

US EPA ARCHIVE DOCUMENT

Reform Act of 1995 (UMRA) (Public Law 104-4).

This final rule will not have substantial direct effects on the States or on one or more Indian tribes, on the relationship between the national government and the States or one or more Indian tribes, or on the distribution of power and responsibilities among the various levels of government or between the Federal government and Indian tribes. As such, this action does not have any "federalism implications" as described in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), or any "tribal implications" as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249), November 6, 2000).

Since this final rule is not a "significant regulatory action" as defined by Executive Order 12866, it does not require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), and is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001).

This action does not involve any technical standards that require the Agency's consideration of voluntary consensus standards pursuant to 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 note).

This action will not result in environmental justice related issues and does not, therefore, require special consideration under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994) or Executive Order 12630, entitled *Governmental Actions and Interference with Constitutionally Protected Property Rights* (53 FR 8859, March 15, 1988).

In issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988, entitled *Civil Justice Reform* (61 FR 4729, February 7, 1996).

V. Congressional Review Act

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. EPA will submit 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 this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

Dated: March 17, 2003.

James Jones

Director, Office of Pesticide Programs.

■ Therefore, 40 CFR part 180 is corrected as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

■ 2. In FR Doc. 03-3843, published in the **Federal Register** of February 19, 2003, (68 FR 7939) (FRL-7278-6), in the 3rd column, the number 2 instruction is corrected to read "2. Section 180.1225 is added to subpart D to read as follows:" and that the section heading is corrected to read as follows:

§ 180.1225 Decanoic acid; exemption from the requirement of a tolerance.

[FR Doc. 03-8370 Filed 4-8-03; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7479-1]

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 of the changes to its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these revisions 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 revisions without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get adverse comments which oppose this authorization during the comment period, the decision to authorize the Oklahoma Department of Environmental Quality's (ODEQ) revisions to their hazardous waste program will take effect. If adverse comments are received, we will publish a document in the **Federal Register** either: A withdrawal of the immediate Final decisions and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes, or a document containing a response to comments and which either affirms that the immediate Final decision takes effect or reverses the decision.

EFFECTIVE DATE: This immediate final rule is effective on June 9, 2003, unless EPA receives adverse written comments by May 9, 2003. Should EPA receive such comments, it will publish a timely document either: Withdrawing the immediate final publication or affirming the publication and responding to comments.

ADDRESSES: Written comments, referring to Docket Number OK-01-03, should be sent to Alima Patterson Region 6 Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of Oklahoma program revision application and the materials which EPA used in evaluating the revisions are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday at the following address: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101-1677, (405) 702-7180 and EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-6444.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665-8533.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States that receive final authorization from 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 Hazardous Waste 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 40 Code of Federal Regulations (CFR) parts 124, 260–266, 268, 270, 273, and 279.

B. What Is The Effect Of Today's Authorization Decision?

The effect of this decision is that a facility in Oklahoma subject to RCRA will have to comply with the authorized State Requirements (Cluster X listed in this document) instead of the equivalent federal requirements in order to comply with RCRA. Oklahoma has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to: (1) Do inspections, and require monitoring, tests, analyses or reports, (2) enforce RCRA requirements and suspend or revoke permits. This action does not impose additional requirements on the regulated community because the regulations for which Oklahoma is being authorized by today's action are already effective, and are not changed by today's action.

C. What Is the History of Oklahoma's Final Authorization and Its Revisions?

Oklahoma initially received Final Authorization on January 10, 1985, (49 FR 50362–50363) published December 27, 1984 to implement its base hazardous waste management program. We authorized the following revisions: Oklahoma received authorization for revisions to its program with publication dates: April 17, 1990 (55 FR 14280–14282), effective June 18, 1990; September 26, 1990 (55 FR 39274) effective November 27, 1990; April 2, 1991 (56 FR 13411–13413) effective June 3, 1991; September 20, 1991 (56 FR 47675–47677) effective November 19, 1991; September 29, 1993 (58 FR 50854–50856) effective November 29, 1993; October 12, 1993 (52679–52682) effective December 13, 1993; October 7, 1994 (59 FR 51116–51122) effective December 21, 1994; January 11, 1995 (60 FR 2699–2702) effective April 27, 1995; October 9, 1996 (61 FR 52884–52886) effective December 23, 1996; Technical

Correction March 14, 1997 (12100–12101) effective March 14, 1997; September 22, 1998 (63 FR 50528–50531) effective November 23, 1998; March 29, 2000 (65 FR 16528–16532) effective May 30, 2000; May 10, 2000 (65 FR 29981–29985) effective June 9, 2000; and January 2, 2001 (66 FR 28–33) effective March 5, 2001. The authorized Oklahoma RCRA program was incorporated by reference into the CFR published on December 9, 1998 (67800–67834) effective February 8, 1999 and August 26, 1999 (46567–46571) effective October 25, 1999. On October 15, 2001, Oklahoma submitted a final complete program revision application, seeking authorization of its program revision in accordance with 40 CFR 271.21.

Oklahoma statutes provide authority for a single State agency, the Oklahoma Department of Environmental Quality (ODEQ), to administer the provisions of the State Hazardous Waste Management Program. These statutes are the Oklahoma Department of Environmental Quality Act, 27 O.S. Supplement (Supp.) 2000 §§ 1–1–101 *et seq.* General provisions of the Oklahoma Environmental Quality Code which may affect the Hazardous Waste Program are 27A O.S. Supplement (Supp.). 2000 §§ 2–1–101 through 2–3–507; and the Oklahoma Hazardous Waste Management Act (OHWMMA), 27A O.S. Supp. 2000 §§ 2–7–101 *et seq.*, specifically § 2–7–104 and 27A O.S. Supp. 2000 §§ 2–14–305 allows for issuance of general permits. No amendments were made to the above statutory authorities during the 2001 legislative session which will substantially affect the State Hazardous Waste Management Program.

The Oklahoma Board adopted RCRA Cluster X rules on February 23, 2001, as permanent rules. These permanent rules became effective on June 11, 2001, to implement the State hazardous waste program, which are codified in OAC 252:205 *et seq.* These rules include provisions, found at OAC 252:205–3–1 through 252:205–3–6, to incorporate by reference, in accordance with the *Guidelines For State Adoption of Federal Regulations By Reference*, the following EPA Hazardous Waste Management Regulations as amended through July 1, 2000: The provisions of Title 40 CFR part 124.31, 124.32 and 124.33; 40 CFR parts 260–266, with the exception of 40 CFR 260.21, 264.(f), 264.150, 264.301(1), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f),

264.1080(g), 265.1(c)(4), 265.149, 265.150, 265.1030(c), 265.1010(f), 265.1080(e), 265.1080(f), and 265.1080(g); 40 CFR part 268 except 268.5, 268.6, 268.13, 268.42(b), 268.44(a) through (g), and 268.44(m) through (p); 40 CFR part 270 except 271.14(b)(18); 40 CFR part 273; and 40 CFR part 279.

The ODEQ remains the official agency of the State of Oklahoma, as designated by 27A O.S. Supp. 2000 Section 2–7–105(13) to cooperate with Federal agencies for purposes of hazardous waste regulation. The OHWMMA delegates authority to the ODEQ to administer the State hazardous waste program, including the statutory and regulatory provisions necessary to administer the RCRA Cluster X provisions. The DEQ is the sole State agency responsible for administering the provisions of the OHWMMA.

At the present, the Oklahoma Corporation Commission (OCC) regulates certain aspects of the oil and gas production and transportation industry in Oklahoma, including certain waste generated by pipelines, bulk fuel sales terminals and certain tank farms. The ODEQ and the OCC have in place a ODEQ/OCC Jurisdictional Guidance Document that reflects the current state of affairs between the two agencies. The current ODEQ/OCC jurisdictional Guidance Document was amended and signed on January 27, 1999.

The revisions of the State program to include administration of the provisions of portions of RCRA Cluster X will not require a change in responsibility for administration of the State hazardous waste program.

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

On October 15, 2001 the State of Oklahoma 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 Oklahoma's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. The State of Oklahoma revisions consist of regulations which specifically govern Federal Hazardous Waste promulgated from July 1, 1999 to June 30, 2000 (RCRA Cluster X) Oklahoma requirements are included in a chart with this document.

Federal Citation	State Analog
1. Delisting Waste, [50 FR 28702] July 15, 1985. (Checklist 17B)	27A O.S. Supp. 2000 § 2-2-104 Added by Laws 1994, effective July 1, 1994, Annotated Oklahoma Statutes 27A. O.S. Supp § 2-2-106 Amended by Laws 1981, effective July 1, 1981; Amended by Laws 1993, Rules 252:205:3-1 through 252:205:3-7 permanent effective date June 11, 2001.
2. Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps, [64 FR 36466-36490] July 6, 1999. (Checklist 181).	27A O.S. Supp. 2000 § 2-2-104 Added by Laws 1994, effective July 1, 1994, Annotated Oklahoma Statutes 27 A. O.S. Supp 2000 § 2-2-106 Amended by Laws 1981, effective July 1, 1981; Amended by Laws 1993, Rules 252:205:3-1 through 252:205-3-7 permanent effective date June 11, 2001.
3. Hazardous Waste Recycling; Land Disposal Restrictions; Final Rule, Hazardous Waste Air Pollutant Standards for Combustors, Miscellaneous Units, and Secondary Lead Smelters; Clarification of BIF Requirements; Technical Correction to Fast-track Rule, [64 FR 52828-53077; 64 FR 63209-63213] September 30, 1999; and November 19, 1999. (Checklist 182).	27A O.S. Supp. 2000 § 2-2-104 Added by Laws 1994, effective July 1, 1994, Annotated Oklahoma Statutes 27 A. O.S. Supp 2000 § 2-2-106 Amended by Laws 1981, effective July 1, 1981; Amended by Laws 1993, Rules 252:205-3-1 through 252:205-3-7 permanent effective date June 11, 2001.
4. Land Disposal Restrictions Phase IV: Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Wastes; Mineral Processing Secondary Materials and Bevill Exclusion Issues; Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters, [64 FR 56469-56472] October 20, 1999. (Checklist 183).	27A O.S. Supp 2000 § 2-2-104 Added by Laws 1994, effective July 1, 1994, Annotated Oklahoma Statutes 27 A. O.S. Supp 2000 § 2-2-106 amended by Laws 1981, effective July 1, 1981; amended by Laws 1993, Rules 252:205:3-1 through 252:205-3-7 permanent effective date June 11, 2001.
5. Accumulation Time Under RCRA for Waste Water Treatment Sludges From the Metal Finishing Industry; Final Rule: Vacatur of Organobromine Production Waste Listings, [65 FR 12378-12398] March 8, 2000. (Checklist 184).	27A O.S. Supp. 2000 § 2-2-104 Added by Laws 1994, effective July 1, 1994, Annotated Oklahoma Statutes 27 A. O.S. Supp 2000 § 2-2-106 Amended by Laws 1981, effective July 1, 1981; Amended by Laws 1993, Rules 252:205:3-1 through 252:205-3-7 permanent effective date June 11, 2001.
6. Organobromine Production Waste; Identification and Listing of Hazardous Waste; Land Disposal Restrictions; Listing of CERCLA Hazardous Substances, Reportable Quantities; Final Rule, [65 FR 14472-14475] March 17, 2000. (Checklist 185).	27A O.S. Supp 2000 § 2-2-104 Added by Laws 1994, effective July 1, 1994, Annotated Oklahoma Statutes 27 A. O.S. Supp 2000 § 2-2-106 Amended by Laws 1981, effective July 1, 1981; Amended by Laws 1993, Rules 252:205:3-1 through 252:205-3-7 permanent effective date June 11, 2001.
7. Accumulation Time Under RCRA for Waste Water Treatment Sludges From the Metal Finishing Industry; Final Rule: Petroleum Refining Process Wastes-Clarification, [64 FR 36365-36367] June 8, 2000. (Checklist 187).	27A O.S. Supp. 2000 § 2-2-104 Added by Laws 1994, effective July 1, 1994, Annotated Oklahoma Statutes 27 A. O.S. Supp 2000 § 2-2-106 Amended by Laws 1981, effective July 1, 1981; Amended by Laws 1993, Rules 252:205:3-1 through 252:205-3-7 permanent effective date June 11, 2001.

E. What Decisions has EPA Made?

We conclude that Oklahoma's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Oklahoma final authorization to operate its hazardous waste program with the changes described in the authorization application. Oklahoma has responsibility for permitting treatment, storage, and disposal facilities within its borders (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 Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Oklahoma, including issuing permits, until the State is granted authorization to do so.

F. How do the Revised State Rules Differ From the Federal Rules?

In this authorization of the State of Oklahoma's program revisions for RCRA Cluster X, there are no provisions that are more stringent or broader in scope. Broader in scope requirements are not part of the authorized program and EPA can not enforce them.

G. Who Handles Permits After This Authorization Takes Effect?

The State of Oklahoma will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more permits or new portions of permits for the provision listed in that Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Oklahoma is not yet authorized.

H. Why was There not a Proposal Rule Before Today's Notice?

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 because we believe this action is not controversial. 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.

I. Where do I Send My Comments and When are They Due?

You should send written comments to Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8533. Please refer to Docket Number OK-01-03). We must receive your comments by May 9, 2003. You may not have an opportunity to comment again. If you want to comment on this action, you must do so at this time.

J. What Happens if EPA Receives Comments Opposing This Action?

If 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.

K. When Will This Approval Take Effect?

Unless EPA receives comments opposing this action, this final authorization approval will become effective without further notice on June 9, 2003.

L. Where Can I Review The State's Application?

You can review and copy the State of Oklahoma's application from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: Oklahoma Department of Environmental Quality, 707 North Robinson, Oklahoma City, Oklahoma 73101-1677, (405) 702-7180 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-6444. For further information contact Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8533.

M. Does Today's Action Affect Indian Country In Oklahoma?

Oklahoma is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect on Indian Country.

N. What Is Codification?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. The EPA does this by referencing the authorized State rules in 40 CFR part 272. The EPA reserves the amendment of 40 CFR part 272, Subpart LL for this codification of Oklahoma's program changes until a later date.

Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866

(58 FR 51735, October 4, 1993), and therefore, this action is not subject to review by OMB. This rule incorporated by reference Oklahoma's authorized hazardous waste management regulations, and imposes no additional requirements beyond those imposed by State law. This final 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.*). Incorporation by reference will not impose any new burdens on small entities. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 3501 *et seq.*). Because this rule merely incorporates by reference certain existing State hazardous waste management program requirements which EPA already approves under CFR part 271, 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).

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 incorporates by reference existing State hazardous waste management program requirements without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000).

This action also is not subject to Executive Order 13045 (62 FR 19885M April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This action is not subject to Executive Order 13211, "Action Concerning Regulations That Significantly Affect Energy Supply Distribution or Use" (66 FR 28344, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for incorporation by reference as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State incorporation by reference 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) do not apply. The final rule does not include environment justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994). 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

The Congressional Review Act, 5 U.S.C. 3501 *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 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 on June 9, 2003.

List of Subjects in 40 CFR Part 271

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

Authority: This document is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 27, 2003.

Lawrence E. Starfield,
Acting Regional Administrator, Region 6.
[FR Doc. 03-8667 Filed 4-8-03; 8:45 am]

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