

US EPA ARCHIVE DOCUMENT

demolition of structures on the property (see paragraph (a)(1)(i) of this section).

\* \* \* \* \*

(f) \* \* \*

(2) \* \* \*

(ii) Actions covered by the proposed categorical exclusion generally do not involve extraordinary circumstances as set out in paragraphs (b)(1) through (b)(10) of this section and generally do not require preparation of an EIS; and

\* \* \* \* \*

■ 4. Section 6.300(a) is revised to read as follows:

#### § 6.300 Applicability.

(a) This section applies to actions that involve applications to EPA for permits or assistance agreements, or request other EPA approval.

\* \* \* \* \*

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BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA-R06-RCRA-2008-0754; FRL-8767-9]

#### Oklahoma: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** Oklahoma has applied to the EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Oklahoma's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

**DATES:** This final authorization will become effective on April 6, 2009 unless

the EPA receives adverse written comment by March 6, 2009. If the 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 by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *E-mail:* [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

4. *Hand Delivery or Courier.* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

*Instructions:* Do not submit information that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov), or e-mail. The Federal [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means the 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 the EPA without going through [regulations.gov](http://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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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.

You can view and copy Oklahoma's application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101-1677, (405) 702-7180 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, phone number (214) 665-8533. Interested persons wanting to examine these

documents should make an appointment with the office at least two weeks in advance.

**FOR FURTHER INFORMATION CONTACT:** Alima Patterson, Region 6 Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, (214-665-8533), EPA Region 1145 Ross Avenue, Dallas, Texas 75202-2733, and e-mail address [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from the 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 the 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 the 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 Oklahoma's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Oklahoma Final authorization to operate its hazardous waste program with the changes described in the authorization application. Oklahoma has responsibility for permitting treatment, storage, and disposal facilities within its borders and also section 10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 ("SAFETEA"), Public Law 109-59, 119 Statute (August 10, 2005) provides the State of Oklahoma opportunity to request approval from EPA to administer RCRA subtitle C 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). Oklahoma has not applied to administer this program in Indian Country pursuant to section 10211(a) of SAFETEA. Therefore, EPA will implement this program for all Indian Country located within the boundaries

of Oklahoma. New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Oklahoma 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 Oklahoma 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. Oklahoma has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits and
- Take enforcement actions after notice to and consultation with the State.

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

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

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

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

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another

opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw only 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 in this document. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

### F. For What Has Oklahoma Previously Been Authorized?

Oklahoma initially received final Authorization on January 10, 1985, (49 FR 50362–50363) published December 27, 1984 to implement its base hazardous waste management program. We authorized the following revisions: Oklahoma received authorization for revisions to its program with publication dates: April 17, 1990 (55 FR 14280–14282), effective June 18, 1990; September 26, 1990 (55 FR 39274) effective November 27, 1990; April 2, 1991 (56 FR 13411–13413) effective June 3, 1991; September 20, 1991 (56 FR 47675–47677) effective November 19, 1991; September 29, 1993 (58 FR 50854–50856) effective November 29, 1993; October 12, 1993 (58 FR 52679–52682) effective December 13, 1993; October 7, 1994 (59 FR 51116–51122) effective December 21, 1994; January 11, 1995 (60 FR 2699–2702) effective April 27, 1995; October 9, 1996 (61 FR 52884–52886) effective December 23, 1996; Technical Correction March 14, 1997 (62 FR 12100–12101) effective March 14, 1997; September 22, 1998 (63 FR 50528–50531) effective November 23, 1998; March 29, 2000 (65 FR 16528–16532) effective May 30, 2000; May 10, 2000 (65 FR 29981–29985) effective June 10, 2000; January 2, 2001 (66 FR 28–33) effective March 5, 2001 and April 9, 2003 (68 FR 17308–17311) effective June 9, 2003. The authorized Oklahoma RCRA program was incorporated by reference into the CFR published on December 9, 1998 (63 FR 67800–67834) effective February 8, 1999, August 26, 1999 (64 FR 46567–46571) effective October 25, 1999 and August 27, 2003 (68 FR 51488–51492) effective October 27, 2003. On March 1, 2005, and July 12, 2005, July 25, 2006, and August 27, 2008. Oklahoma submitted a final complete program revision application seeking authorization of its program revision in accordance with 40 CFR 271.21.

The Oklahoma Hazardous Waste Management Act (“OHWMA”) provides

the ODEQ with the authority to administer the State Program, including the authority and regulatory provisions necessary to administer the provisions of RCRA Clusters XI through XVII, and designates the ODEQ as the State agency to cooperate and share information with EPA for purpose of hazardous waste regulation. The Oklahoma Environmental Quality Code (“Code”), at 27 A O.S. Section 2–2–101, establishes an Environmental Quality (“Board”) as the rulemaking body for the ODEQ, specifically charged with the responsibility of promulgating rules to implement the duties and responsibilities of the ODEQ. The Code, 27A O.S. Section 2–2–201, also establishes a Hazardous Waste Management Advisory Council (“Council”) with the authority to recommend rules to the Board on behalf of the ODEQ.

The Environmental Quality Act, at 27A O.S. Section 1–3–101(E), grants the Oklahoma Corporation Commission (“OCC”) authority to regulate certain aspects of the oil and gas production and transportation industry in Oklahoma, including certain wastes generated by pipelines, bulk fuel sales terminals and certain tank farms, as well as underground storage tanks. To clarify areas of environmental jurisdiction, the ODEQ and OCC developed a ODEQ/OCC Jurisdictional Guidance Document to identify respective areas of jurisdiction. The current ODEQ/OCC jurisdictional Guidance Document was amended and signed on January 27, 1999. The revisions to the State Program necessary to administer Clusters XI through XVII will not affect the jurisdictional authorities of the ODEQ or OCC.

The Board adopted RCRA Cluster XI amendments on March 1, 2002 and became effective on June 13, 2002. RCRA Cluster XII was adopted on February 28, 2003 with effective date of June 12, 2003. RCRA Cluster XIII amended July 2004 and became effective June 15, 2005, RCRA Clusters XIV and XV was amended on November 15, 2005 and became effective June 15, 2006, and RCRA Clusters XVI through XVII adopted and amended through 2007 and became effective July 1, 2008. The rules were also codified at OAC 252:205 *et seq.*

Pursuant to 27A O.S. Section 2–2–104, the State's incorporation of Federal regulations does not incorporate prospectively future changes to the incorporated sections of the 40 CFR, and no other Oklahoma law or regulation reduces the scope of coverage or otherwise affects the authority provided by these incorporated-by-reference

provisions. Further, Oklahoma interprets these incorporated provisions to provide identical authority to the Federal provisions. Thus, OAC 252:205-3-1 through 252:205-3-6 provides equivalent and no less stringent authority than the Federal Subtitle C program in effect July 1, 2002 through July 1, 2007. The State of Oklahoma incorporate by reference the provisions of 40 Code of Federal Regulations (CFR) parts 124.19(a) through (c), 124.19(e), 124.31, 124.32, 124.33, and Subpart G (with exception of parts 124.1 and 124.2); 40 CFR parts 260 through 268, 273 and 279 (with the exception of parts 260.21, 261.4(b)(18), 262 Subparts E and H, 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(d), 264.1050(g), 265.1080(e), 264.1080(f), 264.1080(e), 265.1080(f), 265.1080(g), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g); 40 CFR part 270 (with the exception of 270.1(c)(2)(ix) and 270.14(b)(18)).

Pursuant to the Oklahoma statutes listed in this document, a single State agency, the DEQ, has authority to administer the provisions of the State hazardous waste management program. The DEQ remains the official agency of

the State of Oklahoma, as designated by 27A O.S. Section 2-7-105(13) to cooperate with Federal agencies for purposes of hazardous waste regulations.

The OHWMA delegate authority to the ODEQ to administer the State hazardous waste program, including the statutory and regulatory provisions necessary to administer the RCRA Clusters XI, through XVII. Pursuant to 27A O.S. Section 2-7-104, the Executive Director has created the Land Protection Division (“LPD”) to be responsible for implementing the State Program. The LPD is staffed with personnel that have the technical background and expertise to effectively implement the provisions of the State program subtitle C Hazardous Waste Management program.

At the present, the Oklahoma Corporation Commission (OCC) regulates certain aspects of the oil and gas production and transportation industry in Oklahoma, including certain waste generated by pipelines, bulk fuel sales terminals and certain tank farms. The ODEQ and the OCC have in place a (ODEQ/OCC) Jurisdictional Guidance

Document that reflects the current state of affairs between the two agencies. The current ODEQ/OCC jurisdictional Guidance Document was amended and signed on January 27, 1999.

**G. What Changes Are We Approving With Today’s Action?**

On March 1, 2005, July 12, 2005, July 25, 2006, and August 27, 2008, the State of Oklahoma submitted a final complete program applications, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that the State of Oklahoma’s hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. The State of Oklahoma revisions consist of regulations which specifically govern Federal Hazardous Waste revisions promulgated from July 1, 2002 through June 30, 2007 (RCRA Clusters XI-XVII). Oklahoma requirements are included in a chart with this document.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
1. NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors. (Checklist 188).	65 FR 42292 July 10, 2000 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2-7-106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6 amended March 1, 2002, as effective June 13, 2002.
2. NESHAPS: Second Technical Correction, Vacatur. (Checklist 188.1).	66 FR 24270 May 14, 2001 .....	Oklahoma Statutes Title 27A Section 2-2-104 Added by Laws 1994, effective July 1, 1994 and Section 2-7-106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993. Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6 amended March 1, 2002, as effective June 13, 2002.
3. NESHAPS: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors. (Checklist 188.2).	66 FR 35087 July 3, 2001 .....	Oklahoma Statutes Title 27A Section 2-2-104 Added by Laws 1994, effective July 1, 1994 and Section 2-7-106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993. Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6 amended March 1, 2002, as effective June 13, 2002.
4. Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil. (Checklist 190).	65 FR 81373 December 26, 2000 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2-7-106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6 amended March 1, 2002, as effective June 13, 2002.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
5. Storage Treatment, Transportation and Disposal of Mixed Waste. (Checklist 191).	66 FR 27218 May 16, 2001 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2-7-106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6 amended March 1, 2002, as effective June 13, 2002.
6. Mixture and Derived-From Rules Revisions; Land Disposal Restrictions Correction. (Checklists 192A & 192B).	66 FR 27266 May 16, 2001 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2-7-106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6 amended March 1, 2002, as effective June 13, 2002.
7. Change of EPA Mailing Address; Additional Technical Amendment and Corrections. (Checklist 193).	66 FR 34374 June 28, 2001 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2-7-106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6 amended March 1, 2002, as effective June 13, 2002.
8. Corrective to the Hazardous Waste Identification Rule (HWIR); Revisions to the Mixture and Derived-From Rules. (Checklist 194).	66 FR 50332 October 3, 2001 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2-7-106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6 amended February 28, 2003, as effective June 12, 2003.
9. Inorganic Chemical Manufacturing Wastes Identification and Listing. (Checklist 195).	66 FR 58258 November 20, 2001 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2-7-106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6 amended February 28, 2003, as effective June 12, 2003.
10. Corrective Action Management Units Amendments. (Checklist 196).	67 FR 2962 January 22, 2002 .....	Oklahoma Statutes Title 27A of Environmental Quality Act Sections 1-1-101, through 2-3-507, 2-1-101, and 2-14-101, as amended through 2004; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6, as amended February 28, 2003, effective June 12, 2003.
11. Hazardous Air Pollutant Standards for Combustors: Interim Standards. (Checklist 197).	67 FR 6792 February 13, 2002 .....	Oklahoma Statutes Title 27A of Environmental Quality Act Sections 1-1-101, through 2-3-507, 2-1-101, and 2-14-101, as amended through 2004; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6, as amended February 28, 2003, effective June 12, 2003.
12. Hazardous Air Pollutant Standards for Combustors; Corrections. (Checklist 198).	67 FR February 14, 2002 .....	Oklahoma Statutes Title 27A of Environmental Quality Act Sections 1-1-101, through 2-3-507, 2-1-101, and 2-14-101, as amended through 2004; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6, as amended February 28, 2003, effective June 12, 2003.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
13. Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Waste and TCLP Use with MGP Waste. (Checklist 199).	67 FR 11251 March 13, 2002 .....	Oklahoma Statutes Title 27A of Environmental Quality Act Sections 1-1-101, through 2-3-507, 2-1-101, and 2-14-101, as amended through 2004; Oklahoma Administrative Code Rules 252:205-3-1 through 252:205-3-6, as amended February 28, 2003, effective June 12, 2003.
14. Zinc Fertilizer Rule. (Checklist 200) .....	67 FR 48393 July 24, 2002 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Sections 1-1-101, through 2-3-507, 2-1-101, and 2-14-101, as amended through 2004; Oklahoma Administrative Codes Rules 252:205-3-1 through 252:205-3-6, as amended July 2004; 252:205-3-2(c) effective June 15, 2005.
15. Treatment Variance for Radioactively Contaminated Batteries. (Checklist 201).	67 FR 62618 October 7, 2002 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Sections 1-1-101, through 2-3-507, 2-1-101, and 2-14-101, as amended through 2004; Oklahoma Administrative Codes Rules 252:205-3-1 through 252:205-3-6, as amended July 2004; 252:205-3-2(i) effective June 15, 2005.
16. Hazardous Air Pollutant Standards for Combustors—Corrections 2. (Checklist 202).	67 FR 77687 December 19, 2002 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Sections 1-1-101, through 2-3-507, 2-1-101, and 2-14-101, as amended through 2004; Oklahoma Administrative Codes Rules 252:205-3-1 through 252:205-3-6, as amended July 2004; 252:205-3-2(j) effective June 15, 2005.
17. Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards Clarification. (Checklist 203).	68 FR 44659 September 29, 2003 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 2-1-101, et seq., as amended through 2005. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2-27-101, et seq., as amended through 2005. Oklahoma Administrative Code Rules 252:205-3-1, as amended through 2005, effective June 15, 2006.
18. National Environmental Performance Track Program; Corrections. (Checklist 204 & 204.1).	69 FR 21727-21754 April 22, 2004; and 69 FR 62217 October 25, 2004.	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 2-2-101, et seq., as amended through 2005. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2-7-101, et seq., as amended through 2005. Oklahoma Environmental Permitting Act 27A O.S. Section 2-14-101, et seq., as amended through 2005. Oklahoma Administrative Code Rules 252:205-3-1, as amended through 2005, effective June 15, 2006.
19. National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty trucks; Final Rule NESHAP. (Checklist 205).	69 FR 22601-22661 June 25, 2004 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 2-2-101, et seq., as amended through 2005. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2-7-101, et seq., as amended through 2005. Oklahoma Environmental Permitting Act 27A O.S. Section 2-14-101, et seq., as amended through 2005. Oklahoma Administrative Code Rules 252:205-3-1, as amended through 2005, effective June 15, 2006.
20. Hazardous Waste—Nonwastes From Production of Dyes, Pigments and Food, Drug and Cosmetic Colorants; Loading-Based listing; Final Rule. (Checklist 206 & 206.1).	70 FR 9138-9180 August 23, 2005; 70 FR 35032 June 13, 2005.	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 2-2-101, et seq., as amended through 2005. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2-7-101, et seq., as amended through 2005. Oklahoma Environmental Permitting Act 27A O.S. Section 2-14-101, et seq., as amended through 2005. Oklahoma Administrative Code Rules 252:205-3-1, as amended through 2005, effective June 15, 2006.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
21. Uniform Hazardous Waste Manifest Rule. (Checklist 207 & 207.1).	70 FR 10776–10825 March 4, 2005; 70 FR 35034 June 16, 2005.	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 2–2–101, et seq., as amended through 2005. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2005. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2005. Oklahoma Administrative Code Rules 252:205–3–1, as amended through 2005, effective June 15, 2006.
22. Universal Waste Rule; Specific Provisions for Mercury Containing Equipment. (Checklist 209).	70 FR 45508–45522 August 5, 2005 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.
23. Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Waste; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities. (Checklist 189).	65 FR 67068 November 8, 2000 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Added by Laws 1994, effective July 1, 1994 and Section 2–7–106 Added by Laws 1981, effective July 1, 1981; Amended by Laws 1993, effective July 1, 1993; Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6 amended March 1, 2002, as effective June 13, 2002.
24. Standardized Permit for RCRA Hazardous Waste Management Facilities. (Checklist 210).	70 FR 53420–53478 September 8, 2005 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.
25. Revisions of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (“Headworks exemptions”). (Checklist 211).	70 FR 57769–57785 October 4, 2005 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.
26. NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II. (Checklist 212).	70 FR 59402–59579 October 12, 2005 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.

Description of federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous state authority
27. Burden Reduction Initiative. (Checklist 213)	71 FR 16862–16915 April 4, 2006 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.
28. Corrections to Errors in the Code of Federal Regulations. (Checklist 214).	71 FR 40254–40280 July 4, 2006 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.
29. Cathode Ray Tubes Rule. (Checklist 215) ..	71 FR 42928–42949 July 28, 2006 .....	Oklahoma Statutes Title 27A of Environmental Quality Act, Section 1–1–101, et seq., as amended through 2007. Oklahoma Environmental Hazardous Waste Management Act 27A O.S. Section 2–7–101, et seq., as amended through 2007. Oklahoma Environmental Permitting Act 27A O.S. Section 2–14–101, et seq., as amended through 2007. Oklahoma Administrative Code Rules 252:205–3–1 through 252:205–3–6, as amended through 2007, effective July 1, 2008.

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

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

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

Oklahoma will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The 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. We will not issue any more new permits or new portions of permits except in Indian Country, or the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Oklahoma is not yet authorized.

**J. How Does Today’s Action Affect Indian Country (8 U.S.C. 1151) in Oklahoma?**

The State of Oklahoma Hazardous Program is not being authorized to operate in Indian Country.

**K. What Is Codification and Is the EPA Codifying Oklahoma’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 CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart LL for this authorization of Oklahoma’s program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this Federal Register notice.

**L. Administrative Requirements**

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 preexisting 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 (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 (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), the 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 the 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, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The 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 April 6, 2009.

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

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indians—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 7, 2008.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. E9-2373 Filed 2-3-09; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 09-41]

#### Radio Broadcasting Services; Various Locations

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, on its own motion, editorially amends the Table of FM Allotments to specify the noncommercial educational (NCE) "star" designation for several FM channels and classes as allotted to various communities in several FM allotment rulemaking proceedings.

**DATES:** Effective February 4, 2009.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order*, adopted January 14, 2009, and released January 16, 2009. These amendments are necessary to reflect changes that have been authorized in response to FM allotment rule making proceedings to which the NCE "star" designation as listed for various communities was inadvertently removed from Section 73.202(b), FM Table of Allotments by the *Revision of Procedures Governing Amendments to FM Table of Allotments and Changes of*

*Community of License in the Radio Broadcast Services* 71 FR 76208, published December 20, 2006. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 1-800-378-3160 or <http://www.BCPIWEB.com>. The Commission will not send a copy of the *Report & Order* in this proceeding pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the adopted rules are rules of particular applicability.

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR Part 73 as follows:

### PART 73—RADIO BROADCASTING SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

#### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 277C3 and by adding Channel \*277C3 at McKinleyville.

■ 3. Section 73.202(b), the Table of FM Allotments under Indiana, is amended by removing Channel 291A and by adding Channel \*291A at Fowler; and by removing Channel 298B and by adding Channel \*298B at Terre Haute.

■ 4. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 221A and by adding Channel \*221A at Amherst.

■ 5. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 237A and by adding Channel \*237A at Dillsboro.

■ 6. Section 73.202(b), the Table of FM Allotments under North Dakota, is amended by removing Channel 264C and by adding Channel \*264C at Berthold.

■ 7. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by removing Channel 227A and by adding Channel \*227A at Susquehanna.

■ 8. Section 73.202(b), the Table of FM Allotments under Virgin Islands, is