

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[EPA-R08-RCRA-2006-0127; FRL-8538-1]

Utah: Final Authorization of State Hazardous Waste Management Program Revisions**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Immediate final rule.

SUMMARY: The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the federal program. Utah has applied to EPA for final authorization of the changes to its hazardous waste program under RCRA. EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing the State's changes through this immediate final action.

DATES: This final authorization will become effective on May 6, 2008, unless the EPA receives adverse written comment by April 7, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the immediate final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-RCRA-2006-0127, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>.

Follow the on-line instructions for submitting comments.

- *E-mail:* daly.carl@epa.gov.
- *Fax:* (303) 312-6341.
- *Mail:* Send written comments to Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, Mailcode 8P-HW, 1595 Wynkoop Street, Denver, Colorado 80202-1129.
- *Hand Delivery or Courier:* Deliver your comments to Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, Mailcode 8P-HW, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R08-RCRA-2006-

0127. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The federal Web site, <http://www.regulations.gov>, is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information may not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at: EPA Region 8, from 9 a.m. to 4 p.m., 1595 Wynkoop Street, Denver, Colorado, contact: Carl Daly, phone number (303) 312-6416, or the Utah Department of Environmental Quality (UDEQ), from 8 a.m. to 5 p.m., 288 North 1460 West, Salt Lake City, Utah 84114-4880, contact: Susan Toronto, phone number (801) 538-6776. The public is advised to call in advance to verify the business hours.

FOR FURTHER INFORMATION CONTACT: Carl Daly, Solid and Hazardous Waste Program, EPA Region 8, 1595 Wynkoop

Street, Denver, Colorado 80202, (303) 312-6416, daly.carl@epa.gov.

SUPPLEMENTARY INFORMATION:**A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Utah's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Utah final authorization to operate its hazardous waste program with the changes described in the authorization application. Utah has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian country, and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New federal requirements and prohibitions imposed by federal regulations that 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 Utah, including issuing permits, until Utah is authorized to do so.

C. What Is the Effect of This Authorization Decision?

This decision means that a facility in Utah subject to RCRA will now have to comply with the authorized state requirements instead of the equivalent federal requirements in order to comply with RCRA. Utah 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) Conduct

inspections; require monitoring, tests, analyses, or reports; (2) enforce RCRA requirements; suspend or revoke permits; and, (3) take enforcement actions regardless of whether Utah has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Utah is being authorized by this action are already effective and are not changed by this action.

D. Why Wasn't There a Proposed Rule Before This Rule?

EPA did not publish a proposal before this rule because we view this as a routine program change. We are providing an opportunity for the public to comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens if EPA Receives Comments That Oppose 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. 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, therefore, if you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the Utah hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective and which part is being withdrawn.

F. For What Has Utah Previously Been Authorized?

Utah initially received final authorization on October 10, 1984, effective October 24, 1984 (49 FR 39683) to implement its base hazardous waste management program. Utah received authorization for revisions to its program on February 21, 1989 (54 FR 7417), effective March 7, 1989; May 23, 1991 (56 FR 23648) and August 6, 1991 (56 FR 37291), both effective July 22, 1991; May 15, 1992 (57 FR 20770),

effective July 14, 1992; February 12, 1993 (58 FR 8232) and May 5, 1993 (58 FR 26689), both effective April 13, 1993; October 14, 1994 (59 FR 52084), effective December 13, 1994; May 20, 1997 (62 FR 27501), effective July 21, 1997; January 13, 1999 (64 FR 02144), effective March 15, 1999; October 16, 2000 (65 FR 61109), effective January 16, 2001, May 7, 2002 (67 FR 30599), effective July 7, 2002; and June 11, 2003 (68 FR 34829), effective June 11, 2003.

G. What Changes Are We Authorizing With This Action?

On September 30, 2003, Utah submitted a complete program revision 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 Utah's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Utah final authorization for the following program changes (the federal citation followed by the analog from the Utah Administrative Code (R315), revised September 15, 2003): Hazardous Air Pollutant Standards; Technical Corrections (65 FR 42292, 07/10/00)(Checklist 188), (66 FR 24270, 05/14/01)(Checklist 188.1), and (66 FR 35087, 07/03/01)(Checklist 188.2)/R315-13-2-26, R315-3-4.3, and R315-8-15.1(b)(1)&(3); Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes (65 FR 67068, 11/08/00)(Checklist 189)/R315-2-10(f), R315-13-1, R315-50-9, and R315-50-10; Mixture and Derived-From Rules Revisions (66 FR 27266, 05/16/01)(Checklist 192A)/R315-2-3(a)(2)(iii)&(iv), R315-2-3(c)(2)(i), R315-2-3(f); Land Disposal Restrictions Correction (66 FR 27266, 05/16/01)(Checklist 192B)/R315-13-1; Change of Official EPA Mailing Address (66 FR 34374, 06/28/01)(Checklist 193)/R315-1-2(a); Mixture and Derived-From Rules Revision II (66 FR 50332, 10/03/01)(Checklist 194)/R315-2-3(a)(2)(iv) through (iv)(G); R315-2-3(f)(4); Inorganic Chemical Manufacturing Wastes Identification and Listing (66 FR 58258, 11/20/01)(Checklist 195)/R315-2-4(b)(15), R315-2-10(f), R315-13-1; and R315-50-9; CAMU Amendments (67 FR 02962, 01/22/02)(Checklist 196)/R315-1-1(b), and R315-8-21; Hazardous Air Pollutant Standards for Combustors: Interim Standards (67 FR 06792, 02/13/02)(Checklist 197)/R315-3-2.10(e), R315-3-2.13, R315-3-6.3, R315-3-6.6, R315-3-9.1(a)&(b), R315-7-22.1(b)(1)&(3), R315-8-15.1(b)(1)&(4), and R315-14-7; Hazardous Air

Pollutant Standards for Combustors: Corrections (67 FR 06968, 02/14/02)(Checklist 198)/R315-3-4.3 and R315-14-7; Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP waste (67 FR 11251, 03/13/02)(Checklist 199)/R315-2-2(c)(3), R315-2-4(a)(17), and R315-2-9(g)(1); Treatment Variance for Radioactively Contaminated Batteries (67 FR 62618, 10/07/02)(Checklist 201)/R315-13-1.

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

Utah did not adopt the exclusion for hazardous waste containing radioactive waste at 40 CFR 261.3(h) in this rulemaking. This makes the State more stringent. Utah did not change any previously more stringent or broader-in-scope provisions to be equivalent to the federal rules.

I. Who Handles Permits After the Authorization Takes Effect?

Utah will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization until Utah has equivalent instruments in place. We will not issue any new permits or new portions of permits for the provisions listed in section G after the effective date of this authorization. EPA previously suspended issuance of permits for other provisions on the effective date of Utah's final authorization for the RCRA base program and each of the revisions listed in Item F. EPA will continue to implement and issue permits for HSWA requirements for which Utah is not yet authorized.

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

This program revision does not extend to "Indian country" as defined in 18 U.S.C. 1151. Indian country includes:

1. Lands within the exterior boundaries of the following Indian reservations located within or abutting the State of Utah:
 - a. Goshute Indian Reservation
 - b. Navajo Indian Reservation
 - c. Northwestern Band of Shoshoni Nation of Utah (Washakie) Indian Reservation
 - d. Paiute Indian Tribe of Utah Indian Reservation
 - e. Skull Valley Band of Goshute Indians of Utah Indian Reservation

- f. Uintah and Ouray Indian Reservation (see below)
- g. Ute Mountain Indian Reservation;
2. Any land held in trust by the United States for an Indian tribe; and,
 3. Any other areas which are "Indian country" within the meaning of 18 U.S.C. 1151.

With respect to the Uintah and Ouray Indian Reservation, federal courts have determined that certain lands within the exterior boundaries of the Reservation do not constitute Indian country. This State program revision approval will extend to those lands which the courts have determined are not Indian country.

K. What Is Codification and Is EPA Codifying Utah's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. Utah's rules, up to and including those revised on February 2, 1996, have previously been codified through the incorporation-by-reference effective March 15, 1999 (66 FR 58964, November 26, 2001). We reserve the amendment of 40 CFR part 272, subpart TT for the codification of Utah's updated program until a later date.

L. Statutory and Executive Order Reviews

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 action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S.

Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective *May 6, 2008*.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation-by-Reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

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

Dated: February 22, 2008.

Robert E. Roberts,

Regional Administrator, Region 8.

[FR Doc. E8-4251 Filed 3-6-08; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MB Docket No. 07-29; FCC 07-169]

Implementation of the Cable Television Consumer Protection and Competition Act of 1992 and Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act—Sunset of Exclusive Contract Prohibition

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Federal Communications Commission adopted rules revising the procedures applicable to program access complaint proceedings. Certain changes to the rules require Office of Management and Budget (OMB) approval to become effective. This document announces the effective date of these rules.

DATES: The rules published on October 4, 2007, 72 FR 56645, amending 47 CFR 76.1003(e)(1) and (j) are effective March 7, 2008.

FOR FURTHER INFORMATION CONTACT: For further information on this proceeding, contact David Konczal, *David.Konczal@fcc.gov*, of the Media