

US EPA ARCHIVE DOCUMENT

Federal citation	State action
18. Changes to Part 124 Not Accounted for by 48 FR 14148-14295, April 1, 1983; 48 FR 30113-30115, June 30, 1983; 53 FR 28318-28317, July 28, 1988; 53 FR 37398-37414, September 28, 1988; and 54 FR 246-258, January 4, 1989.	NMSA, 1978, § 74-4-4.2, (Repl. Pam. 1992); HWMR-6, as amended February 1991, §§ 901, 902 and 1003.
19. Mining Waste Exclusion II, January 23, 1990 [55 FR 2322-2354]	NMSA, 1978, § 74-4-4A & § 74-4-4D (Repl. Pam. 1992); HWMR-6, as amended February 1991, §§ 101, 291, & 301.
20. Modification of F019 Listing, February 14, 1990 [55 FR 5340-5342]	NMSA, 1978, § 74-4-4A(1), § 74-4-4D (Repl. Pam. 1992); HWMR-6, as amended February 1991, § 201.
21. Testing and Monitoring Activities; Technical Corrections, March 9, 1990 [55 FR 8948-8950].	NMSA §§ 74-4-4A and 74-4-4D, 1978 (Repl. Pam. 1992), and HWMR-6 as amended February 1991, §§ 101 and 201.
22. Criteria for Listing Toxic Wastes; Technical Amendment, May 4, 1990 [55 FR 18726].	NMSA, 1978, § 74-4-4A(1), § 74-4-4D (Repl. Pam. 1992); HWMR-6, as amended February 1991, § 201.

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

D. Decision

I conclude that the New Mexico application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, New Mexico is granted final authorization to operate its hazardous waste program as revised.

New Mexico now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application. New Mexico also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

E. Codification in Part 272

EPA uses part 272 for codification of the decision to authorize New Mexico's program and for incorporation by reference of those provisions of New Mexico's statutes and regulations that EPA will enforce under section 3008, 3013, and 7003 of RCRA. EPA is reserving amendment of part 272, subpart E, until a later date.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of New Mexico's program, thereby eliminating duplicative requirements for handlers of hazardous

waste in the State. This authorization does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Lists of Subjects in 49 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 notice is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6928, 6974(b).

Dated: September 25, 1992.

Philip A. Charles,

Acting Regional Administrator.

[FR Doc. 92-24069 Filed 10-2-92; 9:45 am]

BILLING CODE 5540-50-01

40 CFR Part 271

[FRL-4517-5]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Texas has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act. The Environmental Protection Agency (EPA) has reviewed Texas' application and has made a decision, subject to public review and comment, that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Texas' hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste

Amendments of 1994. Texas' application for program revision is available for public review and comment.

DATES: This final authorization for the State of Texas shall be effective December 4, 1992 unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Texas' program revision application must be received by the close of business on November 4, 1992.

ADDRESSES: Copies of the Texas program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Texas Water Commission, Library, Fifth Floor, Stephen F. Austin State Office Building, 1700 North Congress Avenue, Austin, Texas 78711, phone (512) 463-7834; and U.S. EPA, Region 6, Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-8444. Written comments, referring to Docket Number TX-82-1, should be sent to Dick Thomas, Regional Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA, Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-8528.

FOR FURTHER INFORMATION CONTACT: Dick Thomas, Regional Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA, Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas, 75202, phone (214) 655-8528.

SUPPLEMENTARY INFORMATION

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is

equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260-268, 268 and 124 and 270.

B. Texas

Texas initially received final authorization on December 12, 1984, effective December 26, 1984 (see 49 Federal Register (FR) 48300), and clarified on March 26, 1985 (see 50 FR 11858), to implement its base hazardous waste management program. Texas received authorization for revisions to its program in notices published in the FR on January 31, 1986, effective October 4, 1985 (see 51 FR 3952), on December 18, 1986, effective February 17, 1987 (see 51 FR 45320), on March 1, 1990, effective March 15, 1990 (see 55 FR 7318), on May 24, 1990, effective July 23, 1990 (see 55 FR 21383), and on August 22, 1991, effective October 21, 1991 (see 56 FR 41626). On November 7, 1989, Texas submitted a program revision application for additional program approvals. Today, Texas is seeking

approval of its program revision in accordance with Section 271.21(b)(3).

EPA has reviewed the State of Texas' application, and has made an immediate final decision that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Texas. The public may submit written comments on EPA's final decision until November 4, 1992. Copies of Texas' application for program revision are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

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

The Texas program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR Parts 144, 260, 261, 264, 265, and 270 that

were published in the FR through April 22, 1988. This proposed approval includes the provisions that are listed in the chart below. This chart lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

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

The following language is contained in Texas' regulations at, *inter alia*, § 335.29; § 335.112(a); § 335.152(a); § 335.431(c); and essentially reads as follows:

"Except to the extent that they are clearly inconsistent with the Solid Waste Disposal Act, Texas Health and Safety Code, * * * or rules of the Commission * * * the regulations in 40 Code of Federal Regulations (CFR) Part * * * are adopted by reference".

Whenever this language is employed in the State's regulations, including those sections cited above, it shall mean that the State incorporates the subject Federal regulations by reference in their entirety, unless this language in the State regulation references a specific provision of the Federal regulations to be excluded from the incorporation. The State made this interpretation in the Memorandum of Agreement it submitted with the program revisions noted here:

	State analog
1. List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring, July 9, 1987 [52 FR 25942].	Title 31, Texas Administrative Code (TAC) 305.50(4), effective August 4, 1989; Title 31, TAC 335.164, effective August 4, 1989; Title 31, TAC 335.164(8)(B), effective August 4, 1989; Title 31, TAC 335.164(8)(C), effective August 4, 1989; Title 31, TAC 335.164(8)(D)(i), effective August 4, 1989; Title 31, TAC 335.165, effective August 4, 1989; Title 31, TAC 335.165(6), effective August 4, 1989.
2. Identification and Listing of Hazardous Waste, July 10, 1987 [52 FR 26012].	Title 31, TAC 335.1, effective August 4, 1989.
3. Liability Requirements for Hazardous Waste Facilities; Corporate Guarantees, November 18, 1987 [52 FR 44314].	Title 31, TAC 335.152(a)(6) effective December 13, 1991; Title 31, TAC 335.112(a)(7) effective December 13, 1991.
4. Hazardous Waste Miscellaneous Units, December 10, 1987 [52 FR 46846].	Title 31, TAC 305.50, effective August 4, 1989; Title 31, TAC 305.50(4), effective August 4, 1989; Title 31, TAC 331.3, effective August 4, 1989; Title 31, TAC 331.9, effective May 8, 1990; Title 31, TAC 335.1, effective August 4, 1989; Title 31, TAC 335.152(a), effective December 13, 1991; Title 31, TAC 335.152(a)(1), effective December 13, 1991; Title 31, TAC 335.152(a)(4), effective December 13, 1991; Title 31, TAC 335.152(a)(5), effective December 13, 1991; Title 31, TAC 335.152(a)(6), effective December 13, 1991; Title 31, TAC 335.152(a)(14), effective December 13, 1991.
5. Technical Correction; Identification and Listing of Hazardous Waste, April 22, 1988 [53 FR 13382].	Title 31 TAC 335.1, effective August 4, 1989.

C. Decision

I conclude that Texas' application for this program revision meets the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted final authorization to operate its hazardous waste program as revised.

Texas now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA

program described in its revised program application, subject to the limitations of the HSWA. Texas also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

EPA uses part 272 for codification of the decision to authorize Texas' program and for incorporation by reference of those provisions of Texas' statutes and regulations that EPA will enforce under section 3008, 3013 and 7003 of RCRA. Therefore, EPA is reserving amending part 272, subpart E, until a later date.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Texas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the state. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

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

Dated: September 25, 1992.

Philip A. Charles,

Acting Regional Administrator.

[FR Doc. 92-24090 Filed 10-2-92, 8:45 am]

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40 CFR Part 271

[FRL-4516-9]

Arkansas; Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Arkansas has applied for final authorization of revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the State of Arkansas' application and has made a decision, subject to public review and comment, that Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Arkansas' hazardous waste

program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. Arkansas' application for program revision is available for public review and comment.

DATES: Final authorization for the State of Arkansas shall be effective on December 4, 1992, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Arkansas' program revision application must be received by the close of business November 4, 1992.

ADDRESSES: Copies of the Arkansas program revision application and the materials which EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209-8913, phone (501) 562-7444; and the U.S. EPA Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-6444. Written comments, referring to Docket Number AR-92-1, should be sent to the Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Program Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-8533.

FOR FURTHER INFORMATION CONTACT: Janie Hernandez, Grants and Authorization Section, RCRA programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-8533.

SUPPLEMENTARY INFORMATION:**A. Background**

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendment of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive interim authorization for the HSWA requirements under section

3006(g) of RCRA, 42 U.S.C. 6925(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revision are necessitated by changes to EPA's regulations in 40 CFR parts 260-266, 268, 124, and 270

B. Arkansas

Arkansas initially received final authorization on January 25, 1985 (see 50 FR 1513) to implement its base hazardous waste management program. Arkansas received authorization for revision to its program on August 23, 1985, May 29, 1990 (See 55 FR 11192), and November 18, 1991 (See 56 FR 57593). On June 3, 1992, Arkansas submitted a final complete program revision application for additional program approvals. Today, Arkansas is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed the State of Arkansas' application, and has made an immediate final decision that Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Arkansas. The public may submit written comments on EPA's final decision until November 4, 1992. Copies of Arkansas' application for program revision are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

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

The Arkansas program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 124, 260-262, 264-266, 268, and 270 that were published in the Federal Register (FR) through June 13, 1991. This proposed approval includes the provisions that are listed in the chart below. This chart lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.