

January 1985, and revisions, supplements and addenda to that Statement dated April 13, 1988; September 14, 1988; July 19, 1989; July 23, 1992; February 14, 1994; July 18, 1994; July 20, 1994; August 11, 1994; November 28, 1994; August 24, 1995; and January 12, 1996, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) Program Description. The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[63 FR 23224, Apr. 28, 1998]

§§ 272.1602-272.1649 [Reserved]

Subpart HH—New York

§ 272.1650 [Reserved]

§ 272.1651 New York State-Administered Program: final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), New York has final authorization for the following elements as submitted to EPA in New York's base program application for final authorization which was approved by EPA effective on May 29, 1986. Subsequent program revision applications were approved effective on July 3, 1989, May 7, 1990, October 29, 1991, May 22, 1992, August 28, 1995, October 14, 1997, and January 15, 2002.

(b) *State Statutes and Regulations.* (1) The New York regulations cited in paragraph (b)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the FEDERAL REGISTER in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the New York regulations that are incorporated by reference in this paragraph are available from West Group, 610 Opperman Drive, Eagan, MN 55123, ATTENTION: D3-10 (Phone #: 1-800-328-9352).

(i) The Binder entitled "EPA Approved New York Regulatory Require-

ments Applicable to the Hazardous Waste Management Program", dated January 2002.

(ii) [Reserved]

(2) The following provisions provide the legal basis for the State's implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Environmental Conservation Laws (ECL), 1997 Replacement Volume, as revised by the 1999 Cumulative Pocket Part: sections 1-0303(18), 3-0301(1) (introductory paragraph); 3-0301(1)(a) and (b); 3-0301(1)(m); 3-0301(1)(o); 3-0301(1)(w); 3-0301(1)(x); 3-0301(1)(cc); 3-0301(2)(a), (b), (d)-(j), (l), (m) and (q); 3-0301(4); 19-0301(1) (except 19-0301(c), (e) and (f)); 19-0303(1)-(3); 19-0304; 27-0105; 27-0701; 27-0703; 27-0705; 27-0707 (except 27-0707(2-c)); 27-0711; 27-0900 through 27-0908; 27-0909 (except 27-0909(5)); 27-0910 through 27-0922; 70-0101; 70-0103; 70-0105 (except 70-0105(3) and 70-0105(6)); 70-0107(1) and (2); 70-0107(3) (except 70-0107(3)(a)-(k), (m) and (n)); 70-0109; 70-0113; 70-0115 (except (2)(c) and (d)); 70-0117; 70-0119; 70-0121; 71-0301; 71-1719; 71-2705; 71-2707; 71-2709 through 71-2715; 71-2717; 71-2720; and 71-2727.

(ii) McKinney's Consolidated Laws of New York, Book 46, Public Officers Law (POL), as amended through 1999: sections 87 and 89.

(iii) McKinney's Consolidated Laws of New York, Book 7B, Civil Practice Law and Rules (CPLR), as amended through 1999: sections 6301; 6311; and 6313.

(iv) Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A-2A, Hazardous Waste Management System, as initially published on January 1, 1999 and amended through March 15, 1999: sections 372.1(f); 373-1.1(f) and (g); 373-1.4(b); 373-1.4(d)-(f); 373-1.6(c)(1)-(3); 373-1.9 (except (a)(2)(iii); (iv) and (vi)); 621.1 through 621.4; 621.5 (except (d)(5), (d)(6)(i), (d)(7)(i)(a), (d)(7)(i)(c) and (d)(9)); 621.6 (except (b), (d)(4) and (d)(5)); 621.7; 621.8; 621.9 (except (a)(5), (c)(2) and (e)(2)); 621.10; 621.11 (except (d)); 621.12 through 621.15; and 621.16 (except (b), (d) and (e)).

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part

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of the authorized program, and are not incorporated by reference:

(i) Environmental Conservation Laws (ECL), 1997 Replacement Volume: sections 27-0301; 27-0303; 27-0305; 27-0307; 27-0909(5); 27-0923; and 27-0925.

(ii) Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A-2A, Hazardous Waste Management System, as initially published on January 1, 1999 and amended through March 15, 1999: Section 371.4(e); 372.3(a)(1); 372.3(a)(4); 372.3(b)(6)(iv); 372.3(d)(3); 373-1.1(d)(1)(x); 373-1.4(c); and 373-2.15(a)(2).

(iii) Throughout New York's hazardous waste regulations, the State cross-references Part 364, which sets forth additional transporter requirements including permit and liability requirements (for examples, see 6 NYCRR §§ 372.2(b)(8), 373-1.7(h)(3), 374-3.3(i)(1) and (2), 374-3.4(a) and 374-3.6(a)(1)). The transporter permit and liability requirements are broader in scope than the Federal program.

(4) *Unauthorized State Amendments.* (i) The authorized provisions at sections 370.2(b)(72), 370.2(b)(184), 371.1(c)(7), 373-1.3(d)(3), 373-2.8(a)(3), 373-2.27(e)(4)(i)(c) and (e)(6), 373-2.28(n)(4)(ii), 373-3.27(e)(4)(i)(c) and (e)(6), 373-3.28(n)(4)(ii) and 374-1.8(h) of 6 NYCRR, as initially published on January 1, 1999, and amended through March 15, 1999, include amendments that are not approved by EPA. Such unauthorized amendments are not part of the State's authorized program and are, therefore, not Federally enforceable. Thus, notwithstanding the language in the New York hazardous waste regulations incorporated by reference at paragraph (b)(1)(i) of this section, EPA will enforce the State regulations that are actually authorized by EPA. The effective dates of the State's authorized provisions are listed in the following Table:

TITLE 6, NEW YORK CODES, RULES AND REGULATIONS (6 NYCRR)

| State citation | Description | Effective date |
|---|---|----------------|
| 370.2(b)(72) [Authorized provision previously at 370.2(b)(54)] | Definition of "Federal agency" | 7/14/85 |
| 370.2(b)(184) [Authorized provision previously at 370.2(b)(137)]. | Definition of "Thermal treatment" | 7/14/85 |
| 371.1(c)(7) | Definition of "Solid Waste". Documentation of claims for exemption. | 7/1/86 |
| 373-1.3(d)(3) | Submission of applications | 7/14/85 |
| 373-2.8(a)(3) | Financial Requirements. States and Federal government are exempt from the requirements of this section. | 7/14/85 |
| 373-2.27(e)(4)(i)(c) | Test Methods and Procedures | 1/14/95 |
| 373-2.27(e)(6) | Test Methods and Procedures | 1/14/95 |
| 373-2.28(n)(4)(ii) | Test Methods and Procedures | 1/14/95 |
| 373-3.27(e)(4)(i)(c) | Test Methods and Procedures | 1/14/95 |
| 373-3.27(e)(6) | Test Methods and Procedures | 1/14/95 |
| 373-3.28(n)(4)(ii) | Test Methods and Procedures | 1/14/95 |
| 374-1.8(h) | Standards to control hydrogen chloride (HCl) and chlorine gas "(Cl ₂)" emissions. | 1/14/95 |

(ii) The actual State regulatory text authorized by EPA (i.e., without the unauthorized amendments) is available as a separate document, Addendum to the EPA Approved New York Regulatory Requirements Applicable to the Hazardous Waste Management Program, January 2002. This document is available from EPA Region 2, EPA Region 2 Library, 290 Broadway, 16th Floor, New York, New York 10007, Phone number: (212) 637-3185.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between

EPA Region 2 and the State of New York, signed by the Commissioner of the State of New York Department of Environmental Conservation on July 20, 2001, and by the EPA Regional Administrator on January 16, 2002, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of Legal Authority.* "Attorney General's Statement for Final Authorization", signed by the Attorney

General of New York in 1985 and revisions, supplements and addenda to that Statement dated August 18, 1988, July 26, 1989, August 15, 1991, October 11, 1991, July 28, 1994, May 30, 1997, and February 5, 2001, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[67 FR 49867, Aug. 1, 2002]

§§ 272.1652–272.1699 [Reserved]

Subpart II—North Carolina

§§ 272.1700–272.1749 [Reserved]

Subpart JJ—North Dakota

§§ 272.1750–272.1799 [Reserved]

Subpart KK—Ohio

§ 272.1800 State authorization.

(a) The State of Ohio is authorized to administer and enforce a hazardous waste management program in lieu of the Federal program under subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6291 *et seq.*, subject to the Hazardous and Solid Waste Amendments of 1984 (HSWA) (Pub. L. 98–616, November 8, 1984), 42 U.S.C. 6926 (c) and (g). The Federal program for which a State may receive authorization is defined in 40 CFR part 271. The State's program, as administered by the Ohio Environmental Protection Agency, was approved by EPA pursuant to 42 U.S.C. 6926(b) and part 271 of this chapter. EPA's approval of Ohio's base RCRA program was effective on June 30, 1989 (see 54 FR 27173). EPA's approval of revisions to Ohio's base program was effective on June 7, 1991 (see 56 FR 14203) and August 19, 1991 (see 56 FR 28088).

(b) Ohio is authorized to implement certain HSWA requirements in lieu of EPA. EPA has explicitly indicated its intent to allow much action in a FEDERAL REGISTER notice granting Ohio

authorization on June 7, 1991 (see 56 FR 14203) and August 19, 1991 (see 56 FR 28088).

(c) Ohio has primary responsibility for enforcing its hazardous waste program. However, EPA retains the authority to exercise its enforcement authorities under Section 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, and 6973, as well as under other Federal laws and regulations.

(d) Ohio must revise its approved program to adopt new changes to the Federal Subtitle C program, in accordance with section 3006(b) of RCRA and 40 CFR part 271, subpart A. Ohio must seek final authorization for all program revisions pursuant to section 3006(b) of RCRA but, on a temporary basis, may seek interim authorization for revisions required by HSWA pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(g). If Ohio obtains final authorization for the revised requirements pursuant to section 3006(b), the newly authorized provisions will be listed in 272.1801 of this subpart. If Ohio in the future obtains interim authorization for the revised requirements pursuant to section 3006(g), the newly authorized provisions will be listed in § 272.1802.

[54 FR 27173, June 28, 1989, as amended at 57 FR 4162, Feb. 4, 1992]

§ 272.1801 State-administered program: Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b): Ohio has final authorization for the following elements submitted to EPA in Ohio's program application for final authorization and approved by EPA effective on June 30, 1989 (see 54 FR 27173), June 7, 1991 (see 56 FR 14203) and August 19, 1991 (see 56 FR 28088).

(a) *State Statutes and Regulations.* (1) The following Ohio regulations are incorporated by reference and codified as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a). Ohio Administrative Code, volume 4, chapter 3745, rules: 49–031; 50–01; 50–03; 50–10; 50–11; 50–31 through 50–32; 50–40 through 50–44(C)(3)(j); 50–44(C)(4) through 50–