

US EPA ARCHIVE DOCUMENT

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 15, 2010.

Michael A. Bussell,

Acting Regional Administrator, Region 10.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R10-RCRA 2010-0251; FRL-9181-8]

Washington: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Washington has applied to EPA for final authorization of certain changes to its hazardous waste management program under the Resource Conservation and Recovery Act, as amended, (RCRA). On June 18, 2010, EPA published a proposed rule to authorize the changes and opened a public comment period under Docket ID No. EPA-R10-RCRA-2010-0251. The comment period closed on July 19, 2010. EPA has decided that the revisions to the Washington hazardous waste management program satisfy all of the requirements necessary to qualify for final authorization and EPA is authorizing these revisions to Washington's authorized hazardous waste management program in this Final rule.

DATES: *Effective Date:* Final authorization for the revisions to the hazardous waste management program in Washington shall be effective at 1 p.m. EST on July 28, 2010.

ADDRESSES: EPA established a docket for this action under Docket ID No. EPA-R10-RCRA-2010-0251. All documents in the docket are available electronically on the Web site <http://www.regulations.gov>. A hard copy of the authorization revision application is also available for viewing, during normal business hours at the U.S. Environmental Protection Agency, Region 10, Office of Air, Waste and

Toxics, 1200 Sixth Avenue (AWT-122), Suite 900, Seattle, Washington 98101, contact: Nina Kocourek, phone number (206) 553-6502; or from the Washington State Department of Ecology, 300 Desmond Drive, Lacey, Washington 98503, contact: Robert Rieck, phone number (360) 407-6751.

FOR FURTHER INFORMATION CONTACT:

Nina Kocourek, U.S. Environmental Protection Agency, Region 10, Office of Air, Waste & Toxics (AWT-122), 1200 Sixth Avenue, Suite 900, Seattle, Washington 98101, phone number: (206) 553-6502, e-mail: kocourek.nina@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste management 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 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 EPA's regulations in Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

B. What decisions have we made in this rule?

EPA has made a final determination that Washington's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Washington final authorization to operate its hazardous waste management program for the changes described in its revised program application. Washington will have responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders, except in Indian country (18 U.S.C. 1151), 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 EPA promulgates under the authority of HSWA, which are more stringent than existing requirements, take effect in authorized States before the State is authorized for these

requirements. Thus, EPA will implement those requirements and prohibitions in Washington, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

The effect of this action is that a facility in Washington subject to RCRA will have to comply with the authorized State requirements instead of the corresponding Federal requirements in order to comply with RCRA. Additionally, such persons will have to comply with any applicable Federal requirements, such as, HSWA regulations issued by EPA for which the State has not received authorization, and RCRA requirements that are not supplanted by authorized State-issued requirements. Washington has enforcement responsibilities under its State hazardous waste management program for violations of its currently authorized program and will have enforcement responsibilities for the revisions which are the subject of this final rule. EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Conduct inspections; require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements; suspend, terminate, modify or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action to approve these revisions would not impose additional requirements on the regulated community because the regulations for which Washington will be authorized are already effective under State law and are not changed by the act of authorization.

D. What were the comments on EPA's proposed rule?

On June 18, 2010 (75 FR 34674), EPA published a proposed rule to grant authorization of changes to Washington's hazardous waste management program subject to public comment. The public comment period opened on June 18, 2010 and ended on July 19, 2010. The Agency did not receive any comments on the proposed rule.

E. What has Washington previously been authorized for?

Washington initially received final authorization on January 30, 1986, effective January 31, 1986 (51 FR 3782), to implement the State's dangerous

waste management program. EPA granted authorization for changes to Washington's program on September 22, 1987, effective on November 23, 1987 (52 FR 35556); August 17, 1990, effective October 16, 1990 (55 FR 33695); November 4, 1994, effective November 4, 1994 (59 FR 55322); February 29, 1996, effective April 29, 1996 (61 FR 7736); September 22, 1998, effective October 22, 1998 (63 FR 50531); October 12, 1999, effective January 11, 2000 (64 FR 55142); April 11, 2002, effective April 11, 2002 (67 FR 17636); April 14, 2006, effective June 13, 2006 (71 FR 19442) and on October

30, 2006 effective December 29, 2006 (71 FR 63253).

F. What changes are we authorizing with this action?

On May 18, 2010, Washington submitted a hazardous waste management program revision application seeking authorization of its changes in accordance with 40 CFR 271.21. On May 28, 2010 we determined that Washington's program revision application was complete. EPA has determined that Washington's hazardous waste management program revisions, as described in the State's

authorization revision application dated May 18, 2010 satisfy the requirements necessary to qualify for final authorization. The following program changes as identified in Table 1 and Table 2 below will be authorized with this action. The State is authorized for those federal rules as published in 40 CFR parts 260 through 265, 268, 270, and 279 that the State incorporated by reference as of July 1, 2007, unless otherwise noted; and all of the referenced analogous State authorities were legally adopted and effective State rules as of July 31, 2009.

TABLE 1—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL PROGRAM

Regulatory checklist ¹	Federal requirements	Federal Register	Analogous state authority—Washington's Administrative Code (WAC) (WAC 173-303-* * *)
17S	HSWA Codification Rule-Exposure Information.	50 FR 28702, 7/15/85	800(8); 800(12).
117B ²	Toxicity Characteristic Amendment.	57 FR 23062, 6/1/92	070(3) except 070(3)(a)(iii) and 070(3)(c).
203 ²	Recycled Used Oil Management Standards; Clarification.	68 FR 44659, 7/30/03	070(8)(c); 515(3) Incorporated by Reference (IBR) 045(1); 515(11) IBR 045(1).
205	NESHAP: Surface Coating of Automobiles and Light-Duty Trucks.	69 FR 22601, 4/26/04	691(1)(g); 400(3)(a).
207 ² and 207.1 ² ...	Uniform Hazardous Waste Manifest Rule and Amendment.	70 FR 10766, 3/4/05 as amended on 6/16/05 at 70 FR 35034.	040 "designated facility" definition; 040 "manifest" definition; 040 "manifest tracking number" definition; 160(2)(a), 160(2)(a)(ii), 160(2)(a)(iii); 180, 180(1), 180(7), 180(7)(a) IBR 045(1), 180(7)(b), 180(7)(b)(i), 180(7)(b)(ii), 180(7)(b)(iii), 180(7)(b)(iv), 180(7)(c), 180(8), 180(8)(a), 180(8)(b); 190(3), 190(3)(b), 190(4); 200, 200(6), 200(6)(a), 200(6)(b); 230 IBR 045(1), 230(2), 230(2)(c), 230(2)(d), 230(2)(e); 180(1) IBR 045(1); 250, 250(1)(a), 250(1)(b), 250(9), 250(9)(a), 250(9)(b), 250(9)(c), 250(9)(d), 250(5), 250(6), 250(6)(a), 250(6)(b), 250(6)(b)(i), 250(6)(b)(ii); 370, 370(1); 370(2), 370(2)(a), 370(2)(b), 370(2)(c), 370(2)(d), 370(2)(e), 370(3), 370(4)(d), 370(8), 370(5), 370(5)(a), 370(5)(a)(i), 370(5)(a)(ii), 370(5)(a)(iii), 370(5)(b), 370(5)(c), 370(5)(d)(i), 370(5)(d)(ii), 370(5)(e), 370(5)(e)(i), 370(5)(e)(ii), 370(5)(e)(iii), 370(5)(e)(iv), 370(5)(e)(v), 370(5)(e)(vi), 370(5)(e)(vii), 370(5)(f), 370(5)(f)(i), 370(5)(f)(ii), 370(5)(f)(iii), 370(5)(f)(iv), 370(5)(f)(v), 370(5)(f)(vi), 370(5)(f)(vii), 370(5)(g); 390(1), 390(1)(a), 390(1)(b), 390(1)(c), 390(1)(d), 390(1)(e), 390(1)(f), 390(1)(g).
209 ²	Universal Waste Rule: Specific Provisions for Mercury Containing Equipment.	70 FR 45508, 8/5/05	040 "mercury-containing equipment" definition; 040 "universal waste" definition; 077(2); 600(3)(o)(ii); 400(2)(c)(xi)(B); 140(2)(a) IBR 045(1); 800(7)(c)(iii)(B); 573(1)(a)(ii), 573(3)(a), 573(3)(b), 573(3)(b)(i), 573(3)(b)(ii), 573(3)(b)(iii), 573(3)(c)(i), 573(3)(c)(ii); 040 "ampule" definition; 040 "large quantity handler of universal waste" definition; 040 "mercury containing equipment" definition; 040 "small quantity handler of universal waste" definition; 573(9)(b), 573(9)(b)(i), 573(9)(b)(ii), 573(9)(b)(ii)(A), 573(9)(b)(ii)(B), 573(9)(b)(ii)(C), 573(9)(b)(ii)(D), 573(9)(b)(ii)(E), 573(9)(b)(ii)(F), 573(9)(b)(ii)(G), 573(9)(b)(ii)(H), 573(9)(b)(iii), 573(9)(b)(iii)(A), 573(9)(b)(iii)(B), 573(9)(b)(iv)(A), 573(9)(b)(iv)(A)(I), 573(9)(b)(iv)(A)(II), 573(9)(b)(iv)(B), 573(9)(b)(iv)(C), 573(10)(b)(i), 573(10)(b)(ii), 573(19)(b)(iv), 573(19)(b)(v), 573(20)(b), 573(20)(b)(i), 573(20)(b)(ii), 573(20)(b)(ii)(A), 573(20)(b)(ii)(B), 573(20)(b)(ii)(C), 573(20)(b)(ii)(D), 573(20)(b)(ii)(E), 573(20)(b)(ii)(F), 573(20)(b)(ii)(G), 573(20)(b)(ii)(H), 573(20)(b)(iii), 573(20)(b)(iii)(A), 573(20)(b)(iii)(B), 573(20)(b)(iv)(A), 573(20)(b)(iv)(A)(I), 573(20)(b)(iv)(A)(II), 573(20)(b)(iv)(B), 573(20)(b)(iv)(C), 573(21)(b)(i), 573(21)(b)(ii).

TABLE 1—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL PROGRAM—Continued

Regulatory checklist ¹	Federal requirements	Federal Register	Analogous state authority—Washington's Administrative Code (WAC) (WAC 173-303-* * *)
212	NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II).	70 FR 59402, 10/12/05 ..	110(1), 110(3)(g)(viii); 670(1)(b)(i), 670(1)(b)(v); 400(3)(a) IBR 045(1); 110(1), 110(3), 110(3)(g)(viii); 806 (17), 806(17)(a), 806(17)(a)(i), 806(17)(a)(ii), 806(17)(a)(iii), 806(17)(a)(iv), 806(17)(a)(v), 806(17)(a)(vi), 806(17)(a)(vii), 806(17)(a)(viii), 806(17)(a)(ix), 806(17)(b), 806(4)(f)(v), 806(4)(n), 806(4)(j)(iv)(C), 806(4)(k)(v)(C); 815(2)(b)(iii); 830(4)(j)(i), 830(4)(j)(ii), 830(4)(j)(iii), 830(4)(k), 830(4)(k)(i), 830(4)(k)(i)(A), 830(4)(k)(i)(B), 830(4)(k)(i)(C), 830(4)(k)(i)(D), 830(4)(k)(ii), 830(4)(k)(ii)(A), 830(4)(k)(ii)(B), 830 Appendix L 10; 807 introductory text; 811 IBR 045(1), 841 IBR 045(1).
213 ²	Burden Reduction Initiative.	71 FR 16862, 4/4/06	040 "performance track member facility" definition; 017(5)(b)(ii)(B), 017(5)(b)(ii)(C), 017(5)(b)(ii)(D), 017(5)(b)(ii)(E), 017(5)(b)(ii)(F), 017(5)(b)(ii)(G); 071(3)(w)(iii)(E), 071(3)(s)(ix); 320(2)(c); 330(i); 350(2); 360(2)(j); 380(1), 380(1)(a), 380(1)(b), 380(1)(f), 380(1)(g), 380(1)(i); 645(9)(d), 645(9)(g)(ii), 645(9)(g)(iii), 645(10)(f), 645(10)(g), 645(10)(h)(iii)(A), 645(10)(h)(iii)(B), 645(11)(g); 610(4)(e)(v), 610(6), 610(11); 620(4)(b), 620(6)(b), 620(8)(e); 630(6); 640(2)(a); 640(2)(c)(v)(B), 640(3)(a), 640(3)(c), 640(4)(a)(i), 640(4)(a)(ii), 640(6)(b), 640(6)(b)(ii), 640(6)(b)(i), 640(6)(b)(iii), 640(4)(f), 640(6)(c), 640(6)(d), 640(7)(f); 660(2)(j); 655(8)(b); 140(4)(b)(i), 140(4)(b)(ii), 140(4)(b)(iii), 140(4)(b)(iv), 140(4)(b)(v), 140(4)(b)(v)(A), 140(4)(b)(v)(B); 670(4)(a)(ii), 670(7)(c); 64690 IBR 045(1); 675(2)(a), 675(2)(b), 675(2)(c), 675(4)(a)(iv)(B), 675(4)(g), 675(5)(a); 691(2) IBR 045(1); 695 IBR 045(1); 400(3)(a) IBR 045(1), 400(3)(c)(v)(A), 400(3)(c)(v)(B), 400(3)(c)(v)(D), 400(3)(c)(v)(E), 400(3)(c)(vi)(C), 400(3)(c)(vi)(D), 400(3)(c)(vi)(E), 400(3)(c)(vii)(C), 400(3)(c)(vii)(D), 400(3)(c)(vii)(E), 400(3)(c)(viii)(A), 400(3)(c)(ix)(B), 400(3)(c)(ix)(C), 400(3)(c)(ix)(D), 400(3)(c)(ix)(E), 400(3)(c)(ix)(G), 400(3)(c)(ix)(H), 400(3)(c)(ix)(I), 400(3)(c)(ix)(J), 400(3)(c)(ix)(K), 400(3)(c)(ix)(L), 400(3)(c)(x), 400(3)(c)(xi)(A), 400(3)(c)(xii)(B), 400(3)(a)(xiii), 400(3)(a)(xiii)(B); 140(4)(b)(i), 140(4)(b)(ii), 140(4)(b)(iii), 140(4)(b)(iv), 140(4)(b)(v), 140(4)(b)(v)(A), 140(4)(b)(v)(B); 400(3)(c)(xviii)(A), 400(3)(c)(xviii)(B), 400(3)(c)(xviii)(C), 400(3)(c)(xviii)(D), 400(3)(c)(xviii)(E), 400(3)(c)(xviii)(F), 400(3)(c)(xx)(B), 400(3)(c)(xx)(A), 400(3)(c)(xx)(C), 400(3)(c)(xxii)(A), 400(3)(c)(xxii)(B); 140(2)(c) IBR 045(1), 140(2)(d) IBR 045(1), 140(2)(e) IBR 045(1), 140(2)(a) IBR 045(1), 140(2)(f) IBR 045(1); 806(4)(a), 806(4)(c)(i), 806(4)(l)(iii)(O); 830(1).

TABLE 1—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL PROGRAM—Continued

Regulatory checklist ¹	Federal requirements	Federal Register	Analogous state authority—Washington's Administrative Code (WAC) (WAC 173-303-* * *)
214 ²	Corrections to Errors in the Code of Federal Regulations.	71 FR 40254, 7/14/06	040 “incompatible waste” definition; 040 “personnel or facility personnel” definition; 040 “universal waste” definition; 040 “used oil” definition; 525(2), 525(3) introductory paragraph; 016(5)(a); 070(3); 016(5)(a)(i)(B); 071(3)(aa)(i)(B), 071(3)(aa)(ii), 071(3)(aa)(ii)(A), 071(3)(aa)(ii)(B), 071(3)(aa)(ii)(C), 071(3)(aa)(ii)(D), 071(3)(aa)(ii)(E), 071(3)(aa)(ii)(F), 071(3)(g)(i), 071(3)(r)(ii)(F), 071(3)(r)(iii)(A); 120(3)(b), 120(3)(d), 120(3)(g), 120(3)(f), 120(4)(c); 090(5)(a)(iii), 090(5)(a)(iii)(A), 090(5)(a)(iii)(B), 090(5)(a)(iii)(B)(I), 090(5)(a)(iii)(B)(II), 090(5)(a)(iii)(B)(III), 090(5)(a)(iii)(B)(IV), 090(5)(a)(iv), 090(5)(a)(iv)(A), 090(5)(a)(iv)(B), 090(5)(a)(iv)(C), 090(5)(a)(iv)(D), 090(5)(a) Note 1, 090(5)(a) Note 2, 090(5)(a) Note 3, 090(5)(a) Note 4, 090(8)(b); 9904 Footnote; 081(2)(a), 81(2)(a)(i); 9903 Introductory, 9903; 081(1); 082(4) IBR 045(1); 9905; 200(1)(b)(i), 200(1)(b)(ii), 200(1)(b)(iii), 200(1)(b)(iv), 200(1)(b)(v); 230(1) IBR 045(1); 600(3)(f), 600(5); 280(2); 300(5)(h)(iii)(B); 395(1)(a); 282(3)(g), 282(6)(c)(i)(A); 645(8)(a)(i), 645(8)(a)(i)(A), 645(8)(i)(v), 645(9)(a)(ii), 645(9)(g)(iv)(A), 645(10)(h)(ii); 64610(3); 610(2)(b), 610(3)(a)(ix), 610(6), 610(9), 610(8)(c), 610(10)(b)(i)(B); 620(1)(d)(i), 620(3)(c)(ii), 620(4)(b) IBR 045(1), 620(6)(b) IBR 045(1), 620(8)(b) IBR 045(1), 620(10) IBR 045(1); 630(7)(a)(i); 640(4)(c)(iv), 630(4)(d)(iv), 640(4)(e)(ii)(B), 640(4)(e)(ii)(C), 640(4)(e)(ii)(E)(I), 640(4)(e)(ii)(E)(II), 640(4)(e)(iii)(A), 640(4)(e)(iii)(B), 640(4)(g)(i)(C), 640(4)(g)(i)(D), 640(4)(g)(ii)(A)(I), 650(2)(j)(i)(B), 650(2)(j)(iii)(B), 650(2)(l)(i), 650(2)(l)(ii)(B), 650(2)(l)(ii)(C), 650(11)(b)(i), 650(4)(a)(ii); 660(2)(a)(ii)(A)(I), 660(3)(a), 630(3)(b), 660(10)(b); 655(8)(a)(vii), 655(8)(d), 655(12)(a); 665(2)(h)(ii), 665(2)(j)(ii)(B), 665(8)(a), 665(8)(b), 665(9)(b)(i); 140(4)(b)(v)(B); 665(11)(a); 670(5)(b); 64660(3)(d)(iii), 64660(3)(d)(iv)(F), 64660(3)(f)(ii)(E); 64680(5); 64690 IBR 045(1); 646910(5)(f); 675(4)(a)(i), 675(4)(a)(iv)(A), 675(4)(a)(v), 675(4)(b), 675(4)(m)(ii), 675(4)(m)(iii); 680(1), 680(2)(a), 680(2)(b)(xi), 680(2)(c)(iv); 690(1)(c), 690(2) IBR 045(1); 691(1)(f), 691(2) IBR 045(1); 692(1)(a), 692(1)(c), 692(2) IBR 045(1); 695 IBR 045(1); 380(2)(c), 380(2)(d); 400(2)(c)(ii); 290(1)(a); 310(2)(b); 330(1)(c)(ii); 400(3)(a) IBR 045(1); 360(2)(b); 400(3)(c)(viii), 400(3)(c)(ix)(G), 400(3)(c)(ix)(K), 400(3)(c)(xviii)(C); 380(2)(c), 380(2)(d); 525(1)(a); 140(2)(a) IBR 045(1); 803(2); 800(2); 802(2); 800(7)(c)(i); 040 “on-site” definition, 040 “publicly owned treatment works (POTW)””; 806(12); 810(13)(a); 803(3)(k)(vii); 806(4)(a); 282(6)(a)(i); 806(4)(a)(xviii)(C), 806(4)(a)(xxvii), 806(4)(d)(vii), 806(4)(e)(ii), 806(4)(e)(viii), 806(4)(g)(viii)(B)(vii)(A), 806(4)(g)(viii)(B)(vii)(B), 806(4)(g)(viii)(B)(vii)(C), 806(4)(g)(viii)(B)(vii)(D), 806(4)(l)(iii)(O); 815(3)(b); 282(2)(i); 830(4)(d)(ii)(A), 830 Appendix I; 805(1)(b), 805(7)(b)(ii); 040 “Universal Waste” definition; 573(10)(a), 573(21)(a); 515(2) IBR 045(1), 515(5)(e), 515(4) IBR 045(1), 515(4) Table 1, 515(8) IBR 045(1), 515(9) IBR 045(1), 515(10) IBR 045(1), 515(11) IBR 045(1).
215 ²	Cathode Ray Tubes Rule	71 FR 42928, 7/28/06	040 “cathode ray tube” definition; 040 “CRT collector” definition; 040 “CRT glass manufacturer” definition; 040 “CRT processing” definition; 071(3)(oo)(i), 071(3)(oo)(ii), 071(3)(oo)(iii), 071(3)(oo)(iv).
217 ²	NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments.	73 FR 18970, 4/8/08	670(1), 670(1)(b)(i), 670(1)(b)(iii), 670(1)(b)(v).

¹ Regulatory Checklist is a document that addresses specific changes made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist States in developing their authorization application and in documenting specific State regulations analogous to the Federal regulations. For more information on EPA's RCRA State Authorization Guidance see <http://www.epa.gov/epawaste/osw/laws-regs/State/index.htm>.

² State rule contains more stringent provisions. For identification of the more stringent State provisions refer the Docket ID Number EPA-R10-RCRA-2010-0251 for this action.

TABLE 2—STATE INITIATED CHANGES

State Citation— Washington's Administrative Code (WAC) (WAC 173–303–* * *)	Reason for change	Analogous Federal 40 CFR citation
030	Clarification—Add acronyms (PODC, DRE, APTI, MACT, TEQ, CAMU, TU).	260 related.
040	Clarify definition for Closure—update to clarify closure applies to recyclers, some generators and some transporters.	262.10.
040	Compliance Procedure—removed the cited dates and added RCW title.	260 related.
040	Person definition—Updated to match Federal rule	260.10.
040	Staging Pile definition—Updated to match Federal rule	260.10.
040	Surface Impoundment definition—Change language to reflect Federal definition by deleting the word “dangerous”.	260.10.
045	Incorporation by reference updated to July 2007	260–280 related.
070(7)(c)	Clarify that counting exclusion applies to permit-by-rule (PBR), not to treatment by generator activity.	261/5(c) Intro.
070(8)(d)	Citations corrected for used oil burned for energy recovery.	261.5 related.
071(3)(cc)(ii)	Deletion of incorrect NAICS codes—487110, 722310, 425110.	261.4(a)(12)(i), 261.4(a)(12)(ii).
081(1), 081(1)(a) and 082(1).	Clarification on appropriate commercial chemical product waste code.	261.33, 261.31(a).
*083(2)(b)(iii)(A) & (B)	Clarification—SW–846 is incorporated by reference at 110(3)(a).	261.35(b)(2)(iii)(A), 261.35(b)(2)(iii)(B).
*090(5)(a)(i) and (6)(a)(i), & (iii).	Clarification—SW–846 test method is incorporated by reference at 110(3).	261.21(a)(1), 261.22(a)(1), 261.22(a)(2).
090(6)(a)(ii)	Updates to ASTM and NACE procedures	
	Clarify that the NACE test method is the same as SW–846 Method 1110A.	261.22(a)(1) and (2).
110 title	First sentence revised by adding word “analytes”	260.1, 270.6 related.
110(2)(a)(vi), (2)(b)	Clarification on selection of sampling device	260.11, 261 (Appendix I, Index).
	Reference to AC&D liquid sample removed	
*110(3)(a)	Added “IIIB Update” and “Final Update IV” to SW 846 reference.	260.11(a) through (g), related.
110(3)(c)	Chemical Testing Methods guidance revisions and updates.	Previously authorized as and currently related to 40 CFR 261 Appendix 1—Test Methods.
*110(3)(f)	Clarification—Use test methods in SW–846 Chapter 2 for identifying toxic constituents.	260.11 Appendix III.
110(3)(e) through (h)	Updated referenced test methods to latest revision date	260.11.
110(3)(g)(x)	Duplicate deleted [see 110(3)(g)(vii)]	260.11(15).
110(5)	Citation correction from “to approve” to “approval for the use of” an equivalent testing method by submitting a petition.	260.21.
110(6)	Clarification—Test method results need to be reported on a dry weight basis.	Technical clarification, consistent with and no less stringent than the Federal program, related to 260.21.
110(7)	“Ground-Water Monitoring List” Appendix IX to 40 CFR Part 264 is replaced with the version in Appendix 5 of the State’s “Chemical Testing Methods for Designating Dangerous Waste, Publication #97–407, June 2009” which is incorporated by reference into the WAC at 173–303–110(1).	264 Appendix IX.
120(4)(c)	Correct second repeated (c)(vii) by renumbering as (c)(ix).	261.6(c)(2).
*140(2)(a)	Clarify that section 110 test methods must be used	268 related, conforming change to reflect retention of use of SW–846 methods.
140(4)(b)(iv)(B)(I)	ASTM Test method update	264.314(e).
200(1)(b)(ii) & (iii),	Delete “stress of installation” phrase and insert in 640 and 675.	262.34(a)(1)Intro, 262.34(a)(1)(ii), 262.34(a)(1)(iii).
200(4)(a)(iv)(A)(II)	Correct the Federal references by substituting State citations for closure and financial assurance.	262.34(a)(1)(iv).
200(1)(b)(iv)	The word “shall” was changed to “must”	
270(3)	49 CFR 171.16 reference—updated transporter spill reporting address and method.	263.30(c)(2).
281(4)	Citations corrected from WAC 173–303–840 to WAC 173–303–830.	124.31(a).
*300(5)(f)	Clarify that section 110 test methods must be where specific WAC citations are referenced.	264.13(b)(6); 265.13(b)(6); 264.73(b)(3); 265.73(b)(3), conforming change to reflect retention of use of SW–846 methods.
310(1)	Reworded to be consistent with Federal rule	264.14; 265.14.

TABLE 2—STATE INITIATED CHANGES—Continued

State Citation— Washington's Administrative Code (WAC) (WAC 173–303–* * *)	Reason for change	Analogous Federal 40 CFR citation
*380(1)(c)	Clarify that section 110 test methods must be used where specific 40 CFR citations are referenced.	264.73(b)(3); 265.73(b)(3); conforming change to reflect retention of use of SW–846 methods.
*380(1)(f)	Add “incorporated by reference” for clarity and clarified that section 110 test methods must be used where specific WAC citations are referenced.	264.73(b)(6); 265.73(b)(6), conforming change to reflect retention of use of SW–846 methods.
380(2)(c)	Add “tons (2000 lbs)” to unit of measure Table 1	264 Appendix I (2) Table 1; 265 Appendix I (2) Table 1.
400(2)(c)(xiv)	Language added for equivalence with Federal rule	265.1(c)(5).
400(2)(c)(xv)		
400(3)(c)	Added the word “qualified” to the description of an independent registered professional engineer. This occurs nineteen times in the sub subsection.	265 related—more stringent State requirement.
*400(3)(c)(iii)	Clarify that section 110 test methods must be used where specific 40 CFR 265 subparts are referenced.	265 related, conforming change to reflect retention of use of SW–846 methods.
400(3)(c)(iv) Moved from (3)(c)(x).	Reference regarding Subpart B is changed because the only part of Subpart B that is incorporated by reference is 265.19.	265.19.
400(3)(c)(xiii)(A)	Correction—the word carbonaceous replaces carcinogen.	265.300 Subpart N—Landfills, related.
505(1)(b)(iv)	Citation corrected	266.20.
506(3)(vii)	Deleted CFC recycling exception from closure and financial responsibility requirements.	264.110, 265.110 Subpart G related; 264.140, 265.140 Subpart H related.
510(1)(b)(i)(B)	Correct internal citation	260.30(b) Introduction, 260.30(b)(1), 266.100(b)(1).
*515(3)	Clarify that section 110(3) test methods must be used ..	279.10, conforming change to reflect retention of use of SW–846 methods.
*515(4)	Clarify that section 110(3) test methods must be used ..	279.11, conforming change to reflect retention of use of SW–846 methods.
*515(8), (9), (10) and (13)(b).	Clarify that section 110(3) test methods must be used ..	279.40–47, 279.50–59, 279.60–67, 279.10, conforming change to reflect retention of use of SW–846 methods.
610(3)(a)(ix), (3)(b)(ii)(D), (8)(b)(iv), and (8)(d)(ii)(D).	Citation corrected	264.112 related.
610(6) & (11)	Add “qualified” to PE description	264.115; 264.120—more stringent State requirement.
610(12)(e), 620(1)(e)(ii)	Correction—change “resource reclamation units” to “recycling units”.	264.143.
620(4)(d)(iv)	Clarification that corporate guarantors are also subject to a minimum net worth criteria.	264.143.
620(4)(c), 620(4)(e)(i), 620(4)(f).	New financial instrument option—“assigned security deposit” for used oil processors and recyclers.	264.143.
620(4)(d)(i)	Clarification that used oil processors may use partially funded trust funds.	264.143.
620(4)(d)(iv)	Clarification that corporate guarantors are also subject to a minimum net worth criteria.	264.143.
620(5)(c), 620(5)(d), 620(7)	Edit—add hyphen to post-closure	264.143.
*640(1)(b)	Provide title for test method	264.190.
	Clarification that SW–846 is incorporated by reference ..	
*645(4)(a) and (b)	Note that the 40 CFR 264 Appendix IX Ground-Water monitoring list is included as Appendix 5 in the “Chemical Testing Methods for Dangerous Waste, Publication #97–407, June 2009”, which is incorporated by reference at WAC 173–303–110(1).	264 Appendix IX.
*645(9)(g)(ii), (iii) and (iv)(A)		
645(10)(g)		
64610(4)		
806(4)(a)(xx)(D)(II)	Update reference to Chapter 173–160 WAC	264.97(c).
645(8)(c)	Relocate “stress of installation” phrase from 200	264.573. 264.193.
640(4)(c)(i) & 675(4)(a)(v) ...	Correct “SW846” to read “SW–846”	264.552 related (CAMU).
64660(3)(d)(iv)(F)	New subsection	264.314.
665(13)	Added a reference to the liquid waste disposal provision in 140(4)(b).	
*690	Deleted proposed language requiring use of 110(3)(a) test methods.	264.1030, 264.1050 (Air Emissions for Vents, and Equipment Leaks).
*691	Citation corrected	270.10.
806(2)(a)	Clarification that equivalent analytical techniques must be approved by ecology.	270.19.
*806(4)(f)(iii)(A)(III)		
806(8)	Updated permit application requirements for consistency with Federal rule and clarified that facilities must consult with Ecology about submittal of exposure information.	270.10(c).
*807(2)(a)(iii)	Clarification that equivalent analytical techniques must be approved by Ecology.	270.62.
810(11)(c)	Duplicate provision deleted	270.30(j)(2).
810(16)	Citation corrected	270.30(m).

TABLE 2—STATE INITIATED CHANGES—Continued

State Citation— Washington's Administrative Code (WAC) (WAC 173–303–* * *)	Reason for change	Analogous Federal 40 CFR citation
830(4)(b)(vii)	Citation corrected	270.42(b) related.
*910(2)(d)	Clarify that approved equivalent test methods will be incorporated at 110(3).	260.20(a), 260.21(d).
910(3)	Clarify that exemption petitions also go to EPA for Federal listed wastes.	260.22(d)(1)(i).
9901; 9902	Delete obsolete title	260 Appendix I, related.

* These State citations were amended to clarify that SW–846 test methods must be used, or in some cases requiring the use of test methods specifically called out in WAC 173–303–110.

G. Where are the revised State rules different from the Federal rules?

This section does not discuss all the program differences, because in most instances Washington writes its own version of the Federal hazardous waste rules. This section highlights those more notable differences between the revised State rules and the Federal rules. The State regulations that EPA is authorizing are located in Tables 1 and 2 above, and by viewing the Docket. There are certain portions of the Federal program which are not delegable to the States because of the Federal government's special role in foreign policy matters and because of national concerns that arise with certain decisions. For example, EPA does not delegate import/export functions. Under RCRA regulations found in 40 CFR part 262, EPA will continue to implement requirements for import/export functions. However, the State rules found at WAC 173–303–230 reference EPA's export and import requirements and the State has amended these references to include those changes promulgated in the Federal rule "Corrections to Errors in the Code of Federal Regulation, (71 FR 40254, 7/14/06)".

The State did not adopt the Federal Methods Innovation Rule (70 FR 34537, 6/14/05) which amended a variety of testing and monitoring requirements found in RCRA and removed from the Federal regulations a requirement to use the methods found in "EPA's Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," also known as "SW–846" in conducting various testing and monitoring. The State retained the RCRA-related sampling and analysis requirement to use the testing methods found in "SW–846," and EPA considers these changes to be state-initiated changes within the scope of Ecology's existing authorization that are consistent with and no less stringent than the Federal program. (**Note:** The State does have an existing state-only petition process for

deviating from "SW–846" for equivalent testing methods, found at WAC 173–303–110(5) which is not part of its state-only rule and isn't part of the federally-authorized program. Additionally, in Table 2, above, those State citations identified with an asterisk (*) indicate those state provisions where "SW–846" testing methods must be used.)

The State's definition of "Designated facility", found at WAC 173–303–040, is equivalent to the Federal definition, found at 40 CFR 260.10, with the exception of one broader in scope phrase that is a state-only requirement. The broader in scope phrase that is not authorized is: "The following are designated facilities only for receipt of State-only waste; they cannot receive federal hazardous waste from off-site: Facilities operating under WAC 173–303–500(2)(c)."

States are allowed to seek authorization for more stringent requirements than the Federal program. EPA has the authority to authorize and enforce those parts of a State's program EPA finds to be more stringent than the Federal program. The State revised its previous federally authorized mercury-containing equipment requirements with the adoption of the Federal Rule for Mercury-Containing Equipment Universal Waste (70 FR 45508, 8/5/06). The State's revised mercury-containing equipment universal waste rule is more stringent than the Federal rule as the State regulates lamps at a lower accumulation limit than the Federal rule. Specifically, the State's definitions of small and large quantity handlers of universal waste found at WAC 173–303–040 are more stringent than the Federal definitions found at 40 CFR 273.9; and the State's large quantity handlers of universal waste notification standards found at WAC 173–303–573(19)(b)(v) are more stringent than the Federal notification standards found at 40 CFR 273.32(b)(5). Additionally, the State adopted some portions of the Federal Burden Reduction Initiative Rule (70 FR 16862, 4/4/06). The State's

rule retains many of the Federal requirements that were reduced by the Federal Burden Reduction Initiative Rule, and as a result those requirements retained by the State are more stringent than their Federal counterparts. The State's definitions of "Cathode ray tubes (CRT) and CRT collector" found at WAC 173–303–040 are more stringent than the Federal CRT definitions found at 40 CFR 260.10, because the State defines a CRT to mean all categories of CRTs (intact, used and broken) and requires that all CRTs be managed (WAC 173–303–071(3)(oo)(i)–(iv)) under the same standards used in the federal program for used and broken CRTs (40 CFR 261.39).

H. Who handles permits after this authorization takes effect?

After authorization, Washington will continue to issue permits for all the provisions for which it is authorized and will administer the permits it issues. If EPA issued permits prior to authorizing Washington for these revisions, these permits would continue in force according to the terms of such permits until the effective date of the State's issuance or denial of a State hazardous waste management permit, at which time, EPA would modify the existing EPA permit to expire at an earlier date, terminate the existing EPA permit for cause, or allow the existing EPA permit to otherwise expire by its terms, except for those facilities located in Indian Country. EPA will not issue any new permits, permit components, or new portions of permits for the provisions listed in Section G after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Washington is not yet authorized.

I. What is codification and is EPA codifying Washington's hazardous waste program as authorized in this final rule?

Codification is the process of placing the State's statutes and regulations that

comprise the State's authorized hazardous waste program into the Code of Federal Regulations. This is done by referencing the authorized State rules in 40 CFR part 272. EPA is reserving the amendment of 40 CFR part 272, subpart WW for this authorization of Washington's program revisions until a later date.

J. How does today's action affect Indian Country (18 U.S.C. 1151) in Washington?

EPA's decision to authorize the Washington hazardous waste management program does not include any land that is, or becomes after the date of authorization, "Indian Country," as defined in 18 U.S.C. 1151, with the exception of the non-trust lands within the exterior boundaries of the Puyallup Indian Reservation (also referred to as the "1873 Survey Area" or "Survey Area") located in Tacoma, Washington. EPA retains jurisdiction over "Indian Country". Effective October 22, 1998 (63 FR 50531, 9/22/98) the State of Washington was authorized to implement the State's federally-authorized hazardous waste management program on the non-trust lands within the 1873 Survey Area of the Puyallup Indian Reservation. The authorization did not extend to trust lands within the reservation. EPA retains its authority to implement RCRA on trust lands and over Indians and Indian activities within the 1873 Survey Area.

K. Statutory and Executive Order Reviews

This final rule revises the State of Washington's authorized hazardous waste management program pursuant to section 3006 of RCRA and imposes no requirements other than those currently imposed by State law. This final rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant", and therefore subject to OMB review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create

a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. EPA has determined that this final rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

2. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this final rule does not establish or modify any information or recordkeeping requirements for the regulated community and only seeks to authorize the pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing, and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in Title 40 of the CFR are listed in 40 CFR part 9.

3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small

governmental jurisdictions. For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR Part 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. I certify that this final rule will not have a significant economic impact on a substantial number of small entities because the final rule will only have the effect of authorizing pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law.

4. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (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 section 202 of the UMRA, EPA generally must prepare a written Statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures and final rules with "Federal mandates" 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. Before promulgating an EPA rule for which a written Statement is needed section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the rule an explanation why the alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in

the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's final rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. It imposes no new enforceable duty on any State, local or tribal governments or the private sector. Similarly, EPA has also determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, today's final rule is not subject to the requirements of sections 202 and 203 of the UMRA.

5. Executive Order 13132: Federalism

This final rule does not have Federalism implications. It 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 various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This final rule authorizes pre-existing State rules. Therefore, Executive Order 13132 does not apply to this final rule.

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (59 FR 22951, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This final rule does not have tribal implications, as specified in Executive Order 13175 because EPA retains its authority over Indian Country. Therefore, Executive Order 13175 does not apply to this final rule.

7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it approves a State program.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This final 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" as defined under Executive Order 12866.

9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272), 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 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 final rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations. This final rule does not affect the level of protection provided to human health or the environment because this rule authorizes pre-existing State rules which are equivalent to, and no less stringent than existing Federal requirements.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This final 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: July 21, 2010.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2010-18566 Filed 7-27-10; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket ID FEMA-2010-0003; Internal Agency Docket No. FEMA-8139]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

DATES: *Effective Dates:* The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

FOR FURTHER INFORMATION CONTACT: If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Mitigation Directorate, Federal Emergency Management Agency, 500 C