LOUISIANA—OZONE (1-HOUR STANDARD)—Continued

| Designated area | Designation | | Classification | |
|---|---|---|---|---|
| | Date[1] | Type | Date[1] | Type |
| East Feliciana Parish | | | | |
| Evangeline Parish | | | | |
| Iberia Parish | | | | |
| Jefferson Davis Parish | | | | |
| Plaquemines Parish | | | | |
| St. Helena Parish | | | | |
| St. John the Baptist Parish | | | | |
| St. Landry Parish | | | | |
| St. Martin Parish | | | | |
| St. Tammany Parish | | | | |
| Tangipahoa Parish | | | | |
| Terrebonne Parish | | | | |
| Vermilion Parish | | | | |
| Washington Parish | | | | |
| West Feliciana Parish | | | | |

[1] This date is October 18, 2000, unless otherwise noted.

* * * * *

[FR Doc. 02–22983 Filed 9–9–02; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

**[FRL–7373–6]**

### Oregon: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The EPA is granting Oregon final authorization for revisions to the Oregon hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The Agency published a proposed rule on June 17, 2002 at 67 FR 41207 proposing to authorize revisions to the Oregon hazardous waste program and provided for public comment. The public comment period ended on July 17, 2002. We received comments, addressed below. After reviewing the comments, we hereby determine that Oregon's hazardous waste program revisions satisfy all requirements necessary to qualify for final authorization. EPA is authorizing the State's changes through this final action. No further opportunity for public comment will be provided.

**EFFECTIVE DATE:** Final authorization for the revisions to Oregon's hazardous waste management program shall be effective on September 10, 2002.

**FOR FURTHER INFORMATION CONTACT:** Lynn Williams, U.S. EPA Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM–122, Seattle, WA, 98101; (206) 553–2121. For general information available on the authorization process, see EPA's Web site at: *http://www.epa.gov/epaoswer/hazwaste/state/rcra.*

**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 and consistent with the Federal program. States are required to have enforcement authority which is adequate to enforce compliance with the requirements of the authorized State hazardous waste program. Under RCRA section 3009, States are not allowed to impose any requirements which are 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 Title 40 of the Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

#### B. What Were the Comments and Responses to EPA's Proposal?

Commenters from the State of Washington and the State of Oregon submitted a joint comment alleging that EPA: (1) should have provided a public hearing for the proposed authorization of revisions to the Oregon hazardous waste program; (2) may be sanctioning activities by the Oregon Department of Environmental Quality (ODEQ), specifically provisions under 40 CFR 266.20, for which ODEQ lacks statutory authority; and (3) may be granting authority for Oregon to implement regulations and/or statutes that are less stringent than federal rules with respect to waste-derived fertilizers. EPA's responses to these comments are provided below.

*1. Public Hearing*

EPA is authorizing a revision of the Oregon hazardous waste program, and is not required to hold a hearing when a revision to the authorized state hazardous waste program is proposed in the **Federal Register**. Oregon received final authorization for its hazardous waste program on January 30, 1986. Revisions to the program were authorized in 1990, 1994 and 1995. Oregon applied to the EPA for this revision to its already authorized program pursuant to 40 CFR 271.21 on June 3, 2002. The regulations governing review of program revisions at 40 CFR part 271.21 do not require a hearing for authorization of revisions. Prior to 1986, the authorization regulations did require EPA to offer a public hearing for revisions to state authorized hazardous waste programs. However, on March 4, 1986, EPA promulgated amendments to 40 CFR 271.21 that eliminated public hearing requirements for revisions. In the preamble to the final rule eliminating public hearing requirements, the Agency discussed these amendments: ''As discussed in the proposal, the new procedures do not require public hearings to be held in conjunction with EPA's authorization decisions. Since there is no legal requirement to provide for hearings on

revision decisions and little public interest has been shown to date in attending hearings on initial authorization of State programs, we think the opportunity to provide written comments is adequate.'' 51 FR 7540 at 7541 (March 4, 1986). Pursuant to the current regulations, EPA is required to provide the public with an opportunity to submit written comments on revisions to authorized state hazardous waste programs but public hearings are not required. EPA adhered to the governing regulations regarding opportunities for public comment in the proposed rule to revise the Oregon authorized hazardous waste program.

*2. 40 CFR 266.20 for Hazardous Wastes ''Used in a Manner Constituting Disposal''*

Commenters alleged that ODEQ lacks statutory authority to implement regulations, in particular 40 CFR 266.20, arguing that the State's definition of waste-derived fertilizers at ORS 633.311 exempts waste-derived fertilizers from the definition of solid waste and therefore from RCRA regulation. ORS 633.311(28) defines ''waste-derived product'' to mean ''any fertilizer, agricultural mineral, agricultural amendment or lime product derived in whole or in part from hazardous waste as defined in ORS 466.005(7) or in rules adopted thereunder, solid waste as defined in ORS 459.005(24) or in rules adopted thereunder, or industrial waste as defined in ORS 468B.005(2) or in rules adopted thereunder.'' The definition excludes biosolids and reclaimed water or treated effluent.

The Oregon hazardous waste program was authorized for 40 CFR 266.20, which the State incorporated by reference into its hazardous waste regulations, in the 1994 revision to the authorized program. This provision, 40 CFR 266.20, was not the subject of the revision authorization in EPA's proposed rule at 67 FR 41207 (June 17, 2002), except that EPA proposed to authorize a change to the State program analog to 40 CFR 266.20(c), OAR 340–100–0002 and 340–101–0001, regarding anti-skid, deicing use of slags from high temperature metals recovery processing of certain hazardous wastes. EPA reviewed the State's statutory authority prior to proposing the revision to the authorized hazardous waste program and did not find any lack of authority relative to the State's ability to implement the State regulation. With respect to the impact of ORS 633.311 on the State regulations for hazardous wastes ''used in a manner constituting disposal,'' commenters assume that State fertilizer registration requirements altered the State's jurisdiction over waste-derived fertilizer. This is not the case. ORS 633 adds certain fertilizer and other soil-enhancing product registration and labeling requirements to Oregon's agricultural requirements but does not alter the definition of solid or hazardous waste in ORS 466.005(7) and the implementing State regulations. The State hazardous waste regulations and the federal RCRA regulations, including 40 CFR 266.20, incorporated by reference in the State regulations pursuant to State statutory authority at ORS 466, are not displaced by State statutory provisions concerning fertilizers and other soil-enhancing products.

*3. Waste-Derived Fertilizers*

Commenters allege that ORS 633.311(28), Oregon's statutory definition of waste-derived fertilizer, is less stringent than federal rules because the definition exempts waste-derived fertilizer products from the definition of solid waste. Commenters point to State statutory provisions at ORS 466.067 in support of their allegation. ORS 466.067 pertains to the modification of PCB or hazardous waste permits to allow for recycling operations. The statute allows ODEQ to issue a permit modification authorizing a recycling operation at a hazardous waste or PCB treatment or disposal facility located off the site of waste generation at which ORS 466.055 (definitions for ORS 453.635 and 466.005 to 466.385) and ORS 466.060 (criteria to be met by owner and operator before issuance of permit) will not apply at these facilities provided the owner or operator obtains a determination from ODEQ that, in accordance with federal RCRA, as amended, ''the recycling operation is legitimate and will produce material that is exempt from the definition of solid waste.'' Neither ORS 466.067 nor 633.311(28) expressly exempt waste-derived fertilizer products from the definition of solid waste. The associated rules in ORS Chapter 633 set out licensing and labeling requirements for fertilizer, agricultural mineral, agricultural amendment and lime products. ORS 466.067 requires that ODEQ's determination of legitimate recycling operations which will be exempt from the definition of solid waste be made in accordance with federal RCRA. EPA's RCRA authorities regulate fertilizers made from recycled hazardous wastes and EPA's rules classifying hazardous secondary materials used in a manner constituting disposal, including use as fertilizers, allow EPA to classify such materials as solid waste. EPA's rules, specifically 40 CFR 261.3(e)(2)(i), define materials used in a manner constituting disposal, or used to produce products that are applied to the land, as solid wastes, even if the recycling involves use, reuse, or return of the material to the original process. Consequently, because ODEQ's determination that a legitimate recycling operation is exempted from the definition of solid waste is bounded by the statutory requirement to make that determination in accordance with federal RCRA, ODEQ would not have statutory authority to exempt solid waste used in a manner constituting disposal which are applied to the land from the definition of solid wastes. EPA, by the statutory definition of solid waste and by regulation based on the statutory definition, identifies such materials as solid waste and ODEQ would also have to identify such materials as solid waste. Oregon's statutory definition does not per se exempt waste-derived fertilizer products from the definition of solid waste and Oregon's statutory definition of waste-derived fertilizer is not less stringent than the federal rules.

**C. What Decisions Have We Made in This Rule?**

We conclude that Oregon's application to revise its authorized hazardous waste program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are granting Oregon final authorization to operate its hazardous waste program with the changes described in the authorization application and as described in this final rule. Regulatory revisions which are less stringent than Federal program requirements and those regulatory revisions which are broader in scope than Federal program requirements are not authorized.

Oregon will be responsible for carrying out the aspects of Oregon's authorized hazardous waste program described in Oregon's revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA) and the limitations of this authorization. Oregon's authorized program does not extend to Indian country. EPA retains jurisdiction and authority to implement RCRA over Indian country and over trust lands.

New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA are implementable and enforceable by EPA and take effect in States with authorized programs before such programs are authorized for the requirements. Thus, EPA will implement and enforce those

HSWA requirements and prohibitions in Oregon, including issuing permits or portions of permits, until the State is granted authorization to do so.

**D. What Will Be the Effect if Oregon Is Authorized for These Changes?**

The effect of this decision is that a facility in Oregon subject to RCRA must comply with the authorized State program requirements and with the federal HSWA provisions for which the State is not authorized and RCRA requirements that are not supplanted by authorized state-issued requirements, in order to comply with RCRA. Oregon continues to have enforcement responsibilities under its State hazardous waste program for violations of its authorized program. EPA retains and continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements, including State program requirements that are authorized by EPA and any applicable Federally-issued statutes and regulations, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

This final action approving these revisions does not impose additional requirements on the regulated community because the regulations for which Oregon's program is being authorized by today's action are already effective under State law.

**E. What Has Oregon Previously Been Authorized For?**

Oregon initially received final authorization on January 30, 1986, effective January 31, 1986 (51 FR 3779), to implement the State's hazardous waste management program. Oregon received authorizations for revisions to its program on March 30, 1990, effective on May 29, 1990 (55 FR 11909); August 5, 1994, effective October 4, 1994 (59 FR 39967); June 16, 1995, effective August 15, 1995 (60 FR 31642); and October 10, 1995, effective December 7, 1995 (60 FR 52629).

**F. What Changes Are We Authorizing With Today's Action?**

EPA is granting final authorization for the revisions to Oregon's federally authorized program described in Oregon's official program revision application submitted to EPA in accordance with 40 CFR 271.21 on February 4, 2002, and deemed complete by EPA on March 7, 2002. We now make a final determination that Oregon's hazardous waste program revisions, as described in this rule, satisfy the requirements necessary to qualify for final authorization. Regulatory revisions which are less stringent than Federal program requirements and those regulatory revisions which are broader in scope than Federal program requirements are not authorized.

The Oregon Hazardous Waste Management Program, which was administered by the Oregon Department of Environmental Quality (DEQ), Waste Prevention and Management Division, reorganized effective October 1, 2001 and is now administered by the DEQ Land Quality Division. This rule authorizes this reorganization.

The following table, Table 1, identifies equivalent and more stringent State regulatory analogues to the Federal regulations for those regulatory revisions Oregon is being authorized for today. All of the referenced analogous State authorities were legally adopted and effective as of July 21, 2000.

TABLE 1.—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL REGULATIONS [1]

| Description of Federal requirements (CL#[2]) | Federal Register | Analogous State authority (OAR 340–* * *) |
|---|---|---|
| Availability of Information | | –100–0003(2), –100–0005(1)–(5); 105–0012. |
| Used Oil Filter Exclusion, Technical Corrections (CL 107). | 57 FR 29220, 7/1/92 | –100–0002; –101–0001. |
| Testing and Monitoring Activities (CL 126) | 58 FR 46040, 8/31/93 | –100–0002; –101–0001; –104–0001; –105–0001. |
| Boilers & Industrial Furnaces, Administrative Stay & Interim Standards for Bevill Residues (CL 127). | 58 FR 59598, 11/9/93 | –100–0002. |
| Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection (CL 128). | 59 FR 458, 1/4/94 | –100–0002; –101–0001. |
| Revision of Conditional Exemption for Small Scale Treatability Studies (CL 129). | 59 FR 8362, 2/18/94 | –100–0002; –101–0001. |
| Recycled Used Oil Management Standards; Technical Amendments and Corrections II (CL 130). | 59 FR 10550, 3/4/94 | –100–0002; –111–0000(2), –111–0010. |
| Recordkeeping Instructions, Technical Amendment (CL 131). | 59 FR 13891, 3/24/94 | –100–0002; –104–0001. |
| Letter of Credit Revision (CL 133) | 59 FR 29958, 6/10/94 | –100–0002; –104–0001, 104–0151. |
| Corrections of Beryllium Powder (P015) Listing (CL 134). | 59 FR 31551, 6/20/94 | –100–0002; –101–0001, –101–0033. |
| Recovered Oil Exclusion (CL 135) | 59 FR 38536, 7/28/94 | –100–0002; –101–0001. |
| Removal of the Conditional Exemption for Certain Slag Residues (CL 136). | 59 FR 43496, 8/24/94 | –100–0002; –101–0001. |
| Carbamate Production Identification and Listing of Hazardous Waste (CL 140). | 60 FR 7824, 2/9/95; as amended at 60 FR 19165, 4/17/95, and at 60 FR 25619, 5/12/95. | –100–0002; –101–0001, –101–0033. |
| Universal Waste Rule: General Provisions (CL 142A) [3]. | 60 FR 25492, 5/11/95 | –100–0002; –102–0011(e); –113–0000, –113–0020, 113–0020(1)–(2), –113–0030, –113–0030(3)(a), –13–0040, –113–0040(2), 113–0040(2)(b), –113–0040(2)(b)(B)(v), –113–0040(3), –113–0040(3)(a)–(b), –113–0040(4), –113–0050. |

TABLE 1.—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL REGULATIONS [1]—Continued

| Description of Federal requirements (CL#[2]) | Federal Register | Analogous State authority (OAR 340–* * *) |
|---|---|---|
| Universal Waste Rule: Specific Provisions for Batteries (CL 142B). | 60 FR 25492, 5/11/95 | –100–0002; –113–0000, –113–0020, –113–0030, –113–0040. |
| Universal Waste Rule: Specific Provisions for Pesticides (CL 142C). | 60 FR 25492, 5/11/95 | –100–0000; –113–0020, –113–0000, –113–0070, –113–0030, –113–0040. |
| Universal Waste Rule: Specific Provisions for Thermostats (CL 142D). | 60 FR 25492, 5/11/95 | –100–0002; –113–0020, –113–0000, –113–0030, –113–0040. |
| Universal Waste Rule: Petition Provisions to add a new Universal Waste (CL 142 E) [3]. | 60 FR 25492, 5/11/95 | –100–0002; –113–0000, –113–0060. |
| Liquids in Landfills III (CL 145) | 60 FR 35703, 7/11/95 | –100–0002. |
| RCRA Expanded Public Participation (CL 148) | 60 FR 63417, 12/11/95 | –100–0002; –106–0001; –105–0001, 105–0010, 105–0014 |
| Land Disposal Restrictions Phase III—Decharacterized Wastewaters Carbamate Wastes, and Spent Potliners (CL 151). | 61 FR 15566, 4/8/96 | –100–0002; –102–0011(2)(e). |
| Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D (CL 153). | 61 FR 34252, 7/1/96 | –100–0002, –101–0001. |
| Consolidated Organic Air Emission standards for Tanks Surface Impoundments, and Containers (CL 154). | 59 FR 62896, 12/6/94; as amended 5/19/95 (60 FR 26828), 9/29/95 (60 FR 50426), 11/13/95 (60 FR 56952), 2/9/96 (61 FR 4903), 6/5/96 (61 FR 28508), 11/25/96 (61 FR 69932). | –100–0002; –104–0001; 102–0034; –101–0001. |
| Military Munitions Rule: Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties (CL 156) [3]. | 62 FR 6622, 2/12/97 | –100–0002, –100–0010; –101–0001; –102–0010; –103–0010; –104–0001, 104–1201, 104–1201(2), (3); –105–0001, –105–0041 (3),(4). |
| Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Production and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions (CL 157). | 62 FR 25998, 5/12/97 | –100–0002; –101–0001, –101–0004. |
| Testing and Monitoring Activities Amendment III (CL 158). | 62 FR 32452, 6/13/97 | –100–0002; –104–0001. |
| Conformance with Carbamate Vacatur (CL 159) | 62 FR 32974, 6/17/97 | –100–0002; –101–0001. |
| Emergency Revision of Carbamate Land Disposal Restrictions (CL 161). | 62 FR 45568, 8/28/97 | –100–0002. |
| Clarification of Standards for Hazardous Waste LDR Treatment Variances (CL 162). | 62 FR 64504, 12/5/97 | –100–0002. |
| Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment (CL 163). | 62 FR 64636, 12/8/97 | –100–0000; –104–0001. |
| Kraft Mill Stream Stripper Condensate Exclusion (CL 164). | 63 FR 18504, 4/15/98 | –100–0002; –101–0004. |
| Recycled Used Oil Management Standards; Technical Correction and Clarification (CL–166) [3]. | 63 FR 24963, 5/6/98 | –100–0002; –111–0000 (2), –111–0032, –111–0050. |
| Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes (CL 167A). | 63 FR 28556, 5/26/98 | –100–0002; –102 0011(2)(e). |
| Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions (CL 167B). | 63 FR 28556, 5/26/98 | –100–0002. |
| Land Disposal Restrictions Phase IV—Corrections (CL 167 C). | 63 FR 28556, 5/26/98; as amended 6/8/98 (63 FR 31266). | –100–0002. |
| Bevill Exclusion Revisions and Clarifications (CL 167E). | 63 FR 28556, 5/26/98 | –100–0002; –101–0001, –101–0004. |
| Exclusion of Recycled Wood Preserving Wastewaters (CL 167F). | 63 FR 28556, 5/26/98 | –100–0002; –101–0004. |
| Hazardous Waste Combustors; Revised Standards (CL 168). | 63 FR 33782, 6/19/98 | –100–0002, –101–0001,— 101–0004. |
| Petroleum Refining Process Wastes (CL 169) .. | 63 FR 42110, 8/6/98 | –100–0002; –101–0001; –102–0010; –101–0004. |
| Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizers, Amendment (CL 170). | 63 FR 46332, 8/31/98 | –100–0002. |
| Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production (CL 171). | 63 FR 47410, 9/4/98 | –100–0002. |

TABLE 1.—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL REGULATIONS [1]—Continued

| Description of Federal requirements (CL#[2]) | Federal Register | Analogous State authority (OAR 340–* * *) |
|---|---|---|
| Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags (CL 172). | 63 FR 48124, 9/9/98 | –100–0002 |
| Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum reduction (K088); Final Ru7le (CL 173). | 63 FR 5124, 9/24/98 | –100–0002. |
| HWIR—Media (CL 175) [3] | 63 FR 65874, 11/30/98 | –100–0010, –100–0002;— 101–0004(3); –105–0003, – 105–0115 |
| Universal Waste Rule—Technical Amendments (CL 176). | 63 FR 71225, 12/24/98 | –100–0002; –113–0000 –113–0020 |
| Organic Air Emission Standards: Clarification and Technical Amendments (CL 177). | 64 FR 3382, 1/21/99 | –100–0002; –102–0034; –104–0001. |
| Petroleum Refining Process Wastes—Leachate Exemption (CL 178). | 64 FR 6806, 2/11/99 | –100–0002; –101–0001, –101–0004. |
| Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards (CL 179). | 64 FR 25408, 5/11/99 | –100–0002; –101–0001;— 102–0010; –101–0004;—102–0034. |
| Test Procedures for Analysis of Oil and Grease and Non-Polar Material (CL 180). | 64 FR 26315, 5/14/99 | –100–0002. |
| Unversal Waste Rule: Specific Provisions for Hazardous Waste Lamps (CL 181). | 64 FR 36466, 7/6/99 | –100–0002; –113–0000, –113–0020, –113–0030, –113–0040, –113–0060. |
| Hazardous Air Pollutant Standards for Combustors (CL 182). | 64 FR 52828, 9/30/99, as amended 11/19/99 (64 FR 63209). | –100–0002; –101–0001; –104–0001; –105–0001. |
| Land Disposal Restrictions Phase IV—Technical Corrections (CL 183). | 64 FR 56469, 10/20/99 | –100–0002; –101–0001; –102–0010, –102–0034. |
| Accumulation Time for Waste Water Treatment Sludges (CL 184). | 65 FR 12378, 3/8/00 | –100–0002, –102–0010. |
| Organobromine Production Waste Vacatur (CL 185). | 65 FR 14472, 3/17/00 | –100–0000; –101–0001. |

[1] For further discussion on where the revised State rules differ from the Federal rules refer to Section G. below, the authorization revision application, and the administrative record for this final rule.

[2] CL # (Checklist) generally reflects changes made to the Federal regulations pursuant to a particular FEDERAL REGISTER notice. EPA publishes these checklists as aids for States to use for the development of their authorization application. See EPA's RCRA State Authorization web page at http://www.epa.gov/epaoswer/hazwaste/state/

[3] State rule contains some more stringent provisions. For identification of more stringent State provisions refer to the authorization revision application.

## G. Where Are the Revised State Rules Different From the Federal Rules?

This section discusses some of the differences between the revisions EPA is authorizing in Oregon's hazardous waste program and the Federal regulations. Not all program differences are discussed in this section because, although Oregon incorporates many Federal rules by reference, the State also writes its own version of many of the federal hazardous waste rules. This section discusses certain rules where EPA makes a determination that the State program is more stringent and rules where the State program is broader in scope. The State is not authorized for less stringent rules or broader in scope rules. Less stringent State rules and broader in scope rules do not supplant federal regulations. Persons should consult the table referenced above for the specific State regulations which EPA proposes to authorize.

Certain portions of the federal program are not delegable/authorizable to the States because of the Federal government's special role in foreign policy matters and because of national concerns that arise with certain decisions. One such matter pertains to import/export functions. EPA does not delegate/authorize import/export functions. Under the RCRA regulations found in 40 CFR Part 262, Standards for Generators, EPA will continue to implement requirements for import/export functions. EPA does not delegate/authorize certain of the Federal Land Disposal Restriction requirements, 40 CFR Part 268, because of the national concerns that must be examined when decisions are made under the following federal regulations; these include: 40 CFR 268.5—Procedures for case-by-case effective date extensions; 40 CFR 268.6—''No migration'' petitions; 40 CFR 268.42(b)—applications for alternate treatment methods; and 40 CFR 268.44(a)–(g)—general treatment standard variances. Oregon's program does not include these requirements. EPA will continue to implement these requirements under EPA's HSWA authority.

*Areas Where the State Program Is More Stringent*

States are allowed to seek authorization for State requirements that are more stringent than federal requirements. EPA has authority to authorize and enforce those parts of a State's program EPA finds to be more stringent than the federal program. This section does not discuss each more stringent preliminary finding made by EPA, but persons can locate such sections by consulting the Table, referenced above, as well as by reviewing the authorization application.

Oregon has enacted several requirements under its hazardous waste management program for which EPA has determined the requirements are more stringent than the standards of the Federal RCRA program set forth in 40 CFR parts 260–279.

States sometimes make changes to their previously authorized programs for which they need to seek reauthorization. Oregon made such a change to its rules for availability of information. The State program requirement at OAR 340–100–0003,

which replaces the federal requirements at 40 CFR 260.2 for availability of information, is determined to be more stringent than the federal program because State regulations require additional justification for trade secret claims and establish a time frame of 15 to 30 days for clarifying claims. OAR 340–105–0012 was revised to require identical trade secret claims substantiation for permits as required by OAR 340–100–0003.

The State program regulation at OAR 340–101–0004(3) is determined to be more stringent than the federal program at 40 CFR 261.4(g), Dredged Materials, in that the State program deletes 40 CFR 261.4(g) from its incorporation of the federal regulations by reference. Consequently, the State program does not exclude dredged material from regulation as a solid waste subject to a hazardous waste determination. Because the dredged materials exclusion at 40 CFR 261.4(g) replaced existing regulations that subjected such materials to a hazardous waste determinations, State programs were allowed the option of choosing to change their regulations to include the dredged materials exclusion or not. Those that selected not to include the exclusion are more stringent than the federal program once authorized because EPA promulgated the dredged materials exclusion as a less stringent requirement.

The State program regulation at OAR 340–102–0011(3) is determined to be more stringent than the federal program regulation at 40 CFR 262.11 because generators of hazardous waste in Oregon must keep documentation of ''knowledge of process'' hazardous waste determinations for at least three years.

The State program at OAR 340–102–0034(2) is determined to be more stringent than the federal regulation at 40 CFR 262.34 as it adds additional requirements, which does not replace or supercede the requirement to have a permit in the event a generator has not met the conditions under 40 CFR 262.34 to allow the generator to operate without a permit.

The State program at OAR 340–102–0040, replacing the requirements of 40 CFR 262.40(b), is determined to be more stringent than the federal program because the State program requires small quantity generators both to report waste generated (OAR 340–102–0041) and to maintain copies of all reports on waste generated for three years.

The State program is determined to be more stringent at OAR 340–104–0001(6) than the federal program with respect to facilities receiving hazardous waste from offsite because the State program requires that facilities receive a final waste permit before managing offsite hazardous wastes. The federal program allows facilities with interim status to receive offsite hazardous waste.

The State program is determined to be more stringent than the federal program with respect to the federal HWIR media rule because the State regulations do not allow for the use of Remedial Action Plans (RAPs) as found in the federal requirements at 40 CFR part 270, subpart H. The State regulations at OAR 340–105–0003 delete from their incorporation by reference of the federal regulations those regulations allowing for RAPs. Oregon inadvertently incorporated 40 CFR 270.230(e)(1) by reference but did not seek and is not authorized for the provision.

The State program is determined to be more stringent than the federal program with respect to the federal Post Closure (PC) rule (63 FR 56710) because the State program specifically excluded the PC rule from its incorporation by reference of the federal regulations at OAR 340–100–0002.

The State program is determined to be more stringent in certain places than the federal regulations promulgated in EPA's Military Munitions Rule (62 FR 6622). With respect to the hazardous waste management system in Oregon, the State hazardous waste program added definitions for ''demilitarization'' and ''demilitarization residue'' at OAR 340–100–0010(2)(f) and (g) in Oregon's analog to 40 CFR 260.10. These definitions are specific to the processes and activities at the Umatilla Chemical Depot and are determined to be more stringent than the federal program.

With respect to chemical agent munitions and chemical agent bulk items in storage, the State program identifies such chemical agent munitions and chemical agent bulk items in storage as characteristic and/or listed hazardous waste at OAR 340–101–0030, referencing listings for blister agents and nerve agents at OAR 340–102–0011(c)(A) and (B). In the Military Munitions Rule, at 62 FR 6633, EPA said that States could be more stringent than the federal program for chemical agents and munitions.

Oregon's analog to 40 CFR 264.1201, OAR 340–104–1201, design and operating standards for munitions storage, is determined to be more stringent than the federal program because OAR 340–104–1201 adds additional requirements to munitions storage, including requirements for: storage unit operations and management plans; vapor containment mechanisms for nerve agent storage units; a requirement to not allow storage of munitions in an open area; and the State definition of ''no migration'' to mean no detectable concentration of chemical agent outside the storage unit. EPA's regulations defer the ''no migration'' criteria to Army management procedures which allow some detectable migration.

The State is determined to be more stringent than the federal program because the State program defines, for purposes of reportable quantities, chemical agents (such as, for example, nerve agents GB, VX, and blister agent HD) to be hazardous materials at OAR 340–108–0002(9)(c), and at OAR 340–108–0010(1)(e) reportable quantity is defined to mean any quantity of chemical agent.

The State is determined to be more stringent than the federal program in its incorporation by reference of the federal regulations at OAR 340–105–0041(3) because the State program deleted a cross-reference to the federal regulation at 40 CFR 270.42(h) and replaced the cross-reference with a citation to OAR 340–105–0041(4) which for the Umatilla Chemical Depot does not allow the acceptance of off-site shipments of munitions. The federal program does not restrict acceptance of such off-site shipments at the Umatilla Chemical Depot.

EPA has made the determination that certain of the State program regulations for universal waste are more stringent than the federal regulations.

The State regulations at OAR 340–113–0040(2)(b), (2)(b)(B), (3)(a) and (b), are determined to be more stringent than the federal regulations at 40 CFR 273.12 and 273.32(b)(5), because the State requires owners or operators of off-site universal waste collection sites accumulating more than 1,000 kg of universal waste and non-pesticide universal waste to meet the notification requirements for large quantity generators and to submit additional information with the notification. The more stringent requirements of OAR 340–113–0040(2) and (3) are not applicable under the State regulation at OAR 340–113–0040(1)(b) to persons who collect, store or transport universal waste batteries.

The State regulations at OAR 340–113–0040(3)(a) and (b) are determined to be more stringent than the federal regulations at 40 CFR 273.15(a) and (b) and 273.35(a) and (b), because the State regulations require owners and operators of off-site collection sites accumulating more than 1,000 kg of universal waste to limit the accumulation time to a six month period or to receive written approval

from ODEQ to extend the accumulation period.

The State regulation at OAR 340–113–0040(4) is determined to be more stringent than the federal regulation at 40 CFR 273.19 for tracking universal waste shipments because the State regulation applies to small quantity handlers accumulating more than 1,000 kg of universal waste.

The State regulation at OAR 340–113–0040(4)(b) is determined to be more stringent than the federal regulation at 40 CFR 273.39(a) because the State regulation requires an off-site collection site to record the date the off-site universal waste was received.

The State regulation at OAR 340–113–0050(2) is determined to be more stringent than the federal regulation at 40 CFR 273.60 because the State requires annual reporting of universal waste for all destination facilities.

The State regulation at OAR 340–113–0060(2)(b) is determined to be more stringent than the federal regulation at 40 CFR 273.81(c) in listing additional factors to be considered when reviewing a petition to remove a universal waste from the universal waste rule. However, the use of such factors in the implementation of the authorized hazardous waste program cannot result in the universal waste not remaining subject to the hazardous waste regulations.

The State program is determined to be more stringent than the federal requirements at 40 CFR 279.22, Used Oil Storage, because the State regulation OAR 340–111–0032 requires generators to store used oil in accordance with applicable State and local Fire Marshal regulations and to keep rainwater from coming in contact with used oil during storage. The State program is determined to be more stringent than the federal program at 40 CFR 279.45(h), 279.54(g), and 279.64(g), because the State program at OAR 340–111–0050 requires handlers to respond to spills and releases according to more specific State requirements of OAR 340 Division 108 and requires used oil handlers to take immediate action to mitigate, report and clean up threatened spills and releases of used oil as required in OAR 340 Division 108.

*Areas Where the State Program Is Broader in Scope*

States are not allowed to seek authorization for State requirements that are broader in scope than the federal requirements. EPA does not have authority to authorize and enforce those parts of a State's program which are broader in scope than the federal program. Because the State program at OAR 340–101–0004 deleted from its incorporation by reference of the federal regulations the provisions of 40 CFR 261.4(b)(7)(ii), a list of 20 wastes from the extraction, beneficiation and processing of ores and minerals (Bevill wastes) which under the federal program are solid wastes that are not hazardous wastes, EPA has made the determination that the State program is broader in scope than the federal program with respect to these solid wastes.

The State program incorporated by reference rules that classified mineral processing characteristic sludges and byproducts being stored prior to being reclaimed as solid wastes and subjected manufactured gas plant waste to characterization under the toxicity characteristic regulations. The Federal regulations, 40 CFR 261.2(c)(3) second parenthetical, 40 CFR 261.4(a)(17) as it referenced secondary materials rather than spent materials, and 40 CFR 261.24 as it applied to manufactured gas plant waste, were subsequently revised (67 FR 11251, March 13, 2002) because of a court vacatur of certain provisions of the regulations. Because of the vacatur, EPA cannot authorize the rules; thus EPA has made the determination that the State is broader in scope because the State program regulations at OAR 340–100–0002 incorporated the federal rules by reference as those rules existed before the vacatur.

The State incorporated by reference at OAR 340–224–0220 the federal regulation at 40 CFR 63.1210(b) which was vacated on July 24, 2001. EPA has made the determination that the State hazardous waste program is broader in scope to the extent, if at all, the State hazardous waste regulations reference or cross-reference the vacated federal rule.

The State regulations define ''pesticide residue'' at OAR 340–100–0010. The State interprets ''pesticide residue'' to include state-only pesticides which are state-only hazardous wastes and outside the scope of the federal regulations. A generator of state-only pesticide residues may designate such residues as ''waste pesticide'' and manage the residues in a manner consistent with the universal waste management standards of OAR Division 113, under a state water pollution control facility permit, at a Subpart C facility as allowed by OAR 340–109–0010(4)(a) or in a Subpart D facility provided land disposal restrictions were met. Portions of the State definition for universal waste, OAR 340–113–0020(4) are determined to be broader in scope than the federal regulations at 40 CFR 260.10 and 273.9 by the addition of ''waste pesticides,'' which as defined by the State at OAR 340–109–0001(2)(a), are those not subject to regulation as hazardous waste under the federal regulations at 40 CFR parts 260 to 270. Portions of the State definition of ''universal waste,'' OAR 340–113–0020(4), are also determined to be broader in scope where the definition includes ''pesticide residues'' that are not part of the federal program.

The State regulation at OAR 340–113–0010(1)(a), in addition to wastes covered by 40 CFR 273.3, adds waste pesticides and pesticide residues to the applicability section of the universal waste rules. This addition is determined to be broader in scope where such waste pesticides or pesticide residues would not be part of the federal program.

**H. Who Handles Permits After This Authorization Takes Effect?**

Oregon will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits, or portions of permits, issued by EPA Region 10 prior to final authorization of this revision will continue to be administered by EPA Region 10 until the issuance or re-issuance after modification of a State RCRA permit and until EPA takes action on its permit or portion of permit. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit or portion of permit. EPA will continue to issue permits, or portions of permits, for HSWA requirements for which the State program in Oregon is not yet authorized.

**I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Oregon?**

EPA's decision to authorize the hazardous waste program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' as defined in 18 U.S.C. 1151. This includes: (1) All lands within the exterior boundaries of Indian reservations within or abutting the State of Oregon; (2) Any land held in trust by the U.S. for an Indian tribe; and (3) Any other land, whether on or off an Indian reservation that qualifies as Indian country. Therefore, this action has no effect on Indian country. EPA retains jurisdiction over ''Indian Country'' as defined in 18 U.S.C. 1151 and will continue to implement and administer the RCRA program in Indian country.

**J. What Is Codification and Is EPA Codifying Oregon's Hazardous Waste Program As Authorized in This Rule?**

Codification is the process of placing the State's rules that comprise the

State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart MM until a later date.

**K. Administrative Requirements**

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, a decision to authorize Oregon's hazardous waste program for these revisions 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. Authorization will not impose any new burdens on small entities. Accordingly, I certify that these revisions 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 (Public Law 104–4). This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 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 action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply Distribution or Use'' (66 FR 28344, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. The final rule does not include environmental justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

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) 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 final 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 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).

**List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, 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: August 30, 2002.

**L. John Iani,**

*Regional Administrator, Region 10.*

[FR Doc. 02–22985 Filed 9–9–02; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 63

**[FCC 02–154]**

## 2000 Biennial Regulatory Review: International Telecommunications Service, Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The Commission adopted a Report and Order amending several of the Commission's rules regarding the provision of international telecommunications services. Because an error was made in the publication of the final rule, this document contains a correction to the final rule document which was published in the **Federal Register** on July 9, 2002 (67 FR 45387).

**DATES:** Effective September 10, 2002.

**FOR FURTHER INFORMATION CONTACT:** Peggy Reitzel, Telecommunications Division, International Bureau, (202) 418–1499.

**SUPPLEMENTARY INFORMATION:** On July 9, 2002, the **Federal Register** published a summary of the final rule in the above captioned proceeding. Instruction 11 of the rules amended § 63.21 by removing paragraph (h) and redesignating paragraphs (i) and (j) and paragraphs (h) and (i). In resdesignating paragraph (j) as paragraph (i), the instructions neglected to revise the reference to paragraph (i).

In rule FR DOC 02–16738 published on July 9, 2002 (67 FR 45391), in the second column, instruction 11 is corrected to read as follows:

11. Section 63.21 is amended by removing paragraph (h), redesignating paragraphs (i) and (j) as paragraphs (h) and (i), and by revising newly redesignated paragraph (i) to read as follows:

**§ 63.21 Conditions applicable to all international Section 214 authorizations.**

* * * * *

(i) An authorized carrier, or a subsidiary operating pursuant to paragraph (h) of this section, that changes its name (including the name under which it is doing business) shall notify the Commission by letter filed with the Secretary in duplicate within