

US EPA ARCHIVE DOCUMENT

Federal requirement	Federal Register reference	Publication date
Revisions to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038).	56 FR 21955 .....	05/13/91
Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues.	58 FR 59598 .....	11/09/93
Hazardous Remediation Waste Requirements (HWIR-Media), to the extent that they apply to the standards for staging piles and to 40 CFR 264.1(j) and 264.101(d).	63 FR 65874 .....	11/30/98

(5) *Memorandum of Agreement*. The Memorandum of Agreement between EPA Region 6 and the State of New Mexico, signed by the EPA Regional Administrator on July 30, 2001, 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 Mexico January, 1985, and revisions, supplements and addenda to that Statement dated April 13, 1988; September 14, 1988; July 19, 1989; July 23, 1992; February 14, 1994; July 18, 1994; July 20, 1994; August 11, 1994; November 28, 1994; August 24, 1995; and January 12, 1996; and June 14, 2000 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 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 is amended by revising the listing for "New Mexico" to read as follows:

**Appendix A to Part 272—State Requirements**

\* \* \* \* \*

**New Mexico**

The statutory provisions include:  
 New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4 (1993 Replacement Pamphlet), sections 74-4-2, 74-4-3 (except 74-4-3L, 74-4-3O and 74-4-3R), 74-4-3.1, 74-4-4.2A, 74-4-4.2B, 74-4-4.2G introductory paragraph, 74-4-4.2G(2), 74-4-4.3F, 74-4-4.7 (except 74-4-4.7B and 74-4-4.7C), 74-4-9 and 74-4-10.1C, as published by the Michie Company, Law Publishers, 1 Town Hall Square, Charlottesville, Virginia 22906-7587.

The regulatory provisions include:

Title 20, Chapter 4, part 1, New Mexico Annotated Code, effective June 14, 2000, sections 20.4.100, 20.4.1.101, 20.4.1.200, 20.4.1.300, 20.4.1.400, 20.4.1.401, 20.4.1.500, 20.4.1.501, 20.4.1.600, 20.4.1.601, 20.4.1.700, 20.4.1.800, 20.4.801, 20.4.1.900, 20.4.1.901.B.1 through 20.4.1.901.B.6, 20.4.1.901.E, 20.4.1.1000, 20.4.1.1001, 20.4.1.1102 and 20.4.1.1103. Copies of the New Mexico regulations can be obtained from the New Mexico Commission of Public Records, State Records Center and Archives, Administrative Law Division, 1205 Camino Carlos Rey, Santa Fe, NM 87507.

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 [FR Doc. 03-21594 Filed 8-26-03; 8:45 am]  
**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 272**

[FRL-7479-3]

**Oklahoma: Incorporation by Reference of Approved State Hazardous Waste Management Program**

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

**ACTION:** Immediate final rule.

**SUMMARY:** 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 statutes and regulations that will be subject to EPA's inspection and enforcement. The rule codifies in the regulations the prior approval of Oklahoma's hazardous waste management program and incorporates by reference authorized provisions of the State's statutes and regulations. In addition, today's document corrects technical errors

made in the table of authorities published in previous authorization **Federal Register** notices for Oklahoma.

**DATES:** This regulation is effective October 27, 2003, unless EPA receives adverse written comment on this regulation by the close of business September 26, 2003. 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 incorporation by reference of authorized provisions in the Oklahoma statutes and regulations contained in this rule is approved by the Director of the Federal Register as of October 27, 2003 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

**ADDRESSES:** Send written comments referring to Docket Number OK-02-02 to Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, Phone number: (214) 665-8533. You can inspect the records related to this codification effort from 8:30 a.m. to 4 p.m. Monday through Friday in the EPA Region 6 Library, 1445 Ross Avenue, Dallas, Texas 75202-2733.

**FOR FURTHER INFORMATION CONTACT:** Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, Phone number: (214) 665-8533.

**SUPPLEMENTARY INFORMATION:**

**I. Technical Corrections**

*A. Corrections to Previously Published Authorization Federal Register Notices for Oklahoma*

There were typographical and effective date errors in the tables of authorities published as part of the following authorization notices for Oklahoma. The affected entries are as follows:

- 1. December 9, 1998 (63 FR 67800) authorization notice:

(a) All references to "Sec. 2-7-104" are corrected to "Sec. 2-2-104";

(b) Specific to Checklist 151 (Item 4), the second reference to "2-7-106" is corrected to "2-7-107A(10)" the corresponding effective date of "July 1, 1994" is corrected to "July 1, 1993".

2. March 29, 2000 (65 FR 16258) authorization notice:

(a) Specific to Checklist 154 (item 2) and Checklist 159 (item 7), the references to "2-2104" are corrected to "Sec. 2-2-104";

3. January 2, 2001 (66 FR 28) authorization notice:

(a) Specific to Checklist 166 (Item 1), the reference to "2-2-106" is corrected to "2-7-106".

## II. Incorporation By Reference

### A. What Is Codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize state hazardous waste management programs to operate in lieu of the federal hazardous waste management regulatory program. EPA codifies its authorization of the state programs in 40 CFR part 272 and incorporates by reference state statutes and regulations that EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of state authorized programs in the Code of Federal Regulations should substantially enhance the public's ability to discern the current status of the authorized state program and state requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each state.

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

Oklahoma received final authorization to implement its Base Hazardous Waste Management program, effective January 10, 1985, (49 FR 50362). Subsequently, the EPA approved additional program revision applications effective on June 18, 1990 (55 FR 14280), November 27, 1990 (55 FR 39274), June 3, 1991 (56 FR 13411), November 19, 1991 (56 FR 47675), November 29, 1993 (58 FR 50854), December 21, 1994 (59 FR 51116), April 27, 1995 (60 FR 2699), March 14, 1997 (62 FR 12100), July 14, 1998 (63 FR

23673) and November 23, 1998 (63 FR 50528). The EPA incorporated by reference Oklahoma's then authorized hazardous waste program effective December 13, 1993 (58 FR 52679), July 14, 1998 (63 FR 23673) and October 25, 1999 (64 FR 46567). Effective February 8, 1999 (63 FR 67800), May 30, 2000 (65 FR 16528), July 10, 2000 (65 FR 29981), and March 5, 2001 (66 FR 28), EPA granted authorization to Oklahoma for additional program revisions. In this document, EPA is approving a change to the Oklahoma regulations at OKLA. ADMIN. CODE section 252:205-7-4, which makes it clear that transporters are prohibited from mixing or combining incompatible hazardous waste within a common container.

### C. What Decisions Have We Made in This Rule?

The purpose of today's **Federal Register** document is to codify Oklahoma's base hazardous waste management program and its revisions to that program. EPA provided notices and opportunity for comments on the agency's decisions to authorize the Oklahoma program. EPA is not now reopening the decisions, nor requesting comments, on the Oklahoma authorizations as published in the **Federal Register** notices specified in Section B of this document.

This document incorporates by reference Oklahoma's hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and federally enforceable program. By codifying Oklahoma's authorized program and by amending the Code of Federal Regulations, the public will be more easily able to discern the status of federally approved requirements of the Oklahoma hazardous waste management program.

The EPA is incorporating by reference the Oklahoma authorized hazardous waste program in subpart LL of 40 CFR part 272. 40 CFR 272.1851 incorporates by reference Oklahoma's authorized hazardous waste statutes and regulations. Section 272.1851 also references the statutory provisions (including procedural and enforcement provisions) which provide the legal basis for the state's implementation of the hazardous waste management program, the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are approved as part of the hazardous waste management program under Subtitle C of RCRA.

### D. What Is the Effect of Oklahoma's Codification on Enforcement?

The EPA retains its 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. On occasion when EPA might need to undertake these actions, it will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than any authorized state analogues to these provisions. Therefore, the EPA is not incorporating by reference any such approved Oklahoma procedural and enforcement authorities. 40 CFR 272.1851(b)(2) lists the statutory provisions which provide the legal basis for the state's implementation of the hazardous waste management program, as well as those procedural and enforcement authorities that are part of the state's approved program, but these are not incorporated by reference.

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

The public needs to be aware that some provisions of Oklahoma'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) Federal rules for which Oklahoma is not authorized, but which have been incorporated into the state regulations because of the way the state adopted Federal regulations by reference.

State provisions that are "broader in scope" than the Federal program are not part of the RCRA authorized program and EPA will not enforce them.

Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.1851(b)(3) lists the Oklahoma regulatory provisions which are "broader in scope" than the Federal program and which are not part of the authorized program being incorporated by reference. "Broader in scope" provisions cannot be enforced by EPA; the state, however, may enforce such provisions under state law.

Oklahoma has adopted but is not authorized for the Federal rule regarding exclusion of a waste from the list of hazardous waste, 40 CFR 260.20 *et seq.*, ("delisting") published on July 15, 1985 (50 FR 28702) and amended on June 27,

1989 (54 FR 27114); and the Federal rules published in the **Federal Register** on October 5, 1990 (55 FR 40834); February 1, 1991 (56 FR 3978); February 13, 1991 (56 FR 5910); April 2, 1991 (56 FR 13406); May 1, 1991 (56 FR 19951); December 23, 1991 (56 FR 66365); June 29, 1995 (60 FR 33912) and May 26, 1998 (63 FR 28556). Therefore, these Federal amendments included in Oklahoma's adoption by reference at OKLA. ADMIN. CODE sections 252:205-7-4, 252:205-3-2(b) through 252:205-3-2(k), are not part of the state's authorized program and are not part of the incorporation by reference addressed by today's **Federal Register** document.

With respect to any requirement pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized, EPA will continue to enforce the Federal HSWA standards until the State is authorized for these provisions.

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

The EPA is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) takes effect in authorized and not authorized states at the same time. A HSWA requirement or prohibition supersedes any less stringent or inconsistent state provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985). EPA has the authority to implement HSWA requirements in all states, including authorized states, until the states become authorized for such requirement or prohibition. Authorized states are required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), EPA will wait until the state receives authorization for its analog to the new HSWA provision before amending the state's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing state requirements may be similar to the HSWA requirement implemented by EPA. However, until

EPA authorizes those state requirements, EPA can only enforce the HSWA requirements and not the state analogs. EPA will not codify those state requirements until the state receives authorization for those requirements.

### **III. 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 rule incorporates by reference Oklahoma's authorized hazardous waste management regulations 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.*). Because this rule merely incorporates by reference certain 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). For the same reason, this action also does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This action will not have 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely incorporates by reference existing authorized state hazardous waste management program requirements 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.

The requirements being codified are the result of Oklahoma'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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 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 amended 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 October 27, 2003.

#### **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, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and

7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 27, 2003.

**Lawrence E. Starfield,**  
Acting Regional Administrator, Region 6.

■ 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).

**Subpart LL—[Amended]**

■ 2. Section 272.1851 is revised to read as follows:

**§ 272.1851 Oklahoma State-administered program: Final authorization.**

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Oklahoma has final authorization for the following elements as submitted to EPA in Oklahoma's base program application for final authorization which was approved by EPA effective on January 10, 1985. Subsequent program revision applications were approved effective on June 18, 1990, November 27, 1990, June

3, 1991, November 19, 1991, November 29, 1993, December 21, 1994, April 27, 1995, March 14, 1997, July 14, 1998, November 23, 1998, February 8, 1999, May 30, 2000, July 10, 2000 and March 5, 2001.

(b) State Statutes and Regulations.

(1) The Oklahoma statutes and regulations cited in paragraph (b)(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.* (See § 272.2).

(i) The Binder entitled "EPA Approved Oklahoma Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program", dated March, 2001.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Oklahoma Hazardous Waste Management Act, as amended, 27A Oklahoma Statute (O.S.) 1997 Edition (unless otherwise specified), Sections 2-2-104, 2-7-102, 2-7-104, 2-7-105 (except 2-7-105(27), 2-7-105(29) and 2-7-105(34)), 2-7-106, 2-7-107, 2-7-108(B)(2), 2-7-110(A), 2-7-113.1, 2-7-115, 2-7-116(A), 2-7-116(G), 2-7-116(H)(1), 2-7-123, 2-7-126 (1999

Supplement), 2-7-129, 2-7-130, 2-7-131 and 2-7-133.

(ii) The Oklahoma Administrative Code, Title 252, Chapter 205, Hazardous Waste Management, effective June 12, 2000: Subchapter 1, Sections 252:205-1-1(b), 252:205-1-3(a) and (b), 252:205-1-4(a)-(d); Subchapter 3, Sections 252:205-3-2 introductory paragraph, and 252:205-3-2(a)(1).

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

(i) Oklahoma Hazardous Waste Management Act, as amended, 27A Oklahoma Statute 1997 Edition, Sections 2-7-119, 2-7-121 and 2-7-134.

(ii) The Oklahoma Administrative Code, Title 252, Chapter 205, effective June 12, 2000: Subchapter 1, Section 252:205-1-1(c)(2)-(4), 252:205-1-2 "RRSIA", 252:205-1-2 "Reuse", 252:205-1-2 "Speculative accumulation", 252:205-1-2 "Transfer facility", 252:205-1-2 "Transfer station", 252:205-1-4(e) and (f); Subchapter 5, Sections 252:205-5-1(4), Subchapter 15; Subchapter 17; Subchapter 21; and 252:205 Appendices A, B, and C.

(4) *Unauthorized State Amendments.* The State's adoption of the Federal rules listed below is not yet approved by EPA and is, therefore, not enforceable:

Federal requirement	Federal Register reference	Publication date
Delisting .....	50 FR 28702 .....	07/15/85
	54 FR 27114 .....	06/27/89
	Amendments to 260.22(a) through 260.22(e). .....	
Toxicity Characteristics; Hydrocarbon Recovery Operations .....	55 FR 40834 .....	10/05/90
	56 FR 3978 .....	02/01/91
	56 FR 13406 .....	04/02/92
Toxicity Characteristics; Chlorofluorocarbon Refrigerants .....	56 FR 5910 .....	02/13/91
Administrative Stay for K069 Listing .....	56 FR 19951 .....	05/01/91
Amendments to Interim Status Standards for Downgradient Ground-water Monitoring Well Locations.	56 FR 66365 .....	12/23/91
Removal of Legally Obsolete Rules .....	60 FR 33912 .....	06/29/95
Mineral Processing Secondary Materials Exclusion .....	63 FR 28556 .....	05/26/98

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the State of Oklahoma (ODEQ), signed by the EPA Regional Administrator on March 1, 2000, 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 Oklahoma on January 20, 1984 and revisions, supplements and

addenda to that Statement dated January 14, 1988 (as amended July 20, 1989); December 22, 1988 (as amended June 7, 1989 and August 13, 1990); November 20, 1989; November 16, 1990; November 6, 1992; June 24, 1994; December 8, 1994; March 4, 1996; April 15, 1997; February 6, 1998, December 2, 1998, October 15, 1999 and May 31, 2000, 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 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 is amended by revising the listing for "Oklahoma" to read as follows:

**Appendix A to Part 272—State Requirements**

\* \* \* \* \*

**Oklahoma**

The statutory provisions include:

Oklahoma Hazardous Waste Management Act, as amended, 27A Oklahoma Statute 1997 Edition, Sections 2-7-103, 2-7-108(A), 2-7-108(B)(1), 2-7-108(B)(3), 2-7-108(C), 2-7-110(B), 2-7-110(C), 2-7-111(A), 2-7-111(B) (except the last sentence and the phrase, "recycling" in the first sentence), 2-7-111(C)(2)(a) (except the phrase "Except as provided in subparagraph b of this paragraph" and the word "recycling" in the first sentence), 2-7-111(D), 2-7-111(E) (except the word "recycling" in the first sentence), 2-7-112, 2-7-116(B) through 2-7-116(F), 2-7-116(H)(2), 2-7-118(A), 2-7-124, 2-7-125, 2-7-127 and 2-10-301(G).

Copies of the Oklahoma statutes that are incorporated by reference are available from West Publishing Company, 610 Opperman Drive, PO Box 64526, St. Paul, Minnesota 55164-0526.

The regulatory provisions include:

The Oklahoma Administrative Code, Title 252, Chapter 205, effective June 12, 2000: Subchapter 1, Sections 252:205-1-1(a), 252:205-1-1(c) introductory paragraph, 252:205-1-1(c)(1), 252:205-1-2 introductory paragraph, 252:205-1-2 "OHWMA", 252:205-1-2 "Post-closure permit", 252:205-1-3(c); Subchapter 3, Sections 252:205-3-1, 252:205-3-2(a)(2), 252:205-3-2(b)-(m), 252:205-3-4, 252:205-3-5 and 252:205-3-6; Subchapter 5, Sections 252:205-5-1 (except 252:205-5-1(4)), 252:205-5-2 through 252:205-5-5; Subchapter 7, Sections 252:205-7-1 through 252:205-7-3 and 252:205-7-4 (except the phrase "or in accordance with 252:205-15-1(d)); Subchapter 9 (except 252:205-9-5 and 252:205-9-6); Subchapter 11, 252:205-11-1(a) (except the word "recycling"), 252:205-11-1(b) through 252:205-11-1(e) and 252:205-11-2; and Subchapter 13, Sections 252:205-13-1(a)-(e).

Copies of the Oklahoma regulations that are incorporated by reference can be obtained from The Oklahoma Register, Office of Administrative Rules, Secretary of State, 101 State Capitol, Oklahoma City, Oklahoma 73105.

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[FR Doc. 03-21592 Filed 8-26-03; 8:45 am]

BILLING CODE 6560-50-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Health Resources and Services Administration****42 CFR Part 102**

RIN 0906-AA60

**Smallpox Vaccine Injury Compensation Program: Smallpox (Vaccinia) Vaccine Injury Table**

**AGENCY:** Health Resources and Services Administration, HHS.

**ACTION:** Interim Final Rule.

**SUMMARY:** The Smallpox Emergency Personnel Protection Act of 2003 (SEPPA), Public Law 108-20, 117 Stat. 638, authorized the Secretary of Health and Human Services (the Secretary), through the establishment of the Smallpox Vaccine Injury Compensation Program (the Program), to provide benefits and/or compensation to certain persons who have sustained injuries as a result of the administration of smallpox covered countermeasures (including the smallpox vaccine) or as a result of vaccinia contracted through accidental vaccinia inoculations.

The SEPPA directed the Secretary to establish, by interim final rule, a table identifying adverse effects (including injuries, disabilities, conditions, and deaths) that shall be presumed to result from the administration of or exposure to the smallpox vaccine, and the time interval in which the first symptom or manifestation of each listed injury must manifest in order for such presumption to apply. As mandated by law, the Secretary is establishing such a Smallpox (Vaccinia) Vaccine Injury Table (the Table) through this interim final rule. The Secretary is also establishing a set of Table Definitions and Requirements, which define the terms and conditions included on the Table and are to be read in conjunction with the Table.

The Secretary is seeking public comment on the Table established through this interim final rule. At a later date, the Secretary will publish a companion final rule setting forth the administrative implementation of the Program. The public will then be afforded an additional opportunity to comment on the procedures set forth therein.

**DATES:** This regulation is effective on August 27, 2003. Written comments must be submitted on or before October 27, 2003. The Secretary will consider the comments received and will decide whether to amend the Table based upon such comments.

**ADDRESSES:** All written comments concerning this interim final rule should be submitted to the Director, Smallpox Vaccine Injury Compensation Program, Office of Special Programs, Health Resources and Services Administration, Parklawn Building, Room 16C-17, 5600 Fishers Lane, Rockville, Maryland 20857. Express and courier mail should be sent to Smallpox Vaccine Injury Compensation Program, Office of Special Programs, Health Resources and Services Administration, 4350 East West Highway, 10th Floor, Bethesda, Maryland 20814. Electronic comments should be sent to [smallpox@hrsa.gov](mailto:smallpox@hrsa.gov). Comments received will be available for public inspection at the Office of Special Programs, Health Resources and Services Administration, 4350 East West Highway, 10th Floor, Bethesda, Maryland 20814, between the hours of 8:30 a.m. and 5 p.m. on Federal Government work days.

**FOR FURTHER INFORMATION CONTACT:** Dr. Vito Caserta, telephone (301) 443-4956. This is not a toll-free number. Electronic inquiries should be sent to [smallpox@hrsa.gov](mailto:smallpox@hrsa.gov).

**SUPPLEMENTARY INFORMATION:****Background**

Prior to its eradication, smallpox (variola) was a serious illness that manifested either as outbreaks of variola major with death rates of greater than 20 percent or variola minor with death rates approaching 1 percent. Those who survived were frequently left with significant disabilities, such as blindness. Smallpox (vaccinia) vaccine (referred to in this rule as the "smallpox vaccine") was an essential tool for the successful global eradication of smallpox (variola), announced by the World Health Organization in 1980. Despite such eradication, concern exists that terrorists may have access to the smallpox (variola) virus (referred to in this rule as the "smallpox virus").

On December 13, 2002, the President announced a plan to protect the population of the United States against the threat of a possible smallpox attack. This plan was based on heightened concerns, in the wake of the attacks of September and October 2001, that terrorists may have access to the smallpox virus and may attempt to use it against the population of the United States and government facilities abroad. Under this plan, which the Secretary is actively working to implement, State and local governments have formed volunteer smallpox response teams that will be prepared to provide critical services to the population of the United