

US EPA ARCHIVE DOCUMENT

period on this action. Any parties interested in commenting on this action should do so at this time. If no such written comments are received, the public is advised that this action will be effective on November 12, 1997.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements, Etc.

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604.

Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA.*, 427 U.S. 246, 256-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, USEPA must undertake various actions in association with any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of

\$100 million or more. This Federal action approves the removal of pre-existing requirements which are no longer a part of State or local law. No new Federal requirements are imposed. Accordingly, no additional costs to state, local, or tribal governments, or the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, USEPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a major rule as defined by section 804(2).

E. Audit Privilege and Immunity Law

Nothing in this action should be construed as making any determination or expressing any position regarding Ohio's audit privilege and immunity law (Sections 3745.70-3745.73 of the Ohio Revised Code). The USEPA will be reviewing the effect of the Ohio audit privilege and immunity law on various Ohio environmental programs, including those under the CAA, and taking appropriate action(s), if any, after thorough analysis and opportunity for Ohio to state and explain its views and positions on the issues raised by the law. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any Ohio CAA program resulting from the effect of the audit privilege and immunity law. As a consequence of the review process, the regulations subject to the action taken herein may be disapproved, Federal approval for the CAA program under which they are implemented may be withdrawn, or other appropriate action may be taken, as necessary.

F. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 12, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not 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 52

Environmental protection, Air pollution control, Carbon monoxide and Hydrocarbons.

Dated: August 27, 1997.

Michelle D. Jordan,
Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671(q).

Subpart KK—Ohio

2. Subpart KK is amended by adding Section 52.1890 to read as follows:

§ 52.1890 Removed control measures.

On the dates listed below, Ohio requested that the indicated control measures be removed from the Ohio State Implementation Plan (SIP).

(a) On February 21, 1997, the State of Ohio requested that the following rules and rule paragraphs be removed from the SIP because they have been amended or revoked by the State subsequent to their incorporation in the SIP: OAC 3745-21-02(C), OAC 3745-21-03(D), OAC 3745-21-05, OAC 3745-22-01, OAC 3745-22-02, OAC 3745-22-03, OAC 3745-22-04, OAC 3745-22-05, OAC 3745-22-06, OAC 3745-22-07, OAC 3745-22-08, OAC 3745-23-03, OAC 3745-23-04, OAC 3745-23-05, and OAC 3745-102-07.

(b)[Reserved]

* * * * *

[FR Doc. 97-23977 Filed 9-11-97; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-5892-1]

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 to revise to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA

reviewed Texas' application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period provided for public participation in this process, EPA intends to approve Texas' hazardous waste program revision subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984 (HSWA). Texas' application for the program revision is available for public review and comment.

DATES: This final authorization for Texas shall be effective November 26, 1997 unless EPA publishes a prior (FR) action withdrawing this immediate final rule. All comments on Texas' program revision application must be received by the close of business October 27, 1997.

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 Natural Resource Conservation Commission, 1700 N. Congress Avenue, Austin, Texas 78711-3087, and 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 TX-97-2, should be sent to Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, Phone number: (214) 655-8533.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, Phone number: (214) 655-8533.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) RCRA 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no

less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 Code of Federal Regulations (CFR) 124, 260-262, 263, 265, 266, 268, 270 and 279.

B. Texas

Texas received final authorization to implement its hazardous waste management program on December 12, 1984, effective December 26, 1984 (49 FR 48300). This authorization was clarified in a notice published in the FR on March 26, 1985 (50 FR 11858). Texas received final authorization for revisions to its program in notices published in the FR on January 31, 1986, effective October 4, 1985 (51 FR 3952), on December 18, 1986, effective February 17, 1987 (51 FR 45320), on March 1, 1990, effective March 15, 1990 (55 FR 7318), on May 24, 1990, effective July 23, 1990 (55 FR 21383), on August 22, 1991, effective October 21, 1991 (56 FR 41626), on October 5, 1992, effective December 4, 1992 (57 FR 45719) and on April 12, 1994, effective June 27, 1994. On August 19, 1996, and March 20, 1997, the Texas Natural Resource Conservation Commission (TNRCC) submitted a final complete program revision application for additional program approvals.

In 1991, Texas Senate Bill 2 created the TNRCC which combined the functions of the former Texas Water Commission and the former Texas Air Control Board. The transfer of functions to the TNRCC from the two agencies became effective on September 1, 1993. Under Chapter 361 of the Texas Health and Safety Code, the TNRCC has sole responsibility for the administration of laws and regulations concerning hazardous waste. Today, Texas is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

TNRCC has authority to incorporate Federal rules by reference and to adopt hazardous waste rules in general pursuant to the following statutory provisions. See Texas Water Code Annotated section 5.103 (Vernon 1988 and Supplement 1996), effective September 1, 1995, as amended, which authorizes TNRCC to adopt any rules it deems necessary to carry out its powers

and duties; (2) Texas Health and Safety Code section 361.024 (Vernon 1992 and Supplement 1996), effective September 1, 1995, as amended, which authorizes TNRCC to adopt rules to establish minimum standards of operation for the management and control of solid waste; and (3) Texas Health and Safety Code section 361.078 (Vernon 1992), effective September 1, 1989, which specifically recognizes the TNRCC's authority to adopt hazardous waste rules and to issue and enforce permits to the extent necessary to receive and maintain RCRA authorization. (As a result of the Texas reorganization presented above, TNRCC rules, once codified at Title 31 Texas Administrative Code, are now codified at Title 30 Texas Administrative Code).

The EPA reviewed TNRCC's application, and made an immediate final decision that TNRCC's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, the EPA intends to grant final authorization for the additional program modifications to Texas. The public may submit written comments on EPA's final decision until October 27, 1997. 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 TNRCC's program revision shall become effective 75 days from the date this notice is published, unless an adverse written comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse written comment is received, EPA will publish either (1) A withdrawal of the immediate final decision or (2) a notice containing a response to the comment that either affirms that the immediate final decision takes effect or reverses the decision.

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 124, 260-263, 264, 265-266, 270 and 279 that were published in the FR from June 30, 1992 through June 30, 1994. This proposed approval includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. Wood Preserving Listing; Technical Correction, July 1, 1991 (56 FR 30192). (Checklist 92).	Texas Solid Waste Disposal Act (TSWDA), and Texas Health and Safety Code (THSC) Annotate §§ 361.003(34), 361.024 (Vernon 1992 and Supplement 1996), effective September 1, 1995, as amended; TSWDA and THSC § 361.078 (Vernon 1992), Title 30 Texas Administrative Code (TAC) Chapter § 335.1, March 1, 1996, as amended, § 335.1 effective July 14, 1987, TSWDA and THSC § Title 30 TAC §§ 335.69(a)(1), 335.69(a)(1)(A), 335.69(a)(1)(B), 335.69(a)(1)(C), 335.69(a)(2), 335.69(a)(3), and 335.69(a)(4), effective February 26, 1996, Title 30 TAC §§ 335.152(a)(15) 335.112(a)(18), and TAC § 305.50(4)(A) effective November 23, 1993.
2. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I, July 17, 1991 (56 FR 32688). (Checklist 94).	TSWDA, Chapter 361, §§ 361.003(12), 361.061, 361.064 THSC Ann., (Vernon 1992 and Supplement 1996), effective September 1, 1995, as amended; TSWDA and THSC § 361.032 (Vernon Supplement 1996), effective August 28, 1995, as amended, TSWDA and THSC §§ 361.036, 361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC § 305.50(4)(A), effective November 23, 1993, § 305.69(d)(1)(D), effective February 26, 1996, as amended, Title 30 TAC 305.69(h)(1), effective February 22, 1994, as amended, § 335.69(h)(1)(A), Title 30 TAC § 305.69(h)(1)(D), effective February 26, 1996, as amended, Title 30 TAC 305.69(i), L.5, effective July 29, 1992, as amended, Title 30 TAC §§ 305.572(1), 305.572(2), and 305.572(5), effective July 29, 1992, as amended, November 23, 1993, as amended, Title 30 TAC § 305.42(b), effective October 29, 1990, as amended and Title 30 TAC § 335.43(b), effective November 7, 1991, as amended, Title 30 TAC § 335.24(b), effective September 1, 1986, Title 30 TAC § 335.24(b)(2), effective September 1, 1986, Title 30 TAC § 335.112(a)(112)(a)(15), TAC § 335.221(b)(1), effective March 6, 1996, as amended, 335.221(b)(3), effective July 29, 1992, as amended, Title 30 TAC § 335.221(b)(2), effective March 1, 1996, and 1992, as amended, §§ 335.221(a)(3), 335.221(a)(5), 335.221(a)(6), 335.221(a)(7), 335.221(a)(10), 335.221(a)(11), 335.221(a)(15), 335.221(a)(17), 335.221(a)(13), 335.221(a)(18), 335.221(a)(19), 335.221(a)(20), 335.221(a)(21), 335.221(a)(23), effective March 1, 1996, as amended, Title 30 TAC § 335.224(5), effective February 26, 1996, Title 30 TAC § 335.24(b), effective September 1, 1996, as amended, Title 30 § 335.24(b)(2), effective September 1, 1986, Title 30 TAC § 335.112(a)(15), effective November 23, 1993, as amended, Title 30 TAC §§ 335.221(a), 335.221(a) (1) and (9) effective March 1, 1996, as amended, Title 30 TAC § 335.112(a)(6), effective February 26, 1996, as amended, Title 30 TAC §§ 335.224(5)(H), 335.224(5)(H)(i), and 335.224(5)(H)(ii), effective February 26, 1996, as amended, Title 30 TAC § 335.224(7), effective November 23, 1993, as amended, Title 30 TAC § 335.224(14), effective February 26, 1996, as amended, Title 30 TAC §§ 335.221(a)(4), and 335.221(a)(22), effective March 1, 1996, as amended, Title 30 TAC § 335.1, effective February 26, 1996, as amended, Title 30 TAC § 20.15, effective June 6, 1996, Title 30 TAC 335.41(g), effective March 6, 1996, as amended, Title 30 TAC § 335.222(c)(1), effective July 29, 1992, as amended, and Title 30 TAC § 335.222(c)(2), effective February 26, 1996, as amended.
3. Land Disposal Restrictions for Electric Arc Furnace Dust (K061), August 19, 1991 (56 FR 41164). (Checklist 95).	TSWDA Chapter 361 § 361.003(12), 361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA Chapter 361, THSC § 361.078(Vernon 1992), effective September 1, 1989, Title 30 TAC § 335.1 effective March 1, 1996, as amended, § 335.431(c)(1), effective March 22, 1995, as amended.
4. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II, August 27, 1991 (56 FR 42504). (Checklist 96).	TSWDA Chapter 361, THSC §§ 361.003(34), 361.024(Vernon 1992 & Supp. 1996) effective September 1, 1995, as amended, TSDWA, THSC § 361.078(Vernon 1992), effective September 1, 1989, Title 30 TAC § 335.1, effective March 1, 1996, as amended, TSWDA, THSC §§ 361.003(12), 361.024, 361.061(Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC § 361.032(Vernon Supp 1996), effective August 28, 1995, as amended, TSWDA, THSC §§ 361.036, 361.078(Vernon 1992), effective September 1, 1989, TAC § 2001.021 Texas Government Code Ann.(Vernon Supp 1996) effective September 1, 1993, Title 30 TAC §§ 335.24(b), 335.24(b)(2), effective September 1, 1986, § 335.112(a)(15), effective November 23, 1993, as amended, § 335.221(b)(1), effective March 6, 1996, as amended, § 335.221(b)(3), effective July 29, 1992, as amended, § 335.221(b)(2), effective March 1, 1996, 1992, as amended, §§ 335.221(a) (3), (5), (6), (7), (10), (11), (13), (15), (17), (18), (19), (20), (21), (23), § 335.221(a) effective March 1, 1996, § 335.224(5), effective February 26, 1996, § 335.223(b), effective July 29, 1992, as amended, § 335.112(a)(6), effective February 26, 1996, § 335.112(a) (1), (9), effective March 1, 1996, §§ 335.224(5)(H), (i)–(ii), effective February 26, 1996, § 335.224(7), effective November 23, 1993, § 335.224(14), effective February 26, 1996, § 335.221(a)(22), effective March 1, 1996, § 335.1, effective February 26, 1996, § 20.15, effective June 6, 1996, § 335.41(g), effective March 6, 1996, § 335.222(c)(1), July 29, 1992, and § 335.222(c)(2), effective February 26, 1996 as amended.
5. Exports of Hazardous Waste; Technical Corrections, September 4, 1991 (56 FR 43704). (Checklist 97).	TSWDA, THSC § 361.024(Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §§ 361.036, 361.078(Vernon 1992), effective September 1, 1989; Title 30 TAC § 335.76(b)(1), effective July 27, 1988, as amended, § 335.9, effective March 1, 1996, as amended.
6. Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations at Hazardous Waste Facilities, (56 FR 66365–66369) December 23, 1991. (Checklist 99).	Tex. Water Code Ann. § 5.103(Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, THSC §§ 361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, THSC § 361.078(Vernon 1992), effective September 1, 1989; Title 30 TAC § 335.1, effective January 26, 1994, as amended, and § 335.112(a)(5), effective February 26, 1996, as amended.

Federal citation	State analog
7. Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units, (57 FR 3462-3497) January 29, 1992. (Checklist 100).	Texas Water Code Ann. §5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, §361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, §361.078 THSC (Vernon 1992) effective September 1, 1989; Title 30 TAC §§305.122(a), 305.122(a)(1), 305.122(a)(2), §305.50(4)(A), effective November 23, 1993; §305.122(a)(3), §305.69(i), B, H, J effective February 26, 1996; §§335.1, 335.152(a)(1), 335.152(a)(4), 335.168(c)-(f), 335.168(g)-(i), 335.152(a) (9), 335.169(b)(2)-(4), 335.170(c)-(d), (1)-(2), 335.170(e), 335.170(f), (1)-(2), 335.170(g)-(k), 335.152(a)(10), 335.173 (c)-(d), 335.173(d) (1)-(2), 335.173(f), (1)-(2), 335.173 (g)-(k), 335.152(a)(12), 335.174(b) (3)-(6), 335.112(a)(1), 335.112(a)(4), 335.112(a) (10)-(11), 335.112(a)(13), effective February 26, 1996; §335.124 (a)-(d), effective May 28, 1986; The State rule provisions in 30 TAC §335.124(a)-(d) are more stringent than their federal counterparts 40 CFR §§265.301(f)-(i) in two parts: (1) The owner or operator must design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the landfill during peak discharge from a 100-year, rather than a 25-year, storm; and (2) the owner or operator must design, construct, operate and maintain a run-off management system to collect and control at least the water volume resulting from a 24-hour, 100 year storm, rather than a 24-hour, 25 year-storm.
8. Second Correction to the Third Third Land Disposal Restrictions, March 6, 1992 (57 FR 8086). (Checklist 102).	TSWDA, THSC §§361.003(12), 361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989; Title 30 TAC §§335.152(a)(1), and 335.112(a)(1), effective February 26, 1996, as amended, and §335.431(c)(1), effective March 22, 1995, as amended.
9. Hazardous Debris Case-by-Case Capacity Variance, (57 FR 20766-20770) May 15, 1992. (Checklist 103).	TSWDA, THSC §361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC §335.431(c)(1), effective March 22, 1995, as amended.
10. Used Oil Filter Exclusion, (57 FR 21524-21534) May 20, 1992. (Checklist 104).	TSWDA, THSC §§361.003(12), 361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, THSC, §371.028 (Vernon Supp. 1996), effective September 1, 1995, as amended, Title 30 TAC §335.1, effective July 14, 1987, as amended.
11. Recycled Coke By-Product Exclusion, (57 FR 27880-27888) June 22, 1992. (Checklist 105).	TSWDA, THSC §§361.003(34), 361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, §361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC §335.1, effective March 1, 1996, as amended, TSWDA, THSC, §361.003(12), 361.024, 361.061 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, §361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC §335.221(a)(1), effective March 1, 1996, as amended.
12. Lead-bearing Hazardous Materials Case-by-Case Capacity Variance, (57 FR 28628-28632) June 26, 1992. (Checklist 106).	SWDA, THSC, §361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, §361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC §335.431(c)(1), effective March 22, 1995, as amended.
13. Used Oil Filter Exclusion; Technical Corrections, (57 FR 29220) July 1, 1992. (Checklist 107).	TSWDA, THSC §§361.003(12), 361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, THSC, §371.028 (Vernon Supp. 1996), effective September 1, 1995, as amended, Title 30 TAC §335.1, effective July 14, 1987, as amended.
14. Toxicity Characteristic Revisions; Technical Corrections, (57 FR 30657-30658) July 10, 1992. (Checklist 108).	TSWDA, THSC §§361.003(12), 361.024, 361.061, (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, THSC, §371.078 (Vernon Supp. 1992), effective September 1, 1989, as amended, Title 30 TAC §335.1, effective July 14, 1987, as amended, Title 30 TAC §335.112(a)(13), effective February 26, 1996, as amended.
15. Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris, (57 FR 37194-37282) August 18, 1992. (Checklist 109).	TSWDA, THSC, §§361.003(12), 361.024, 361.064, (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, §361.078 (Vernon 1992), effective 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC §355.1, effective July 14, 1987, as amended, Title 30 TAC §335.431(c)(1), effective March 22, 1995, as amended, Title 30 TAC §305.50(4)(A), effective November 23, 1993, as amended, TSWDA, THSC, §§361.024 (Vernon 1992 & Supp 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC §335.1, effective February 26, 1996, as amended, Title 30 TAC §335.69(a)(1)(C), effective February 26, 1996, as amended, Title 30 TAC §335.69(a)(1)(D), Title 30, TAC §335.69(a)(1)(D)(i)-(ii), Title 30 TAC §335.69(a)(2), Title 30 TAC §335.152(a)(5)-(6), Title 30 TAC §335.152(a)(19), Title 30 TAC §335.112(a)(6), Title 30 TAC §335.118(b), Title 30 TAC §§335.112(a)(10) and (21), effective February 26, 1996, as amended, Title 30 TAC §335.431(c)(1), effective March 22, 1995, as amended, Title 30 TAC §305.69(f)(5)(B)(ii), Title 30 TAC §305.69(i), I.6, Title 30 TAC §305.69(i)(N), Title 30 TAC §305.51(c)(6), effective February 26, 1996.
16. Coke By-Products Listings, (57 FR 37284-37306) August 18, 1992. (Checklist 110).	TSWDA, THSC, §§361.003(12), 361.024 (Vernon 1992 * Supp. 1996), effective September 1, 1995, as amende, TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, as amended, Title 30 TAC §335.1, effective July 14, 1987, as amended, Title 30 TAC §335.29(4), effective February 26, 1996, as amended.

Federal citation	State analog
17. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III, [57 FR 38558-38566] August 25, 1992. (Checklist 111).	TSDWA Chapter 361, THSC §§361.003(34), 361.024(Vernon 1992 & Supp. 1996) effective September 1, 1995, as amended, TSDWA, THSC §361.078(Vernon 1992), effective September 1, 1989, Title 30 TAC §335.1, effective March 1, 1996, as amended, TSWDA, THSC §§361.003(12), 361.024, 361.061(Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.032(Vernon Supp 1996), effective August 28, 1995, as amended, TSWDA, THSC §§361.036, 361.078(Vernon 1992), effective September 1, 1989, TAC §2001.021 Texas Government Code Ann.(Vernon Supp 1996) effective September 1, 1993, Title 30 TAC §§335.24(b), 335.24(b)(2), effective September 1, 1986, §335.112(a)(15), §335.221(b)(2), effective March 1, 1996, 1992, as amended, §§335.221(a)(3), (5), (6), (7), (10), (11), (13), (15), (17), (18), (19), (20), (21), (23), §335.221(a) effective March 1, 1996, §335.224(5), effective February 26, 1996, §335.223(b), effective July 29, 1992, as amended, §335.112(a)(6), effective February 26, 1996, §335.112(a)(1), (9), effective March 1, 1996, §§335.224(5)(H), (i)-(ii), effective February 26, 1996, §335.224(7), effective November 23, 1993, §335.224(14), effective February 26, 1996, §335.221(a)(22), effective March 1, 1996, §335.1, effective February 26, 1996, §20.15, effective June 6, 1996, §335.41(g), effective March 6, 1996, §335.222(c)(1), July 29, 1992, and §335.222(c)(2), effective February 26, 1996 as amended.
18. Consolidated Liability Requirements, (53 FR 33938-33960) July 1, 1991, and [57 FR 42832-42844] September 16, 1992. (Checklists 113, 113.1, & 113.2).	TSWDA, THSC, §§361.024, 361.085 (Vernon 1992 Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.078(Vernon 1992), effective September 1, 1989; Title 30 TAC §§335.1(a)(7), 335.152(a)(6), 335.152(a)(6)(C), effective February 26, 1996, as amended, Title 30 TAC §§335.112(a)(7), 335.152(a)(6), effective February 26, 1996, as amended, Title 30 TAC §§335.112(a)(7), 335.152(a)(6), effective February 26, 1996, as amended.
19. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment IV, (57 FR 44999-45001) September 30, 1992. (Checklist 114).	TSDWA Chapter 361, THSC §§361.003(34), 361.024(Vernon 1992 & Supp. 1996) effective September 1, 1995, as amended, TSDWA, THSC §361.078(Vernon 1992), effective September 1, 1989, Title 30 TAC §335.1, effective March 1, 1996, as amended, TSWDA, THSC §§361.003(12), 361.024, 361.061(Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.032(Vernon Supp 1996), effective August 28, 1995, as amended, TSWDA, THSC §§361.036, 361.078(Vernon 1992), effective September 1, 1989, TAC §2001.021 Texas Government Code Ann.(Vernon Supp 1996) effective September 1, 1993, Title 30 TAC §§335.24(b), 335.24(b)(2), effective September 1, 1986, §335.112(a)(15), §335.221(b)(2), effective March 1, 1996, 1992, as amended, §§335.221(a) (3), (5), (6), (7), (10), (11), (13), (15), (17), (18), (19), (20), (21), (23), §335.221(a) effective March 1, 1996, §335.224(5), effective February 26, 1996, §335.223(b), effective July 29, 1992, as amended, §335.112(a)(6), effective February 26, 1996, §335.112(a)(1), (9), effective March 1, 1996, §§335.224(5)(H), (i)-(ii), effective February 26, 1996, §335.224(7), effective November 23, 1993, §335.224(14), effective February 26, 1996, §335.221(a)(22), effective March 1, 1996, §335.1, effective February 26, 1996, §20.15, effective June 6, 1996, §335.41(g), effective March 6, 1996, §335.222(c)(1), July 29, 1992, and §335.222(c)(2), effective February 26, 1996 as amended.
20. Chlorinated Teluenes Production Waste Listing, (57 FR 47376-47386) October 15, 1992. (Checklist 115).	TSWDA, THSC, §§361.003(12), 361.024 (Vernon 1992 * Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, as amended, Title 30 TAC §335.1, effective July 14, 1987, as amended, Title 30 TAC §335.29(4), effective February 26, 1996, as amended.
21. Hazardous Soil Case-By-Case Capacity Variance, (57 FR 47772-47776) October 20, 1992. (Checklist 116).	TSWDA, THSC §361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC §335.431(c)(1), effective March 22, 1995, as amended.
22. "Mixture" and "Derived-From" Rules; Response to court Remand, (57 FR 7628-7633) March 3, 1992. (Checklist 117A, 117A.1, 117A.2).	TSWDA, THSC §361.003(12), 361.024, 361.061 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, §361.078 (Vernon 1992), effective September 1, 1989; Title 30 TAC §335.1, effective July 14, 1987, as amended.
23. Toxicity Characteristic Amendment, (57 FR 23062-23063) June 1, 1992. (Checklist 117B).	TSWDA, THSC, §§361.003(12), 361.024, 361.061 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, §361.078 (Vernon 1992), effective September 1, 1989; Title 30 TAC §335.1, effective July 14, 1987, as amended.
24. Liquids in Landfills II, (57 FR 54452-54461) November 18, 1992. (Checklist 118).	TSWDA, THSC, §361.078 (Vernon 1992), effective September 1, 1989; Title 30 TAC §§335.1, 335.152(a)(1), 335.175 (a)-(b), 335.175, 335.175(d), 335.175(d)(1)-(2), 335.152(a)(12), 335.112(a)(1), 335.125 (a)-(b), 335.125, effective February 26, 1996, as amended, 335.125(f), 335.125(f)(1)-(2), effective May 28, 1986, and 335.112(a)(13), effective February 26, 1996, as amended. The State law is more stringent than federal law in that state regulations do not permit disposal in landfills of free liquids even if a sorbent has been applied to the liquids.
25. Toxicity Characteristic Revision; TCLP Correction, (57 FR 55114-55117) November 24, 1992. (Checklist 119 & 119.1)).	TSDWA, THSC, §§361.003(12), 361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, §361.078 (Vernon 1992), effective September 1, 1989; Title 30 TAC §335.29(2), effective February 26, 1996, as amended.
26. Wood Preserving; Revisions to Listings and Technical Requirements, (57 FR 61492-61505) December 24, 1992. (Checklist 120).	TSWDA, THSC, §§361.003(12), 361.024 (Vernon 1992 * Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, as amended, Title 30 TAC §335.1, effective July 14, 1987, as amended, Title 30 TAC §335.29(4), effective February 26, 1996, as amended. Texas Solid Waste Disposal Act (TSWDA), and Texas Health and Safety Code (THSC) Annotated §§361.003(34), 361.024 (Vernon 1992 and Supplement 1996), effective September 1, 1995, as amended; TSWDA and THSC §361.078 (Vernon 1992), Title 30 Texas Administrative Code (TAC) Chapter §335.1, March 1, 1996, as amended, §335.1 effective July 14, 1987, Title 30 TAC §§335.152(a)(15) 335.112(a)(18), effective November 23, 1993.

Federal citation	State analog
27. Corrective Action Management Units and Temporary Units, (58 FR 8658-8685) February 16, 1993. (Checklist 121).	TSWDA, THSC §§361.024, 361.061 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC §361.032 (Vernon Supp. 1996), effective August 28, 1995, as amended, Title 30 TAC §§335.1, 335.151(c), 335.167(b), 335.152(a)(14), 335.111(a), 305.2, 305.69(i), effective February 22, 1994, and §335.431(c)(1), effective March 22, 1995.
28. Recycled Used Oil Management Standards, (57 FR 41566) September 10, 1992, (58 FR 26420) May 3, 1993, (58 FR 33341) June 17, 1993, (59 FR 10550) March 4, 1994. (Checklists 112, 122, 122.1 and 130).	Texas Used Oil Collection, Management, and Recycling Act, Chapter 371, THSC (Vernon Supp 1992), effective September 1, 1995, as amended (H&SC); Title 30 TAC Chapter 324, §§324.1, effective March 6, 1996, §§335.6(j), 335.24(b), 335.24(c), 335.41(g), 335.78(j), 335.221(b)(1), 335.504(1), 335.504(4), §§324.1, 324.2, 324.3, and 324.4, effective March 6, 1996. The Texas Used Oil Collection, Management, and Recycling Act in 30 TAC Chapter 324 Subchapter A are more stringent than the federal program for management of used oil. THSC §371.041(b)(4) expressly prohibits the intentional application of used oil to roads or land for dust suppression without exception. The Code allows Do-it-Yourself Used Oil Collection center that is also a used oil generator to commingle household DIY oil with the used oil it generates. The code also requires a DIY used oil collection center to register biennially and report annually the amount of household used oil collected.
29. Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance, (58 FR 28506-28511) May 14, 1993. (Checklist 123).	TSWDA, THSC §361.024 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended TSWDA, THSC §361.078 (Vernon 1992), effective September 1, 1989, Title 30 TAC §335.431(c)(1), effective March 22, 1995, as amended.
30. Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated, (58 FR 29860-29887) May 24, 1993. (Checklist 124).	TSWDA, THSC, §§361.024, 361.064 (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA, THSC, §361.078 (Vernon 1992), effective September 1, 1989; Title 30 TAC §§335.41(d)(1), 335.431(c)(1) effective March 22, 1995, as amended, and Title 30 TAC §305.69(i), B, effective February 26, 1996, as amended.
31. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, (58 FR 38816-38884) July 20, 1993. (Checklist 125).	Tex. Water Code Ann. §5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, §361.024, THSC (Vernon 1992) & Supp. 1996) effective September 1, 1989; Title 30 TAC §§335.31, 335.221(a)(15), 335.221(17), and 335.221(a), effective November 20, 1996, as amended.
32. Testing and Monitoring Activities, (58 FR 46040-46051), August 31, 1993. (Checklist 126).	Tex. Water Code Ann. §5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, §361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended, TSWDA Chapter 361 §361.078 THSC (Vernon 1992), effective September 1, 1989; TSWDA Chapter 361, §361.003, THSC (Vernon 1992), effective September 1, 1991, as amended; Title 30 TAC §335.1 effective January 26, 1994, as amended; §§335.30, 335.29 (2)-(3), 335.152(a)(8), 335.175(c), 335.112(a)(9), 335.125(d), 335.431(c) (1),(3), 305.150, 305.172(2)(A) (iii)-(iv), 305.572(2), effective November 20, 1996, as amended, and 305.50(A), effective November 23, 1993.
33. Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues, (58 FR 59598-59603) November 9, 1993. (Checklist 127).	Tex. Water Code Ann. §5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, §361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended TSWDA Chapter 361, §361.078 THSC (Vernon 1992), effective September 1, 1989; Title 30 TAC §§335.221(a)(23), and 335.221(a) effective November 20, 1996, as amended.
34. Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection, (59 FR 458-469) January 4, 1994. (Checklist 128).	Tex. Water Code Ann. §5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, Chapter 361, §361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, Chapter 361, §361.078 THSC (Vernon 1992) effective September 1, 1989; Title 30 TAC §§335.29(5) and 335.30, effective November 20, 1996.
35. Recordkeeping Instructions; Technical Amendment, (59 FR 13891-13893) March 24, 1994. (Checklist 131).	Tex. Water Code Ann. §5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, Chapter 361, §361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, §361.078, THSC (Vernon 1992), effective September 1, 1989; Title 30 TAC §§335.152(a)(19)(A), and 335.112(a)(21)(A), effective November 20, 1996.
36. Wood Surface Protection; Correction, (59 FR 28484) June 2, 1994. (Checklist 132).	Tex. Water Code Ann. §5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, Chapter 361, §361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA, Chapter 361, §361.078 THSC (Vernon 1992) effective September 1, 1989; Title 30 TAC §§335.29(5) and 335.30, effective November 20, 1996.
37. Letter of Credit Revision, (59 FR 29958-29960) June 10, 1994. (Checklist 133).	Tex Water Code Ann. §5.103 (Vernon 1988 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, §361.024 THSC (Vernon 1992 & Supp. 1996), effective September 1, 1995, as amended; TSWDA Chapter 361, §361.078 THSC (Vernon 1992), effective September 1, 1989.
38. Correction of Beryllium Powder (P015) Listing, (59 FR 31551-31552) June 20, 1994. (Checklist 134).	Tex. Water Code Ann. §5.103 (Vernon & Supp. 1996), effective September 1995, as amended; TSWDA, Chapter 36, §361.024, THSC (Vernon 1992 & Supp. 1996), effective September 1995, amended; TSWDA, Chapter 361, §361.0 THSC (Vernon 1992) effective September 1989; Title 30 TAC §335.1, effective January 26, 1994, as amended; 335.431(c)(1), effective November 2, 1996, as amended.

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

C. Decision

I conclude that Texas' application for a 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

for 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 40 CFR 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 sections 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR 272, subpart E, until a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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, the 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 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 the 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 the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the 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 the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The EPA does not anticipate that the approval of Texas's hazardous waste program referenced in today's notice will result in annual costs of \$100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector. The Act excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program, except in certain cases where a "Federal intergovernmental mandate" affects an annual federal entitlement program of \$500 million or more that are not applicable here. Texas's request for approval of a hazardous waste program is voluntary; if a state chooses not to seek authorization for administration of a hazardous waste program under RCRA subtitle C, RCRA regulation is left to the EPA.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for state, local, and tribal governments in the aggregate, or the private sector in any one year. The EPA does not anticipate that the approval of Texas' hazardous waste program referenced in today's document will result in annual costs of \$100 million or more. The EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector since the State, by virtue of the approval, may now administer the program in lieu of the EPA and exercise primary enforcement. Hence, owners and operators of treatment, storage, or disposal facilities (TSDFs) generally no longer face dual federal and state compliance requirements, thereby reducing overall compliance costs. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

The EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency

recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR parts 264, 265, and 270 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once EPA authorizes a State to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs and underground storage tanks under the approved State program, in lieu of the Federal program.

Certification Under the Regulatory Flexibility Act

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. The EPA recognizes that small entities may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, since such small entities which own and/or operate TSDFs are already subject to the requirements in 40 CFR parts 264, 265 and 270, this authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would result in an administrative change (i.e., whether the EPA or the state administers the RCRA subtitle C program in that state), rather than result in a change in the substantive requirements imposed on small entities. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small entities will be able to own and operate their TSDFs under the approved state program, in lieu of the federal program. Moreover, this authorization, in approving a state program to operate in lieu of the federal program, eliminates duplicative requirements for owners and operators of TSDFs in that particular state.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provisions of 5 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's 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.

Submission to Congress and the General Accounting Office

Under section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, and 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: July 24, 1997.

Lynda F. Carroll,

Acting Regional Administrator.

[FR Doc. 97-24239 Filed 9-11-97; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-7229]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact

stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements. Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows: