

US EPA ARCHIVE DOCUMENT

website at <http://www.hud.gov/fha/pre/premenu.html>. Those wishing to attend and to provide oral comments are asked to register in advance.

To allow for the greatest participation at the forums, we will ask you to register for a specified time and to limit your comments to 5 minutes. Those who do not preregister will be accommodated and given an opportunity to comment after those who have preregistered, time and space permitting.

Authority: 42 U.S.C. 1437f note and 3535(d).

Dated: September 15, 1998.

Ira Peppercorn,

General Deputy Assistant Secretary for Housing.

[FR Doc. 98-25269 Filed 9-21-98; 8:45 am]

BILLING CODE 4210-27-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6160-9]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Oklahoma has applied for final authorization to revise its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA). The EPA has reviewed Oklahoma Department of Environmental Quality's (ODEQ) application and determined that its Hazardous Waste Program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period, EPA's decision to approve Oklahoma's Hazardous Waste Program revision will take effect as provided below in accordance with Hazardous and Solid Waste Amendments of 1984 (HSWA).

DATES: This immediate final rule is effective on November 23, 1998 without further notice, unless EPA receives adverse comment by October 22, 1998. Should the EPA receive such comments, it will publish a timely document withdrawing this rule.

ADDRESSES: Copies of the Oklahoma program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following addresses: State of Oklahoma

Department of Environmental Quality, 1000 Northeast Tenth Street, Oklahoma City, Oklahoma 73117-1212, phone (405) 271-5338 and EPA, Region 6 Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 665-6444. Written comments, referring to Docket Number OK-98-1, should be sent 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, phone (214) 665-8533.

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, phone (214) 665-8533.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260-264, 265, 266, 268, 270 and 279.

B. Oklahoma

Oklahoma initially received Final Authorization on January 10, 1985, (49 FR 50362), to implement its Base Hazardous Waste Management Program. Oklahoma received authorization for revisions to its program on June 18, 1990 (55 FR 14280), effective November 27, 1990 (55 FR 39274), effective June 3, 1991 (56 FR 13411), effective November 19, 1991 (56 FR 47675), effective December 21, 1994 (59 FR 51116-51122), effective April 27, 1995 (60 FR 2699-2702), effective December 23, 1996 (61 FR 5288-52886), and Technical Correction effective March 14, 1997 (62 FR 12100). The authorized Oklahoma RCRA program was incorporated by reference into the CFR effective December 13, 1993. On April 18, 1997, Oklahoma submitted a final complete program revision application for additional program approvals. Today, Oklahoma is seeking approval of its program revision in accordance with § 271.21(b)(3).

Statutory authority is provided by the Oklahoma Hazardous Waste Management Act, as amended, 27A Oklahoma Statute (O.S.) Supplement 1993, §§ 2-7-101 *et seq.* To implement the provisions of the EPA regulations, on January 16, 1996, the Board adopted amendments to the Hazardous Waste Management Rules (Rules), Oklahoma Administrative Code (OAC) Title 252, Chapter 200 as permanent rules. The amendments became effective July 1, 1996.

On April 4, 1996, the Council voted to recommend amendments 252:200-3-1, through 252:200-3-4 to incorporate by reference, in accordance with the *Guidelines for Adoption of Federal Regulations By Reference*, the following EPA Hazardous Waste Management Regulations as amended through July 1, 1995: The provisions of 40 CFR part 124 which are required by 40 CFR 271.14; 40 CFR parts 260-266, with exception of 40 CFR parts 260.20 through 260.22; 40 CFR part 268; 40 CFR part 270; 40 CFR part 273; and 40 CFR part 279. The Board adopted these amendments on June 18, 1996. The amendments were signed by the Governor and became effective as emergency rules on August 1, 1996. The amendments were effective as permanent rules June 1, 1997.

The EPA reviewed ODEQ's application, and today is making an immediate final decision, subject to public review and comment, that ODEQ's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, the EPA intends to grant Final Authorization for the additional program modifications to Oklahoma. The public may submit written comments on the EPA's final decision until October 22, 1998. Copies of Oklahoma's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

Approval of ODEQ's program revision shall become effective 60 days from the date this document is published, unless an adverse written comment pertaining to the State's revision discussed in this document is received by the end of the comment period. If an adverse written comment is received, EPA will publish either, (1) a withdrawal of the immediate final decision, or (2) a document containing a response to the comment that either affirms that the immediate final decision takes effect or reverses the decision.

The ODEQ's program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR

parts 124, 260–263, 264, 265, 266, 270, 273, and 279, that were published in the FR through June 30, 1995. This approval

includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized

as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. Recovered Oil Exclusion, [59 FR 38536–38545] July 28, 1994. (Checklist 135).	Oklahoma Administrative Code (OAC) 27A Oklahoma Statutes (O.S.), Supp. 1993, § 2–7–106 effective July 1, 1993; § 2–7–104 effective July 1, 1994; Oklahoma Hazardous Waste Management Act (OHWMA), as amended, 252, Chapter 200 (Rules); 252:200–3–1, through 252:200–3–4, amended June 18, 1996, emergency rule effective August 1, 1996, permanent rule effective June 1, 1997; 252:200–3–5, and 252:200–3–6 adopted March 30, 1994, effective May 26, 1994.
2. Removal of the Conditional Exemption for Certain Slag Residues, [59 FR 43496–43500] August 24, 1994. (Checklist 136).	OAC 27A O.S., Supp. 1996, §§ 2–7–106 amended 1993, effective July 1, 1993; 27A O.S. Supp. 1996 § 2–7–104, § 2–7–105(17), § 2–7–107(A)(3), effective July 1, 1994; OHWMA Rules 252:200–3–1 through 252:200–3–4, amended June 18, 1996, emergency effective date August 1, 1996, permanent rule effective June 1, 1997; 252:200–3–5, and 252:200–3–6, effective May 26, 1994.
3. Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes, [59 FR 47982–48110], September 19, 1994. (Checklist 137).	OAC 27A O.S., Supp. 1996, §§ 2–7–106 amended 1993, effective July 1, 1993; § 2–7–104, added by Laws 1994, and § 2–7–107(10), effective July 1, 1994; OHWMA Rules 252:200–3–1 through 252:200–3–4, amended June 18, 1996, emergency effective date August 1, 1996, permanent effective June 1, 1997; 252:200–3–5, and 252:200–3–6, Finally adopted March 30, 1994, effective as permanent rules May 26, 1994.
4. Testing and Monitoring Activities Amendment I, [60 FR 3089–3095] January 13, 1995. (Checklist 139).	OAC 27A O.S., Supp. 1996, §§ 2–7–106 amended 1993, effective July 1, 1993; § 2–7–104, Added by Laws 1994, effective July 1, 1994; OHWMA Rules 252:200–3–1 through 252:200–3–4, amended June 18, 1996, emergency effective date August 1, 1996, permanent effective June 1, 1997; 252:200–3–5, and 252:200–3–6, Finally adopted March 30, 1994, effective May 26, 1994.
5. Carbamate Production Identification and Listing of Hazardous Waste, [60 FR 7824–7859] February 9, 1995; as amended at [60 FR 19165] April 17, 1995. (Checklist 140).	OAC 27A O.S., Supp. 1996, §§ 2–7–106 amended 1993, effective July 1, 1993; § 2–7–104, Added by Laws 1994 and § 2–7–106, effective July 1, 1994; OHWMA Rules 252:200–3–1 through 252:200–3–4, amended June 18, 1996, emergency effective date August 1, 1996, permanent effective June 1, 1997; 252:200–3–5, and 252:200–3–6, Finally adopted March 30, 1994, effective as permanent May 26, 1994.
6. Testing and Monitoring Activities Amendment II, [60 FR 17001–17004] April 4, 1995. (Checklist 141).	OAC 27A O.S., Supp. 1996, §§ 2–7–106 amended 1993, effective July 1, 1993; § 2–7–104, Added by Laws 1994, effective July 1, 1994; OHWMA Rules 252:200–3–1 through 252:200–3–4, amended June 18, 1996, emergency effective date 1, 1996, permanent effective June 1, 1997; 252:200–3–5, and 252:200–3–6, Finally effective May 26, 1994.
7. Universal Waste: General Provisions; Specific Provisions for Batteries; Specific Provisions for Pesticides; Specific Provisions for Thermostats; Petition Provisions to Add a New Universal Waste, [60 FR 25492–25551] May 11, 1995. (Checklists 142A, 142B, 142C, 142D & 142E).	OAC 27A O.S., Supp. 1996, §§ 2–7–106 amended 1993, effective July 1, 1993; § 2–7–104, Added by Laws 1994, effective July 1, 1994; OHWMA Rules 252:200–3–1 through 252:200–3–4, amended June 18, 1996, emergency effective date August 1, 1996, permanent effective June 1, 1997; 252:200–3–5, and 252:200–3–6, effective May 26, 1994.

Oklahoma is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

C. Decision

I conclude that ODEQ's application for a program revision meets the statutory and regulatory requirements established by RCRA. Accordingly, ODEQ is granted Final Authorization to operate its hazardous waste program as revised. Oklahoma now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Oklahoma also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize ODEQ's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR part 272, subpart LL until a later date.

E. Compliance With Executive Order 12866

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 6 of Executive Order 12866.

F. Compliance With Executive Order 13045

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks", applies to any rule that: (1) the OMB determines is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or

safety risk that the EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

G. Compliance With Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the

Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affects the communities of Indian tribal governments. The State of Oklahoma is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that the EPA implements in the Indian country within the State.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, the EPA did not consider the use of any voluntary consensus standards.

I. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, the EPA must prepare a

written statement, of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. The EPA has determined that sections 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the State of Oklahoma's program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate treatments, storage disposal facilities (TSDFs), they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

J. Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e. small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will

not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule therefore, does not require a regulatory flexibility analysis.

K. Submission to Congress and the Comptroller General

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 submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" defined by 5 U.S.C. 804(2).

L. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

M. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a

mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business Indian lands, Hazardous materials transportation, Hazardous waste, Indian lands relations, Intergovernmental information, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice 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).

W.B. Hathaway,

Acting Regional Administrator, Region 6.

[FR Doc. 98-25200 Filed 9-21-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6165-3]

Washington: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Response to comment and final rule.

SUMMARY: On July 7, 1998, the EPA published a proposed rule (63 FR 36652) and an immediate final rule (63

FR 36587) to approve a revision to the State of Washington hazardous waste management program which would give the program jurisdiction over "non-trust lands" within the exterior boundaries of the Puyallup Indian reservation located in Tacoma, Washington. The EPA stated in the immediate final rule that if the Agency received adverse written comment it would publish a notice withdrawing the immediate final rule before its effective date, and then would address comments in a final rule based on the proposed rule. Because EPA received an adverse comment, the Agency withdrew the immediate final rule in a withdrawal notice published on August 21, 1998 in the **Federal Register** (63 FR 44795). The EPA has reviewed and analyzed the concerns raised by the comment, and now issues this final rule. After consideration of these concerns, EPA is approving the State of Washington authorization revision to include non-trust lands within the 1873 Survey Area as part of its approved program.

DATES: This final rule will become effective on October 22, 1998.

FOR FURTHER INFORMATION CONTACT:

Nina Kocourek, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, WCM-122, Seattle, WA 98101, Telephone: (206) 553-6502.

SUPPLEMENTARY INFORMATION:

A. Background

The State of Washington seeks revision of its authorized program to include "non-trust lands" within the exterior boundaries of the Puyallup Indian reservation (hereafter referred to as the "1873 Survey Area" or "Survey Area") pursuant to a settlement agreement finalized in 1988 and ratified by Congress in 1989, which allows Washington to seek authorization under federal environmental laws for such lands after consultation and communication with the Puyallup Tribe. The revision requested by Washington in its current application is not a result of a change to EPA's rules or regulations, nor is it a result of changes to Washington's rules and regulations. Rather, Washington's application for revision results from the unique agreements between Washington, the United States and the Puyallup Tribe of Indians. A complete discussion of the background of the matter addressed by this final rule can be found in the immediate final rule located in the final rules section of the July 7, 1998 (63 FR 36587) **Federal Register**.

B. Comment Regarding the Immediate Final Decision

Reichhold Chemical, Inc. (Reichhold), which has an EPA-issued RCRA corrective action permit for its Tacoma facility, commented that its permit and the corrective action process should not be subjected to the jurisdictional uncertainties that it believes would result if EPA authorizes the revisions to the Washington program. Reichhold wrote that it is negotiating with the Puyallup Tribe of Indians (the Tribe) and Puyallup International, Inc. concerning the acquisition and/or long-term lease of all or a portion of the Reichhold property. Reichhold is concerned that transferring jurisdiction authority to the State for Reichhold's permit will cause delays and uncertainty should the Tribe acquire a fee or leasehold interest in the land. Reichhold did not specify what it considers to be "jurisdictional uncertainties." They claim that EPA's authorization of the Washington program will further delay Reichhold's ability to make the property available to the Tribe or any other suitable user for productive use consistent with the RCRA program and public health and safety. Reichhold requested that EPA withdraw its approval until the issues of jurisdiction over the Tribe's activities on Reichhold's property are resolved.

The EPA has reviewed the issues raised by Reichhold, and does not find sufficient merit to its objection to withhold approval of this authorization revision. Reichhold did not dispute that the State has the authority to implement the hazardous waste program on non-trust lands pursuant to the agreement and did not assert the state program fails to meet the statutory criteria of being equivalent and consistent, and providing adequate enforcement. The information Reichhold provided did not address how "jurisdictional uncertainties" will interfere with Washington's ability to properly administer the hazardous waste management program at the Reichhold facility in Tacoma.

The EPA, the State of Washington and the Puyallup Tribe already have established a process for working together to address issues of jurisdiction under the Settlement Agreement. As part of the process to revise the Washington authorization, EPA, the Tribe, and Washington consulted on implementation of the programs in a cooperative fashion, and EPA expects that the cooperation established in the Settlement Agreement and other agreements will continue to provide avenues for addressing issues that arise