US EPA ARCHIVE DOCUMENT

use of the pesticide pursuant to FFIFRA section 18 emergency exemptions. The tolerances expire and will be revoked on the date specified in the table.

Commodity	Parts per million	Expiration/revocation date
Sorghum, forage	30.0	December 31, 2012
Sorghum, grain	0.05	December 31, 2012
Sorghum, stover	60.0	December 31, 2012

* * * * *

[FR Doc. E9–10757 Filed 5–12–09; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2008–0755; FRL–8901–1]

Texas: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Texas 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 Texas' 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 July 13, 2009 unless the EPA receives adverse written comment by June 12, 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.*
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,* or e-mail. The Federal *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*, 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 Texas' application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Texas Commission on Environmental Quality (TCEQ), 12100 Park S. Circle, Austin TX 78753–3087, (512) 239–6079 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 1445 Ross Avenue, Dallas, Texas 75202–2733, and E-mail address *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 268, 270, 273, and 279.

B. What Decisions Have We Made in This Rule?

We conclude that the State of Texas'application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant the State of Texas Final Authorization to operate its hazardous waste program with the changes described in the authorization application. The State of Texas has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that 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 Texas 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 the State of Texas 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. The State of Texas 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 the State of Texas 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 Texas Previously Been Authorized?

Texas received final authorization to implement its Hazardous Waste Management Program on December 12, 1984, effective December 26, 1984 (49 FR 48300). This authorization was clarified in a notice published in the FR on March 26, 1985 (50 FR 11858). Texas received final authorization for revisions to its program in notices published in the **Federal Register** on January 31, 1986, effective October 4, 1985 (51 FR 3952); on December 18, 1986, effective February 17, 1987 (51 FR 45320). EPA authorized the further revisions on: March 1, 1990, effective March 15, 1990 (55 FR 7318); on May 24, 1990, effective July 23, 1990 (55 FR 21383); on August 22, 1991, effective October 21, 1991 (56 FR 41626); on October 5, 1992, effective December 4, 1992 (57 FR 45719); on April 11, 1994, effective June 27, 1994, (59 FR 16987); on April 12, 1994, effective June 27, 1994 (59 FR 17273); September 12, 1997, effective November 26, 1997 (62 FR 47947); and on August 18, 1999 effective October 18, 1999 (64 FR 44836) and July 13, 2000; effective September 11, 2000 (65 FR 43246) and effective June 14, 2005 (70 FR 34371) June 14, 2005. EPA incorporated by reference the State of Texas Base Program and additional program revisions in RCRA Clusters III and IV into the CFR on September 14, 1999 (64 FR 49673); effective November 15, 1999.

On July 20, 2007, Texas submitted a final complete program revision application, seeking authorization of its program revision in accordance with 40 CFR 271.21. In 1991, Texas Senate Bill 2 created the Texas Natural Resource Conservation Commission (TNRCC) which combined the functions of the former Texas Water Commission and the former Texas Air Control Board. The transfer of functions to the TNRCC from the two agencies became effective on September 1, 1993. House Bill 2912, Article 18 of the 77th Texas Legislature, 2001, changed the name of the TNRCC to the Texas Commission on Environmental Quality (TCEQ) and directed the TNRCC to adopt a timetable for phasing in the change of the agency's name. The TNRCC decided to make the change of the agency's name to the TCEQ effective September 1, 2002. The change of name became effective September 1, 2002, and the legislative history of the name change is documented at (*See,* Act of June 15, 2001, 77th Leg. R. S., Ch 965, Section 18.01, 2001 Tex. Gen. Laws 1985). The TCEQ may perform any act authorized by law either as the TNRCC or as the TCEQ. *Id.* Therefore, references to the TCEQ are references to TNRCC and to its successor, the TCEQ.

The TCEQ has primary responsibility for administration of laws and regulations concerning hazardous waste, under the Texas Solid Waste Disposal Act (codified in Chapter 361 Sections 361.017 and 361.024 of the Texas Health & Safety Code). The TCEQ is authorized to administer the RCRA program. However, the Railroad Commission (RRC) has jurisdiction over the discharge, storage, handling, transportation, reclamation, or disposal of waste materials (both hazardous and non hazardous) that result from the activities associated with the exploration, development, or production of oil or gas or geothermal resources and other activities regulated by the RRC. *See,* Tex. Water Code Ann. Section 26.131 and Ch. 27 (Vernon 2000). A list of activities that generate wastes that are subject to the jurisdiction of the RRC is found at 16 Tex. Admin. Code Section 3.8(a)(30) and at 30 Tex. Admin. Code Section 335.1. Such wastes are termed ''oil and gas wastes.'' The TCEQ has responsibility to administer the RCRA program, however, hazardous waste generated at natural gas or natural gas liquids processing plants or reservoir pressure maintenance or repressurizing plants are subject to the jurisdiction of the TCEQ until the RRC is authorized by EPA to administer those wastes under RCRA. When the RRC is authorized by EPA to administer the RCRA program for these wastes, jurisdiction over such hazardous waste will transfer from the TCEQ to the RRC. The EPA has designated the TCEQ as the lead agency to coordinate RCRA activities between the two agencies. The EPA is responsible for the regulation of any hazardous waste for which TCEQ has not been previously authorized.

Further clarification of the jurisdiction between the TCEQ and the RRC can be found in a separate document. This document, a Memorandum of Understanding (MOU), became effective on May 31, 1998.

The TCEQ has the rules necessary to implement EPA's RCRA Clusters XI, XII, XIII and XV excluding Uniformed

Hazardous Waste Manifest Rule (Checklist 207) revisions to the Federal Hazardous Waste Program promulgated from July 1, 2000 to June 30, 2005. The adoption for RCRA Clusters XI, XII, XIII, and XV include changes to 30 Texas Administrative Code Chapters 305 and 335. The Commissioners adopted these rules on July 25, 2007 and the rules became effective on August 16, 2007. The TCEQ authority to incorporate Federal rules by reference can be found at Texas Government Code Annotated Section 311.027 (Vernon1998) and adoption of the hazardous waste rules in general are pursuant to the following statutory provisions: (1) Tex. Water Code Ann. Sections 5.103 and 5.105 (Vernon 2000), effective September 1995, as amended (TCEQ's authority to adopt any rules necessary to carry out its powers and duties); (2) Tex. Health & Safety Code Ann. Section 361.024 (Vernon 2001), effective September 1, 1995, as amended (authorize the Commission to adopt rules necessary to ''establish minimum standards of operation for the management and control of solid waste''); and (3) Tex. Health & Safety Code Ann. Section 361.078 (Vernon 2001), effective September 1, 1989 (specifically recognizing TCEQ's authority to adopt hazardous waste rules and to issue and enforce permits to the extent necessary to receive and maintain RCRA authorization). The following are the optional Federal rules that the State of Texas did not adopt: NESHAPS Second Technical Correction, Vacatur Checklist 188.1), Storage, Treatment, Transportation and Disposal of Mixed Waste, (Checklist 191), Inorganic Chemical Manufacturing Waste Identification and listing (Checklist 195.1), Hazardous Air Pollutant Standards for Combustors: Interim Standards (Checklist 197), Land Disposal Restrictions: National Treatment Variance to Designate New Treatment Subcategories for Radioactively Contaminated Cadmium, Mercury-Containing Batteries and Silver-Containing Batteries (Checklist 201), Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards (Checklist 203), National Environmental Track Program (Checklists 204 and 204.1), and NESHAP Surface Coating of Automobiles and Light-Duty Trucks. Also, the State of Texas is not authorized for Zinc Fertilizer (Checklist 200) because the State failed to adopt changes to 40 CFR 266.20, 266.20(d), 266.20(d)(1)–(2) and 268.40.

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

On July 20, 2007, the State of Texas submitted a final complete program application, 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 Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. The State of Texas revisions consist of regulations which specifically govern Federal Hazardous Waste revisions promulgated from July 1, 2000 to June 30, 2005, (RCRA Clusters XI, XII, XIII, and XV). Texas requirements are included in a chart with this document.

Description of federal requirement (include checklist number, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
1. Hazardous Air Pollutant Standards; Technical Corrections. (Checklist 188).	65 FR 42292—42302, July 10, 2000.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(133)(A)(iv), 335.152(a)(13), 305.69(i)(1), as adopted July 25, 2007 and effective August 16, 2007.

Description of federal requirement (include checklist number, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
2. Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes. (Checklist 189).	65 FR 67068–67133, November 8, 2000.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.504, 335.29(2), 335.29(3), and 335.431(c), as adopted July 25, 2007, effective August 16, 2007.
3. Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil. (Checklist 190).	65 FR 81373–81381, December 26, 2000.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.431(c), as adopted July 25, 2007, effective August 16, 2007.
4. Mixture and Derived-From Rule Revisions (Checklist 192A).	66 FR 27266–27297, May 16, 2001.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.1(62) and (64) as adopted July 25, 2007, effective August 16, 2007.

Description of federal requirement (include checklist number, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
5. Land Disposal Restrictions Corrections. (Checklist 192 B).	66 FR 27266–27297, May 16, 2001.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.431(c), 335.1 (64), as adopted July 25, 2007, effective August 16, 2007.
6. Change of Official EPA Mailing Address. (Checklist 193).	66 FR 34374–34376, June 28, 2001.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Section 335.31, as adopted July 25, 2007, effective August 16, 2007.
7. Mixed and Derived-From Rules Revision II. (Checklist 194).	66 FR 50332–50334, October, 3, 2001.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(62) and 335.1(64), as adopted July 25, 2007, effective August 16, 2007.

Description of federal requirement (include checklist number, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
8. Inorganic Chemical Manufacturing Waste Identification and Listing. (Checklist 195).	66 FR 58258, November 20, 2001; 67 FR 17119–17120, April 9, 2002.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(133)(A)(iv), 335.504(2), 335.29(2), and 335.431(c)(1), and as adopted July 25, 2007, effective August 16, 2007.
9. Corrective Action Management Units Amendments. (Checklist 196).	67 FR 2962–3029, January 22, 2002.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(33), 335.1(123), 335.152(a)(14) and 335.431(c)(1), as adopted July 25, 2007, effective August 16, 2007.
10. Hazardous Air Pollutant Standards for Combustors: Corrections. (Checklist 198).	67 FR 6968–6996, February 14, 2002.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.221(a)(1), and 305.69(i)(1), as adopted July 25, 2007, effective August 16, 2007.

Description of federal requirement (include checklist number, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous state authority
11. Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Waste and TCLP Use with MGP Waste. (Checklist 199).	67 FR 11251–11254, March 13, 2002.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(133)(D)(iii), 335.1(133)(A)(iv), and 335.504(3), as adopted July 25, 2007, effective August 16, 2007.
12. Hazardous Air Pollutant Standards for Combustors—Corrections 2. (Checklist 202).	67 FR 77687–77692, December 19, 2002.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 305.175 and 305.571(b), as adopted July 25, 2007, effective August 16, 2007.
13. Nonwastewaters from Dyes and Pigments. (Checklist 206).	70 FR 9138–9180, February 24, 2005.	Texas Water Code Annotated Sections 5.103 and 5.105 (Vernon 2000), effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.017 (Vernon 2001) effective September 1, 1995, as amended; Texas Health & Safety Code Annotated Section 361.024 (Vernon 2001), effective September 1, 1989, as amended; Texas Health & Safety Code Annotated Section 361.078 (Vernon 2001), effective September 1, 1989, as amended; 30 Texas Administrative Code Sections 335.1(133)(A)(iv), 335.504(1)–(2), and 335.431(c)(1) July 25, 2007, effective August 16, 2007.

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

The State hazardous waste program is equivalent to the Federal program and there is no broader in scope provisions in this program revision.

I. Who Handles Permits After the Authorization Takes Effect?

The State of Texas 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 for 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 Texas is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Texas?

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

K. What Is Codification and Is the EPA Codifying Texas' 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 SS for this authorization of Texas' program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this **Federal Register** notice.

I. 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 section 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 section 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 July 13, 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: April 22, 2009.

Lawrence E. Starfield,

Acting Regional Administrator, Region 6.

[FR Doc. E9–11196 Filed 5–12–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 040205043–4043–01]

RIN 0648–XO64

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Closure of the 2009 Commercial Fishery for Tilefishes

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS closes the commercial fishery for tilefishes in the exclusive economic zone (EEZ) of the Gulf of Mexico. NMFS has determined that the quota for the commercial fishery for tilefishes will have been reached by May 15, 2009. This closure is necessary to protect the tilefish resource.

DATES: Closure is effective 12:01 a.m., local time, May 15, 2009, through December 31, 2009.

FOR FURTHER INFORMATION CONTACT: Catherine Bruger, telephone 727–824–5305, fax 727–824–5308, e-mail *Catherine.Bruger@noaa.gov*.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council