to the State's program effective July 3, 1989 (54 FR 19184), May 7, 1990 (55 FR 7896), October 29, 1991 (56 FR 42944), May 22, 1992 (57 FR 9978), August 28, 1995 (60 FR 33753), October

14, 1997 (62 FR 43111), January 15, 2002 (66 FR 57679) and March 14, 2005 (70 FR 1825, as corrected on April 5, 2005 (70 FR 17286)). EPA first codified New York's authorized hazardous waste program effective September 30, 2002. In this action, EPA is revising Subpart HH of 40 CFR part 272 to include the recent authorization revision actions effective March 14, 2005.

C. What Decisions Have We Made in This Action?

Today's action codifies EPA's authorization of revisions to New York's hazardous waste management program. This codification reflects the State program in effect at the time EPA authorized revisions to the New York hazardous waste program in a final rule dated January 11, 2005 (70 FR 1825; and corrected on April 5, 2005 (70 FR 17286)). The rule incorporates by reference the most recent version of the State's authorized hazardous waste management regulations. This action does not reopen any decision EPA previously made concerning the authorization of the State's hazardous waste management program. EPA is not requesting comments on its decisions published in the **Federal Register** notices referenced in section B of this document concerning revisions to the authorized program in New York.

EPA is incorporating by reference the authorized revisions to the New York hazardous waste program by revising Subpart HH to 40 CFR part 272. 40 CFR 272.1651 previously incorporated by reference New York's authorized hazardous waste regulations, as amended through March 15, 1999, plus amendments to selected provisions on November 15, 1999 and January 31, 2000, as well as selected provisions as found in the New York regulations dated January 31, 1992 and January 14, 1995. Section 272.1651 also references

the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provide the legal basis for the State's implementation of the hazardous waste management program. In addition, § 272.1651 references the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which were evaluated as part of the approval process of the hazardous waste management program under Subtitle C of RCRA.

D. What Is the Effect of New York's Codification on Enforcement?

EPA retains the authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in all authorized States. With respect to enforcement actions, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State analogs to these provisions. Therefore, the EPA is not incorporating by reference New York's inspection and enforcement authorities nor are those authorities part of New York's approved State program which operates in lieu of the Federal program. 40 CFR 272.1651(c)(2) lists these authorities for informational purposes, and also because EPA considered them in determining the adequacy of New York's procedural and enforcement authorities. New York's authority to inspect and enforce the State's hazardous waste management program requirements continues to operate independently under State law.

E. What State Provisions Are Not Part of the Codification?

The public is reminded that some provisions of New York's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Unauthorized amendments to authorized State provisions;

(3) New unauthorized State requirements; and

(4) State procedural and enforcement authorities which are necessary to establish the ability of the State's program to enforce compliance but which do not supplant the Federal statutory enforcement and procedural authorities.

State provisions that are "broader in scope" than the Federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.1651(c)(3) lists the New York statutory and regulatory provisions which are "broader in scope" than the Federal program and which are not part of the authorized program being incorporated by reference. This action updates that list for "broader in scope" provisions. While "broader in scope" provisions are not part of the authorized program and cannot be enforced by EPA; the State may enforce such provisions under State law.

Additionally, New York's hazardous waste regulations include amendments which have not been authorized by EPA. Since EPA cannot enforce a State's requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to be precise in delineating the scope of a State's authorized hazardous waste program. Regulatory provisions that have not been authorized by EPA include amendments to previously authorized State regulations as well as new State requirements.

In those instances where New York has made unauthorized amendments to previously authorized sections of State code, EPA is identifying in 40 CFR 272.1651(c)(4) any regulations which, while adopted by the State and incorporated by reference, include language not authorized by EPA. Those unauthorized portions of the State regulations are not federally enforceable. Thus, notwithstanding the language in the New York hazardous waste regulations incorporated by reference at 40 CFR 272.1651(c)(1), EPA

will only enforce those portions of the State regulations that are actually authorized by EPA. For the convenience of the regulated community, the actual State regulatory text authorized by EPA for the citations listed at 272.1651(c)(4) (i.e., without the unauthorized amendments) is compiled as a separate document, Addendum to the EPA Approved New York Regulatory Requirements Applicable to the Hazardous Waste Management Program, March 2005. This document is available from EPA Region 2, EPA Region 2 Library, 290 Broadway, 16th Floor, New York, New York 10007, Phone number: (212) 637-3185.

State regulations that are not incorporated by reference in today's rule at 40 CFR 272.1651(c)(1), or that are not listed in 40 CFR 272.1651(c)(3) ("broader in scope") or 40 CFR 272.1651(c)(4) ("unauthorized amendments to authorized State provisions"), are considered new unauthorized State requirements. These requirements are not Federally enforceable.

F. What Will Be the Effect of Federal HSWA Requirements on the Codification?

With respect to any requirement(s) pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized and which EPA has identified as taking effect immediately in States with authorized hazardous waste management programs, EPA will enforce those Federal HSWA standards until the State is authorized for those provisions.

The codification does not affect Federal HSWA requirements for which the State is not authorized. EPA has authority to implement HSWA requirements in all States, including States with authorized hazardous waste management programs, until the States become authorized for such requirements or prohibitions, unless EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the Federal program. A HSWA requirement or prohibition, unless identified by EPA as optional or as less stringent, supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985).

Some existing State requirements may be similar to the HSWA requirement implemented by EPA. However, until EPA authorizes those State requirements, EPA enforces the HSWA requirements and not the State analogs.

III. Statutory and Executive Order Reviews

This rule codifies EPA-authorized hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by State law. Therefore, this rule complies with applicable executive orders and statutory provisions as follows.

1. Executive Order 12866: Regulatory Planning Review—The Office of Management and Budget (OMB) has exempted this rule from its review under Executive Order 12866 (58 FR 51735, October 4, 1993).

2. Paperwork Reduction Act—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.*).

3. Regulatory Flexibility Act—This rule codifies New York's authorized hazardous waste management regulations in the CFR and does not impose new burdens on small entities. 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.*).

4. Unfunded Mandates Reform Act—Because this rule codifies pre-existing State hazardous waste management program requirements which EPA already approved under 40 CFR part 271, and with which regulated entities must already comply, 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).

5. Executive Order 13132: Federalism—Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this rule because it will not have federalism implications (i.e., substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government). This action codifies existing authorized State hazardous waste management program requirements without altering the relationship or the distribution of power and responsibilities established by RCRA.

6. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments—Executive Order 13175 (65 FR 67249, November 6, 2000) does not apply to this rule because it will not have tribal implications (i.e., substantial direct effects on one or more Indian tribes, or

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).

7. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks—This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it is not based on environmental health or safety risks.

8. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use—This rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

9. National Technology Transfer Advancement Act—The requirements being codified are the result of New York's voluntary participation in EPA's State program authorization process under RCRA Subtitle C. 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.

10. Executive Order 12988—As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), EPA has taken the necessary steps in this action to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

11. Congressional Review Act—EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*, as amended) 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 May 25, 2007.

List of Subjects in 40 CFR Part 272

Environmental Protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indians—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).

Dated: January 4, 2007.

Alan J. Steinberg,

Regional Administrator, EPA Region 2.

■ For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Subpart HH is amended by revising § 272.1651 to read as follows:

§ 272.1651 New York State-Administered Program: final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), New York has final authorization for the following elements as submitted to EPA in New York's base program application for final authorization which was approved by EPA effective on May 29, 1986. Subsequent program revision applications were approved effective on July 3, 1989, May 7, 1990, October 29, 1991, May 22, 1992, August 28, 1995, October 14, 1997, January 15, 2002 and March 14, 2005.

(b) The State of New York has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.* (1) The New York regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* The Director of **Federal Register** approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the New York regulations that are incorporated by reference in this paragraph from West Group, 610 Opperman Drive, Eagan, MN 55123, ATTENTION: D3-10 (Phone #: 1-800-328-9352). You may inspect a copy at EPA Region 2 Library, 290 Broadway, 16th Floor, New York, NY 10007 (Phone number: (212) 637-3185),

or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(i) The Binder entitled "EPA Approved New York Regulatory Requirements Applicable to the Hazardous Waste Management Program", dated March 2005.

(ii) [Reserved]

(2) EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) Environmental Conservation Laws (ECL), 1997 Replacement Volume, as revised by the 2004 Cumulative Pocket Part: sections 1-0303(18), 3-0301(1) (introductory paragraph); 3-0301(1)(a) and (b); 3-0301(1)(m); 3-0301(1)(o); 3-0301(1)(w); 3-0301(1)(x); 3-0301(1)(cc); 3-0301(2) introductory paragraph; 3-0301(2)(a), (b), (d) through (j), (l), (m) and (q); 3-0301(2)(z); 3-0301(4); 19-0301(1) (except 19-0301(c), (e) and (f)); 19-0303(1) through (3); 19-0304; 27-0105; 27-0701; 27-0703; 27-0705; 27-0707 (except 27-0707(2-c)); 27-0711; 27-0900 through 27-0908; 27-0909 (except 27-0909(5)); 27-0910 through 27-0922; 27-1105; 70-0101; 70-0103; 70-0105 (except 70-0105(3) and 70-0105(6)); 70-0107(1) and (2); 70-0107(3) (except 70-0107(3)(a) through (k), (m) and (n)); 70-0109; 70-0113; 70-0115 (except (2)(c) and (d)); 70-0117; 70-0119; 70-0121; 71-0301; 71-1719; 71-2705; 71-2707; 71-2709 through 71-2715; 71-2717; 71-2720; and 71-2727.

(iii) McKinney's Consolidated Laws of New York, Book 1, Executive Law (EL), Article 6: section 102.

(iv) McKinney's Consolidated Laws of New York, Book 46, Public Officers Law (POL), as amended through 2004: sections 87 and 89 (except the phrase "and one-a" at 89(5)(a)(3), and 89(5)(a)(1-a)).

(v) McKinney's Consolidated Laws of New York, Book 7B, Civil Practice Law and Rules (CPLR), as amended through 2004: sections 1013, 6301; 6311; and 6313.

(vi) Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A-2A, Hazardous Waste Management System, as amended through April 10, 2004: sections 372.1(f); 373-1.1(f) and (g); 373-1.4(b); 373-1.4(d) through (f); 373-1.6(c); 621.1 through 621.4; 621.5 (except (d)(5), (d)(6)(i), (d)(7)(i)(a), (d)(7)(i)(c) and (d)(9)); 621.6 (except (b), (d)(4) and (d)(5)); 621.7; 621.8; 621.9 (except (a)(5), (c)(2) and (e)(2)); 621.10; 621.11 (except (d)); 621.12 through

621.15; and 621.16 (except (b), (d) and (e)).

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference and are not federally enforceable:

(i) Environmental Conservation Laws (ECL), 1997 Replacement Volume, as revised by the 2004 Cumulative Pocket Part: sections 27–0301; 27–0303; 27–0305; 27–0307; 27–0909(5); 27–0923; 27–0925 and 27–0926.

(ii) Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A–2A, Hazardous Waste Management System, as amended through April 10, 2004: Section 371.4(e); 372.3(a)(1); 372.3(a)(4); 372.3(b)(6)(iv); 372.3(d)(3); 373–1.1(d)(1)(x); 373–1.4(c); 373–2.15(a)(2); and 374–3.4(a)(2).

(iii) Throughout New York’s hazardous waste regulations, the State

cross-references Part 364, which sets forth additional transporter requirements including permit and liability requirements (for examples, see 6 NYCRR sections 372.2(b)(8), 373–1.7(h)(3), 374–3.3(i)(1) and (2), 374–3.4(a) and 374–3.6(a)(1)). The transporter permit and liability requirements are broader in scope than the Federal program.

(iv) New York did not adopt an analog to 40 CFR 261.4(g) that excludes certain dredged materials from the State definition of hazardous waste. Instead, the State subjects these materials to full regulation as hazardous wastes.

(v) New York State regulations do not incorporate the Mineral Processing Secondary Materials Exclusion at 40 CFR 261.4(a)(17) and the related changes affecting 40 CFR 261.2(c)(3) and (c)(4)/Table, and 40 CFR 261.2(e)(1)(iii). Since New York did not adopt the

exclusion at 40 CFR 261.4(a)(17) the State has a broader in scope program because the effect is to include materials that are not considered solid waste by EPA.

(4) *Unauthorized State Amendments.*

(i) The authorized provisions at sections 371.1(c)(7), 373–1.3(d)(3), and 373–2.8(a)(3) of 6 NYCRR, as amended through April 10, 2004, include amendments that are not approved by EPA. Such unauthorized amendments are not part of the State’s authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the New York hazardous waste regulations incorporated by reference at paragraph (b)(1)(i) of this section, EPA will enforce the State regulations that are actually authorized by EPA. The effective dates of the State’s authorized provisions are listed in the following Table:

TITLE 6.—NEW YORK CODES, RULES AND REGULATIONS (6 NYCRR)

State Citation	Description	Effective date
371.1(c)(7)	Definition of Solid Waste. Documentation of claims for exemption	
373–2.8(a)(3)	Submission of applications.	
373–1.3(d)(3)	Financial Requirements. States and Federal government are exempt from the requirements of this section.	

(ii) The actual State regulatory text authorized by EPA (*i.e.*, without the unauthorized amendments) is available as a separate document, *Addendum to the EPA Approved New York Regulatory Requirements Applicable to the Hazardous Waste Management Program, March 2005*. This document is available from EPA Region 2, EPA Region 2 Library, 290 Broadway, 16th Floor, New York, New York 10007, Phone number: (212) 637–3185.

(5) *Memorandum of Agreement*. The Memorandum of Agreement between EPA Region 2 and the State of New York, signed by the Commissioner of the State of New York Department of Environmental Conservation on July 20, 2001, and by the EPA Regional Administrator on January 16, 2002, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority*. “Attorney General’s Statement for Final Authorization”, signed by the Attorney General of New York in 1985 and revisions, supplements and addenda to that Statement dated August 18, 1988, July 26, 1989, August 15, 1991, October 11, 1991, July 28, 1994, May 30, 1997,

February 5, 2001, and April 2, 2004, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description*. The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272, State Requirements, is amended by revising the listing for “New York” to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

New York

The regulatory provisions include: Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A–2A, Hazardous Waste Management System, as amended through April 10, 2004.

Please note the following:

(1) The State’s official regulations, as amended through April 10, 2004, contain typographical and printing errors that were not in the State’s regulations submitted for authorization. New York subsequently

corrected these errors in its official “Supplement”, dated July 15, 2005, filed with the New York Secretary of State. EPA recognizes the corrected provisions as part of the authorized program. The authorized provisions for which typographical and printing errors in the April 10, 2004 regulations have been corrected are noted below by inclusion in parentheses of July 15, 2005 after the regulatory citation.

(2) For a few regulations, the authorized regulation is an earlier version of the New York State regulation. For these regulations, EPA authorized the version of the regulations that appear in the Official Compilation of Code, Rules and Regulations dated January 31, 1992 or January 1, 1999. New York State made later changes to these regulations but these changes have not been authorized by EPA. The regulations where the authorized regulation is an earlier version of the regulation are noted below by inclusion in parentheses of January 31, 1992 or January 1, 1999 after the regulatory citations.

Part 370—Hazardous Waste Management System—General: Sections 370.1(a) (except (a)(3)); 370.1(b) through (d); 370.1(e) (except (e)(1)(xv), (e)(1)(xvi) and (e)(6)(ii) through (iii)); 370.2(a); 370.2(b)(1) through (b)(15) “battery”; 370.2(b)(15) “bedrock” (January 31, 1992); 370.2(b)(17)–(b)(54); 370.2(b)(56) through (b)(71); 370.2(b)(72) (July 15, 2005); 370.2(b)(73) through (b)(91); 370.2(b)(94) through (b)(104); 370.2(b)(106) through (b)(122); 370.2(b)(123) and (124) (July 15, 2005); 370.2(b)(126) through (b)(187); 370.2(b)(188) (July 15, 2005); 370.2(b)(189) through (b)(212); 370(b)(214) and (b)(215);

370.2(b)(216) (except the last sentence); 370.2(b)(217) through (b)(220); 370.3 (except 370.3(c)); 370.4 (except 370.4(a)(1)(i) through (v)); 370.4(a)(1)(i) through (v) (July 15, 2005); 370.5 (except (b)).

Part 371—Identification and Listing of Hazardous Waste: Sections 371.1(a) through (c); 371.1(d) (except (d)(1)(ii)(e)); 371.1(e) (except 371.1(e)(2)(vi)(b)(21); 371.1(f)(1) through (7); 371.1(f)(8) (except the phrase “or such mixing occurs at a facility regulated under Subpart 373–4 or permitted under Part 373 of this Title”); 371.1(f)(9) and (f)(10); 371.1(g)(1)(i); 371.1(g)(1)(ii) (except (g)(1)(ii)(c)); 371.1(g)(1)(iii) (except (g)(1)(iii)(a)); 371.1(g)(1)(iii)(a) (except the phrase “as defined in section 372.5 of this Title, and provide a copy of”) (January 1, 1999); 371.1(g)(2) through (4); 371.1(h) through (j); 371.2; 371.3; and 371.4(a) and (b); 371.4(c) (except K171 and K172 entries); 371.4(c), K171 and K172 entries (July 15, 2005); 371.4(d), (f) and (i).

Part 372—Hazardous Waste Manifest System and Related Standards for Generators, Transporters and Facilities: Sections 372.1(a) through (d); 372.1(e)(2)(ii)(c) (January 31, 1992); 372.1(e)(2)(iii)(c) (January 31, 1992); 372.1(e)(3) through (e)(8); 372.1(g) and (h); 372.2 (except (a)(8)(vi)); 372.3 (except (a)(1), (a)(4), (a)(7)(i), (a)(8), (b)(1)(ii), (b)(5)(ii), (b)(6)(iv), (c)(4) and (d)(3)); 372.5 (except (h) and (i); 372.6; 372.7(a) and (b); 372.7(c) (except (c)(1)(ii)); and 372.7(d) (except (d)(4)); 372.7(d)(4) (January 31, 1992).

Part 373, Subpart 373–1—Hazardous Waste Treatment, Storage and Disposal Facility Permitting Requirements: Sections 373–1.1(a) through (c), 373–1.1(d) (except (d)(1)(iii)(b), (d)(1)(iii)(c)(6), (d)(1)(iii)(d), (d)(1)(iv)(a) and (b), (d)(1)(x), (d)(1)(xvi) and (xviii)); 373–1.1(e); 373–1.1(h) and (i); 373–1.2; 373–1.3; 373–1.4(a); 373–1.4(g) and (h); 373–1.5(a)(1); 373–1.5(a)(2) (except (a)(2)(xviii)); 373–1.5(a)(3) and (4); 373–1.5(b) and (c); 373–1.5(d) (except (d)(3)); 373–1.5(e) through (p) (except reserved paragraphs); 373–1.6 (except (c)); 373–1.7 through 373–1.9; 373–1.10 (except (a)(1)); 373–1.10(a)(1) (January 1, 1999); and 373–1.11.

Part 373, Subpart 373–2—Final Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities: Sections 373–2.1 through 373–2.4; 373–2.5(a); 373–2.5(b) (except the last sentence in (b)(1)(i)(b) and the entire provision at (b)(1)(vii)); 373–2.5(c) through (g); 373–2.6 through 373–2.9; 373–2.10 (except last sentence in (g)(4)(i)); 373–2.11; 373–2.12 (except 373–2.12(a)(1), (d) and (g)(2)); 373–2.12(a)(1) (January 31, 1992); 373–2.12(g)(2) (January 31, 1992); 373–2.13; 373–2.14; 373–2.15 (except (a)(2)); 373–2.19; 373–2.23; 373–2.24; 373–2.27; 373–2.28; 373–2.29; 373–2.30; and 373–2.31.

Part 373, Subpart 373–3—Interim Status Standards Regulations for Owners and Operators of Hazardous Waste Facilities: Sections 373–3.1 (except 373–3.1(a)(4) and the phrase “or Subpart 374–2 of this Title” in 373–3.1(a)(6)); 373–3.2 through 373–3.4; 373–3.5 (except last sentence in 373–3.5(b)(1)(i)(b) and (b)(1)(vii)); 373–3.6 through 373–3.9; 373–3.10 (except last sentence in (g)(4)(i)); 373–3.11 through 373–3.14; 373–3.15 (except (a)(2)); 373–3.16

through 373–3.18; 373–3.23; and 373–3.27 through 373–3.31.

Part 374, Subpart 374–1—Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities: Sections 374–1.1; 374–1.3; 374–1.6 (except (a)(2)(iii)); 374–1.7; 374–1.8(a)(1); 374–1.8(a)(2) (except the second sentence “Such used oil * * * of this Title” in (a)(2)(i)); 374–1.8(a)(3) through (a)(6); 374–1.8(b) through (m); and 374–1.13.

Part 374, Subpart 374–3—Standards for Universal Waste: Sections 374–3.1 (except (f) and (g)); 374–3.2; 374–3.3; 374–3.4 (except (a)(2)); 374–3.5; 374–3.6; and 374–3.7.

Part 376—Land Disposal Restrictions: Sections 376.1 (except (a)(5), (a)(9), (b)(1)(xi), (e) and (f)); 376.2; 376.3 (except (b)(4), (c) and (d)(2)); 376.4 (except (c)(2) and (e)(1) through (7)); and 376.5.

Appendices: Appendices 19 through 25; Appendices 27 through 30; Appendix 33; Appendix 38; Appendices 40 through 49 and Appendices 51 through 55.

Copies of the New York regulations that are incorporated by reference are available from West Group, 610 Opperman Drive, Eagan, MN 55123, ATTENTION: D3–10 (Phone #: 1–800–328–9352).

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[FR Doc. E7–5361 Filed 3–23–07; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Parts 1515, 1540, 1570, and 1572

[Docket No. TSA–2006–24191; TSA Amendment Nos. 1515—(New), 1540–8, 1570–2, and 1572–7]

RIN 1652–AA41

Transportation Worker Identification Credential Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License; Correction

AGENCY: Transportation Security Administration (TSA).

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule published in the *Federal Register* on January 25, 2007 (72 FR 3492). That rule requires credentialed merchant mariners and workers with unescorted access to secure areas of vessels and facilities to undergo a security threat assessment and receive a biometric credential, known as a Transportation Worker Identification Credential (TWIC). This rule correction redesignates paragraphs in parts 1515 and 1572. In addition, this rule correction substitutes a word in parts 1540 and 1570 for consistency,

deletes a word for clarity in part 1570 and inserts a word in part 1572 to clarify the type of fee. These revisions are necessary to correct typographical errors and to use terms consistently throughout the rule.

DATES: Effective March 26, 2007.

FOR FURTHER INFORMATION CONTACT: Christine Beyer, TSA–2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–2657; facsimile (571) 227–1380; e-mail *Christine.Beyer@dhs.gov*.

SUPPLEMENTARY INFORMATION:

Background

On January 25, 2007, the Department of Homeland Security, through TSA and the U.S. Coast Guard (Coast Guard) published a final rule in the *Federal Register* (72 FR 3492) making technical changes to various provisions of chapter XII, title 49 (Transportation) of the Code of Federal Regulations (CFR), and implementing the TWIC program in the maritime sector of the nation's transportation system. The final rule enhances port security by requiring security threat assessments of individuals who have unescorted access to secure areas and improving access control measures to prevent unauthorized individuals from gaining unescorted access to secure areas. The final rule amends existing appeal and waiver procedures, and expands the provisions to apply to TWIC applicants and air cargo personnel.

This rule correction document redesignates paragraphs codified in parts 1515.5 and 1572.103, substitutes the word “applicant” for “individual” in parts 1540.201, 1540.203, 1540.205, and 1570.3, deletes a word for clarity in part 1570.3, and inserts the word “fee” in part 1572.401 for clarity.

Correction

■ In rule FR Doc. 07–19, published on January 25, 2007 (72 FR 3492), make the following corrections:

§ 1515.5 [Corrected]

■ 1. On page 3589, in the third column, redesignate paragraphs (h) and (i) as paragraphs (g) and (h) under § 1515.5 Appeal of Initial Determination of Threat Assessment based on criminal conviction, immigration status, or mental capacity.

§ 1540.201 [Corrected]

■ 2. On page 3592 in the second column, paragraph (a)(4) under § 1540.201 Applicability and terms used in this subpart, is corrected to read as follows: