

Environmental Protection Agency

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statement of his/her position on the issues within such limits and on such conditions as may be fixed by the Presiding Officer, but he/she may not otherwise participate in the proceeding.

(6) *Rights of parties.* All parties to the proceeding may;

(i) Appear by counsel or other representative in all hearing and pre-hearing proceedings;

(ii) Agree to stipulations of facts which shall be made a part of the record.

(7) *Recommended decision.* (i) Within 30 days after the filing of proposed findings and conclusions, and reply briefs, the Presiding Officer shall evaluate the record before him/her, the proposed findings and conclusions and any briefs filed by the parties and shall prepare a recommended decision, and shall certify the entire record, including the recommended decision, to the Administrator.

(ii) Copies of the recommended decision shall be served upon all parties.

(iii) Within 20 days after the certification and filing of the record and recommended decision, all parties may file with the Administrator exceptions to the recommended decision and a supporting brief.

(8) *Decision by Administrator.* (i) Within 60 days after the certification of the record and filing of the Presiding Officer's recommended decision, the Administrator shall review the record before him and issue his own decision.

(ii) If the Administrator concludes that the State has administered the program in conformity with the Act and regulations his decision shall constitute "final agency action" within the meaning of 5 U.S.C. 704.

(iii) If the Administrator concludes that the State has not administered the program in conformity with the Act and regulations he shall list the deficiencies in the program and provide the State a reasonable time, not to exceed 90 days, to take such appropriate corrective action as the Administrator determines necessary.

(iv) Within the time prescribed by the Administrator the State shall take such appropriate corrective action as required by the Administrator and shall file with the Administrator and all parties a statement certified by the

State Director that appropriate corrective action has been taken.

(v) The Administrator may require a further showing in addition to the certified statement that corrective action has been taken.

(vi) If the State fails to take appropriate corrective action and file a certified statement thereof within the time prescribed by the Administrator, the Administrator shall issue a supplementary order withdrawing approval of the State program. If the State takes appropriate corrective action, the Administrator shall issue a supplementary order stating that approval of authority is not withdrawn.

(vii) The Administrator's supplementary order shall constitute final Agency action within the meaning of 5 U.S.C. 704.

(c) Withdrawal of authorization under this section and the Act does not relieve any person from complying with the requirements of State law, nor does it affect the validity of actions by the State prior to withdrawal.

[48 FR 14248, Apr. 1, 1983, as amended at 71 FR 40280, July 14, 2006]

§ 271.24 Interim authorization under section 3006(g) of RCRA.

(a) Any State which is applying for or has been granted final authorization pursuant to section 3006(b) of RCRA may submit to the Administrator evidence that its program contains (or has been amended to include) any requirement which is substantially equivalent to a requirement identified in § 271.1(j) of this part. Such a State may request interim authorization under section 3006(g) of RCRA to carry out the State requirement in lieu of the Administrator carrying out the Federal requirement.

(b) The applications shall be governed by the procedures for program revisions in § 271.21(b) of this part.

(c) Interim authorization pursuant to this section expires on January 1, 2003, except that interim authorization for the revised Corrective Action Management Unit rule (except 40 CFR 264.555) promulgated on January 22, 2002 and

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cited in Table 1 in §271.1 expires on August 30, 2004 if the State has not submitted an application for final authorization.

[57 FR 60132, Dec. 18, 1992, as amended at 67 FR 3029, Jan. 22, 2002]

§ 271.25 HSWA requirements.

Unless otherwise provided in part 271, the State program shall have standards at least as stringent as the requirements and prohibitions that have taken effect under the Hazardous and Solid Waste Amendments of 1984 (HSWA).

[51 FR 33723, Sept. 22, 1986]

§ 271.26 Requirements for used oil management.

The State shall have standards for used oil management which are equivalent to 40 CFR part 279. These standards shall include:

(a) Standards for used oil generators which are equivalent to those under subpart C of part 279 of this chapter;

(b) Standards for used oil collection centers and aggregation points which are equivalent to those under subpart D of part 279 of this chapter;

(c) Standards for used oil transporters and transfer facilities which are equivalent to those under subpart E of part 279 of this chapter;

(d) Standards for used oil processors and re-refiners which are equivalent to those under subpart F of part 279 of this chapter;

(e) Standards for used oil burners who burn off-specification used oil for energy recovery which are equivalent to those under subpart G of part 279 of this chapter;

(f) Standards for used oil fuel marketers which are equivalent to those under subpart H of part 279 of this chapter; and

(g) Standards for use as a dust suppressant and disposal of used oil which are equivalent to those under subpart I of part 279 of this chapter. A State may petition (e.g., as part of its authorization petition submitted to EPA under §271.5) EPA to allow the use of used oil (that is not mixed with hazardous waste and does not exhibit a characteristic other than ignitability) as a dust suppressant. The State must show

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that it has a program in place to prevent the use of used oil/hazardous waste mixtures or used oil exhibiting a characteristic other than ignitability as a dust suppressant. In addition, such programs must minimize the impacts of use as a dust suppressant on the environment.

(h)(1) Unless otherwise provided in part 271, state programs shall have standards for the marketing and burning of used oil for energy recovery that are at least as stringent as the requirements and prohibitions that EPA adopted on November 29, in 40 CFR part 266, subpart E of this chapter. The part 279 of this chapter requirements specified in Table 1 (except those provisions identified in footnotes 1 and 2 of Table 1) are Federally enforceable in those states that have not adopted state requirements equivalent to 40 CFR part 279, subparts G and H of this chapter requirements and have not been authorized to enforce the state requirements.

TABLE 1—REGULATIONS ADOPTED NOVEMBER 29, 1985 REGARDING THE BURNING OF USED OIL FOR ENERGY RECOVERY
[These part 279 provisions will continue to be enforced by EPA]

Former provisions of 40 CFR part 266, subpart E (1992)	Recodified provisions within 40 CFR part 279
Sec. 266.40(a)	Sec. 279.60(a)
Sec. 266.40(b)	Sec. 279.1 ¹
Sec. 266.40(c) [rebuttable presumption].	Sec. 279.63(a), (b) and (c) ²
Sec. 266.40(d)(1) and (2)	Sec. 279.10(b)(2) and (3)
Sec. 266.40(e)	Sec. 279.11
	Sec. 279.60(c)
Sec. 266.41(a)(1) and (2)	Sec. 279.71
266.41(b)(1) and (2)	Sec. 279.61(a)
	279.23(a)
Sec. 266.42(a)	Sec. 279.60(a)
Sec. 266.42(b)	Sec. 279.70(a)
Sec. 266.42(c)	Sec. 279.60(a)
Sec. 266.43(a)(1)	Sec. 279.70(a) and (b)(1)
Sec. 266.43(a)(2)	Sec. 279.70(b)(2)
Sec. 266.43(b)(1)	Sec. 279.72(a)
Sec. 266.43(b)(2)	Sec. 279.71
Sec. 266.43(b)(3)	Sec. 279.73(a)
Sec. 266.43(b)(4)(i-v)	Sec. 279.74(a)
Sec. 266.43(b)(4)(vi)	not included
Sec. 266.43(b)(5)(i) and (ii) ...	Sec. 279.75(a)
Sec. 266.43(b)(6)(i)	Sec. 279.74(b) and (c)
	279.72(b)
Sec. 266.43(b)(6)(ii)	Sec. 279.74(a)
	Sec. 279.75(b)
Sec. 266.44(a)	Sec. 279.61(a)
	Sec. 279.23(a)
Sec. 266.44(b)	Sec. 279.62(a)
Sec. 266.44(c)	Sec. 279.66(a)
Sec. 266.44(d)	Sec. 279.72(a)
Sec. 266.44(e)	Sec. 279.65(a) and (b)
	Sec. 279.66(b)