(e) Documentation for each closed-vent system and control device installed under requirements of 40 CFR 264.1087 that includes design and performance information as specified in §270.24 (c) and (d).

(f) An emission monitoring plan for both Method 21 in 40 CFR part 60, appendix A and control device monitoring methods. This plan must include the following information: monitoring point(s), Monitoring methods for control devices, monitoring frequency, procedures for documenting exceedences, and procedures for mitigating noncompliances.

MODIFYING A STANDARDIZED PERMIT

§ 270.320 How do I modify my RCRA standardized permit?

You can modify your RCRA standardized permit by following the procedures found in 40 CFR 124.211 through 124.214.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

Subpart A—Requirements for Final Authorization

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271.1 Purpose and scope.
271.2 Definitions.
271.3 Availability of final authorization.
271.4 Consistency.
271.5 Elements of a program submission.
271.6 Program description.
271.7 Attorney General’s statement.
271.8 Memorandum of Agreement with the Regional Administrator.
271.9 Requirements for identification and listing of hazardous wastes.
271.10 Requirements of generators of hazardous wastes.
271.11 Requirements for transporters of hazardous wastes.
271.12 Requirements for hazardous waste management facilities.
271.13 Requirements with respect to permits and permit applications.
271.14 Requirements for permitting.
271.15 Requirements for compliance evaluation programs.
271.16 Requirements for enforcement authority.
271.17 Sharing of information.
271.18 Coordination with other programs.
271.19 EPA review of State permits.
271.20 Approval process.
271.21 Procedures for revision of State programs.
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271.23 Procedures for withdrawing approval of State programs.
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271.26 Requirements for used oil management.
271.27 Interim authorization-by-rule for the revised Corrective Action Management Unit rule.

Subpart B [Reserved]

AUTHORITY: 42 U.S.C. 6905, 6912(a), and 6926.
SOURCE: 48 FR 14248, Apr. 1, 1983, unless otherwise noted.

Subpart A—Requirements for Final Authorization

§ 271.1 Purpose and scope.

(a) This subpart specifies the procedures EPA will follow in approving, revising, and withdrawing approval of State programs and the requirements State programs must meet to be approved by the Administrator under sections 3006(b), (f) and (h) of RCRA.

(b) State submissions for program approval must be made in accordance with the procedures set out in this subpart.

(c) The substantive provisions which must be included in State programs for them to be approved include requirements for permitting, compliance evaluation, enforcement, public participation, and sharing of information. Many of the requirements for State programs are made applicable to States by cross-referencing other EPA regulations. In particular, many of the provisions of parts 270 and 124 are made applicable to States by the references contained in §271.14.

(d) Upon receipt of a complete submission, EPA will conduct a public hearing. If interest is shown, and determine whether to approve or disapprove the program taking into consideration the requirements of this subpart, the Act and any comments received.

(e) The Administrator shall approve State programs which conform to the applicable requirements of this subpart.
(f) Except as provided in §271.3(a)(3), upon approval of a State permitting program, the Administrator shall suspend the issuance of Federal permits for those activities subject to the approved State program.

(g) Any State program approved by the Administrator shall at all times be conducted in accordance with the requirements of this subpart.

(h) Partial State programs are not allowed for programs operating under RCRA final authorization. However, in many cases States will lack authority to regulate activities on Indian lands. This lack of authority does not impair a State’s ability to obtain full program approval in accordance with this subpart, i.e., inability of a State to regulate activities on Indian lands does not constitute a partial program. EPA will administer the program on Indian lands if the State does not seek this authority.

NOTE: States are advised to contact the United States Department of the Interior, Bureau of Indian Affairs, concerning authority over Indian lands.

(i) Except as provided in §271.4, nothing in this subpart precludes a State from:

1. Adopting or enforcing requirements which are more stringent or more extensive than those required under this subpart;
2. Operating a program with a greater scope of coverage than that required under this subpart. Where an approved State program has a greater scope of coverage than required by Federal law, the additional coverage is not part of the Federally approved program.
3. Requirements and prohibitions which are applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste and which are imposed pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) include any requirement or prohibition which has taken effect under HSWA, such as:
   1. All regulations specified in Table 1, and
   2. The self-implementing statutory provisions specified in Table 2 that have taken effect.

NOTE: See §§264.1(f)(3), 265.1(c)(4)(ii), 271.3(b), 271.21(e)(2) and 271.121(c)(3) for applicability.

### Table 1—Regulations Implementing the Hazardous and Solid Waste Amendments of 1984

<table>
<thead>
<tr>
<th>Promulgation date</th>
<th>Title of regulation</th>
<th>Federal Register reference</th>
<th>Effective date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apr. 30, 1985</td>
<td>Paint filter liquids test</td>
<td>50 FR 18370–5</td>
<td>June 14, 1985</td>
</tr>
<tr>
<td>Nov. 29, 1985</td>
<td>Standards for the management of the burning of specific wastes in specific types of facilities.</td>
<td>50 FR 49164–212</td>
<td>Dec. 9, 1985</td>
</tr>
<tr>
<td>Feb. 25, 1986</td>
<td>Listing of four spent solvents and the still bottoms from their recovery.</td>
<td>51 FR 6537–42</td>
<td>Aug. 25, 1986</td>
</tr>
<tr>
<td>July 14, 1986</td>
<td>Hazardous Waste Tank Regulations: 1 260.10; 262.34(a)(1); 264.110; 264.140; 264.190–264.199; 265.110; 265.140; 265.190–265.200; 270.14(b); 270.16; and 270.72 (e).</td>
<td>51 FR 25422–86</td>
<td>Mar. 24, 1987</td>
</tr>
<tr>
<td>Aug. 8, 1986</td>
<td>Exports of hazardous waste.</td>
<td>51 FR 28664–86</td>
<td>Nov. 8, 1986</td>
</tr>
<tr>
<td>Oct. 24, 1986</td>
<td>Listing Wastes from the Production and Formulation of Ethylenebisdithiocarbamic Acid (EBDOC) and its Salts.</td>
<td>51 FR 37725</td>
<td>Apr. 24, 1987</td>
</tr>
<tr>
<td>Nov. 7, 1986</td>
<td>Land disposal restrictions for solvents and dioxins.</td>
<td>51 FR 40572</td>
<td>Nov. 8, 1986</td>
</tr>
<tr>
<td>July 8, 1987</td>
<td>Land disposal restrictions for California list wastes.</td>
<td>52 FR 25760</td>
<td>July 8, 1987</td>
</tr>
</tbody>
</table>
TABLE 1—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984—Continued

<table>
<thead>
<tr>
<th>Promulgation date</th>
<th>Title of regulation</th>
<th>FEDERAL REGISTER reference</th>
<th>Effective date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oct. 6, 1989 ......</td>
<td>Listing Wastes from the Production of Methyl Bromide Catalyzed Processes.</td>
<td>54 FR 41402–408</td>
<td>Apr. 6, 1990.</td>
</tr>
<tr>
<td>Do ..................</td>
<td>Land disposal restrictions for newly listed wastes in §268.36(a), hazardous debris, and generic exclusion for K062 and F006 nonwastewaters.</td>
<td>Do</td>
<td>Nov. 9, 1992.</td>
</tr>
<tr>
<td>May 24, 1993 ......</td>
<td>Land disposal restrictions for characteristic wastes whose treatment standards were vacated.</td>
<td>58 FR 29887</td>
<td>Aug. 9, 1993.</td>
</tr>
<tr>
<td>Feb. 9, 1995 ......</td>
<td>Listing Wastes from the Production of Carbamates.</td>
<td>60 FR 7856</td>
<td>Aug. 9, 1995.</td>
</tr>
<tr>
<td>July 1, 1996 ......</td>
<td>Revisions to Criteria applicable to solid waste facilities that may accept CESOG hazardous wastes, excluding MSWLF’s.</td>
<td>61 FR 34278</td>
<td>Jan. 1, 1998.</td>
</tr>
</tbody>
</table>
### TABLE 1—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984—Continued

<table>
<thead>
<tr>
<th>Promulgation date</th>
<th>Title of regulation</th>
<th>FEDERAL REGISTER reference</th>
<th>Effective date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nov. 30, 1998</td>
<td>Hazardous Remediation Waste Management Requirements5.</td>
<td>63 FR 65947</td>
<td>June 1, 1999</td>
</tr>
<tr>
<td>July 15, 2002</td>
<td>Elimination of LDR Treatment Standards Exemption for K061-Derived Fertilizers.</td>
<td>70 FR 9179</td>
<td>Aug. 23, 2005</td>
</tr>
<tr>
<td>Feb. 15, 2005</td>
<td>Listing of Hazards Waste K181</td>
<td>70 FR 10825</td>
<td>Sept. 6, 2005</td>
</tr>
<tr>
<td>Mar. 4, 2005</td>
<td>Waste Minimization Certification in the Revised Manifest Rule.</td>
<td>70 FR 34538</td>
<td>July 14, 2005</td>
</tr>
<tr>
<td>July 14, 2005</td>
<td>Burning of Hazardous Waste in Boilers and Industrial Furnaces.</td>
<td>70 FR 34538</td>
<td>July 14, 2005</td>
</tr>
<tr>
<td>July 14, 2005</td>
<td>Air Emission Standards Tanks, Surface Impoundments, Containers.</td>
<td>70 FR 34538</td>
<td>July 14, 2005</td>
</tr>
<tr>
<td>Jan. 8, 2010</td>
<td>Exports of hazardous waste</td>
<td>75 FR 1262</td>
<td>July 7, 2010</td>
</tr>
</tbody>
</table>

1 These regulations implement HSWA only to the extent that they apply to tank systems owned or operated by small quantity generators, establish leak detection requirements for all new underground tank systems, and establish permitting standards for underground tank systems that cannot be entered for inspection.

2 These regulations, including test methods for benzo(k)fluoranthene and technical standards for drip pads, implement HSWA only to the extent that they apply to the listing of Hazardous Waste No. F032, and wastes that are hazardous because they exhibit the Toxicity Characteristic. These regulations, including test methods for benzo(k)fluoranthene and technical standards for drip pads, do not implement HSWA to the extent that they apply to the listings of Hazardous Waste Nos. F034 and F035.

3 The following portions of this rule are not HSWA regulations: §§ 264.19 and 265.19 for final covers.

4 The following portions of this rule are not HSWA regulations: §§ 260.30, 260.31, and 261.2.

5 These regulations implement HSWA only to the extent that they apply to the standards for staging piles and to §§ 264.1(i) and 264.101(d) of this chapter.

### TABLE 2—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

<table>
<thead>
<tr>
<th>Effective date</th>
<th>Self-implimenting provision</th>
<th>RCRA citation</th>
<th>FEDERAL REGISTER reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Do</td>
<td>Waste disposal for small quantity generators prior to March 31, 1986</td>
<td>3001(d)(5)</td>
<td>Do.</td>
</tr>
<tr>
<td>Do</td>
<td>Prohibition of disposal in salt domes, salt beds and underground mines and caves</td>
<td>3004(b)</td>
<td>Do.</td>
</tr>
<tr>
<td>Do</td>
<td>Land disposal prohibition not applicable to contaminated soil or debris from a CERCLA response action or a RCRA corrective action prior to November 8, 1988</td>
<td>3004(d)(3)</td>
<td>Do.</td>
</tr>
<tr>
<td>Effective date</td>
<td>Self-implementing provision</td>
<td>RCRA citation</td>
<td>FEDERAL REGISTER reference</td>
</tr>
<tr>
<td>---------------</td>
<td>----------------------------</td>
<td>---------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Feb. 7, 1985</td>
<td>Fuel labeling requirements</td>
<td>3004(r)</td>
<td>Do</td>
</tr>
<tr>
<td>Aug. 8, 1985</td>
<td>Exposure assessments to accompany landfill and surface impoundment permit applications.</td>
<td>3019(a)</td>
<td>Do</td>
</tr>
<tr>
<td>Sept. 1, 1985</td>
<td>Waste minimization certification on manifesto</td>
<td>3002(b)</td>
<td>Do</td>
</tr>
<tr>
<td>Nov. 8, 1985</td>
<td>Prohibition of non-hazardous liquids in landfills</td>
<td>3004(c)(3)</td>
<td>Do</td>
</tr>
<tr>
<td>Feb. 8, 1986</td>
<td>Notification of hazardous waste export</td>
<td>3017(c)</td>
<td>Nov. 29, 1985, 50 FR 49164–211.</td>
</tr>
<tr>
<td>Mar. 31, 1986</td>
<td>Small quantity generator requirements</td>
<td>3001(d)(3)</td>
<td>Do</td>
</tr>
<tr>
<td>Nov. 8, 1986</td>
<td>Land disposal prohibitions on dioxins and F001–F005 solvents</td>
<td>3004(e)</td>
<td>Do</td>
</tr>
<tr>
<td>July 8, 1987</td>
<td>Land disposal restrictions for California list wastes</td>
<td>3004(d)</td>
<td>FR 28664–86.</td>
</tr>
<tr>
<td>Sept. 23, 1987</td>
<td>Exception reporting for small quantity generators of hazardous waste.</td>
<td>3004(j)(3)</td>
<td>FR 25760.</td>
</tr>
<tr>
<td>Aug. 8, 1988</td>
<td>Prohibition on California wastes, dioxins, and solvents in deep injection wells.</td>
<td>3004(g)(6)(A)</td>
<td>FR 45072.</td>
</tr>
<tr>
<td>Nov. 8, 1988</td>
<td>Land disposal restrictions of 1⁄3 of listed wastes</td>
<td>3004(g)(6)(A)</td>
<td>FR 31138–222.</td>
</tr>
<tr>
<td>June 8, 1989</td>
<td>Prohibition on land disposal of 1⁄3 of listed wastes</td>
<td>3004(g)(6)(B)</td>
<td>FR 26594–652.</td>
</tr>
<tr>
<td>May 8, 1990</td>
<td>Prohibition on land disposal of 3⁄3 of listed wastes</td>
<td>3004(g)(6)(C)</td>
<td>FR 10146–79.</td>
</tr>
<tr>
<td>Aug. 8, 1991</td>
<td>Prohibition on land disposal of K061 high zinc nonwastewaters.</td>
<td>3004(g)(6)(C)</td>
<td>FR 41178.</td>
</tr>
<tr>
<td>June 30, 1992</td>
<td>Surface Impoundment Retrofit</td>
<td>37282</td>
<td>FR 37282.</td>
</tr>
<tr>
<td>Nov. 9, 1992</td>
<td>Prohibition on land disposal of hazardous debris and newly listed wastes.</td>
<td>3004(g)(6)(C)</td>
<td>FR 37282.</td>
</tr>
<tr>
<td>Feb. 18, 1993</td>
<td>Containment buildings</td>
<td>3004(g)(6)(C)</td>
<td>FR 29887.</td>
</tr>
<tr>
<td>Aug. 9, 1993</td>
<td>Prohibition on land disposal of characteristic wastes whose treatment standards were vacated.</td>
<td>3004(g)(6)(C)</td>
<td>FR 47982–48110.</td>
</tr>
</tbody>
</table>
### TABLE 2—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984—Continued

<table>
<thead>
<tr>
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<th>Self-implementing provision</th>
<th>RCRA citation</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Sept. 19, 1995 ..........</td>
<td>Establishment of treatment standards for D001 and D012–D017 wastes injected into nonhazardous deep wells.</td>
<td>3004(m) ..............................</td>
<td>Do.</td>
</tr>
<tr>
<td>Apr. 8, 1996 ..........</td>
<td>Prohibition on land disposal of K088 wastes</td>
<td>3004(m) ..............................</td>
<td>Apr. 8, 1996, 61 FR 15660.</td>
</tr>
<tr>
<td>July 8, 1996 ..........</td>
<td>Prohibition on land disposal of carbamate wastes</td>
<td>3004(m) ..............................</td>
<td>Apr. 8, 1996, 61 FR 15660.</td>
</tr>
<tr>
<td>Sept. 6, 1996 ..........</td>
<td>Prohibition on land disposal of radioactive waste mixed with the newly listed or identified wastes, including soil and debris.</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>Sept. 19, 1994, 59 FR 47982–48110.</td>
</tr>
<tr>
<td>Aug. 11, 1997 ..........</td>
<td>Prohibition on land disposal of wood preserving wastes</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>May 12, 1997, 62 FR 26040.</td>
</tr>
<tr>
<td>Apr. 8, 1998 ..........</td>
<td>Prohibition on disposal of radioactive waste mixed with newly listed or identified wastes, including soil and debris (Vacated carbamate wastes).</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>June 17, 1997, 62 FR 32979.</td>
</tr>
<tr>
<td>Aug. 24, 1998 ..........</td>
<td>Prohibition on land disposal of newly identified wastes, including TC metal wastes and characteristic mineral processing wastes; treatment standards for contaminated soil.</td>
<td>3004(m) ..............................</td>
<td>May 26, 1998, 63 FR 28753.</td>
</tr>
<tr>
<td>Sept. 21, 1998 ..........</td>
<td>Prohibition on land disposal of K088 wastes, and prohibition on land disposal of radioactive waste mixed with K088 wastes, including soil and debris.</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>Sept. 24, 1998, 63 FR 61267.</td>
</tr>
<tr>
<td>Nov. 4, 1998 ..........</td>
<td>Prohibition on land disposal of newly listed and identified wastes.</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>May 4, 1998, 63 FR 24596.</td>
</tr>
<tr>
<td>Nov. 4, 1998 ..........</td>
<td>Prohibition on land disposal of radioactive waste mixed with the newly listed and identified wastes, including soil and debris.</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>May 4, 1998, 63 FR 24596.</td>
</tr>
<tr>
<td>Nov. 4, 1998 ..........</td>
<td>Prohibition on land disposal of radioactive waste mixed with the newly listed and identified wastes, including soil and debris (Vacated organobromine waste).</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>Mar. 17, 2000, 65 FR 14475.</td>
</tr>
<tr>
<td>Feb. 8, 1999 ..........</td>
<td>Prohibition on land disposal of newly listed and identified wastes; and prohibition on land disposal of radioactive waste mixed with the newly listed or identified wastes, including soil and debris.</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>Aug. 6, 1998, 63 FR 42188.</td>
</tr>
<tr>
<td>May 12, 1999 ..........</td>
<td>Prohibition on land disposal of radioactive waste and soil and debris mixed with wood preserving wastes.</td>
<td>3004(m) ..............................</td>
<td>May 12, 1997, 62 FR 26040.</td>
</tr>
<tr>
<td>May 26, 2000 ..........</td>
<td>Prohibition on land disposal of newly identified wastes from elemental phosphorus processing and mixed radioactive and newly identified TC metal/mineral processing wastes (including soil and debris).</td>
<td>3004(m) ..............................</td>
<td>May 26, 1998, 63 FR 28753.</td>
</tr>
<tr>
<td>May 7, 2001 ..........</td>
<td>Prohibition on land disposal of K174 and K175 wastes, and prohibition on land disposal of radioactive waste mixed with K174 and K175 wastes, including soil and debris.</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>Nov. 8, 2000, 65 FR 67132.</td>
</tr>
<tr>
<td>May 20, 2002 ..........</td>
<td>Prohibition on land disposal of K176, K177, and K178 wastes, and prohibition on land disposal of radioactive waste mixed with K176, K177, and K178 wastes, including soil and debris.</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>Nov. 20, 2002, 66 FR 28299.</td>
</tr>
<tr>
<td>Aug. 23, 2005 ..........</td>
<td>Prohibition on land disposal of K181 waste, and prohibition on land disposal of radioactive waste mixed with K181 wastes, including soil and debris.</td>
<td>3004(g)(4)(C) and 3004(m)</td>
<td>Feb. 24, 2005, 70 FR 9179.</td>
</tr>
<tr>
<td>July 7, 2010 ..........</td>
<td>Exports of hazardous waste</td>
<td>3017(a) ..............................</td>
<td>75 FR 1262.</td>
</tr>
</tbody>
</table>
TABLE 2—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984—Continued

<table>
<thead>
<tr>
<th>Effective date</th>
<th>Self-implementing provision</th>
<th>RCRA citation</th>
<th>FEDERAL REGISTER reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>August 12, 2011</td>
<td>Land Disposal Restrictions: Revision of the Treatment Standards for Carbamate Hazardous Wastes.</td>
<td>3004(m)</td>
<td>76 FR (Insert Page Numbers)</td>
</tr>
</tbody>
</table>

1 Note that the effective date was changed to Jan. 29, 1986 by the Nov. 29, 1985 rule.
2 Note that the effective date was changed to Sept. 22, 1986 by the Mar. 24, 1986 rule.

[48 FR 14248, Apr. 1, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §271.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 271.2 Definitions.

The definitions in part 270 apply to all subparts of this part.

§ 271.3 Availability of final authorization.

(a) Where a State program meets the requirements of section 3006 of RCRA and this subpart it may receive authorization for any provision of its program corresponding to a Federal provision in effect on the date of the State’s authorization.

(b) States approved under this subpart are authorized to administer and enforce their hazardous waste program in lieu of the Federal program, except as provided below:

(1) Any requirement or prohibition which is applicable to the generation, transportation, treatment, storage, or disposal of hazardous waste and which is imposed pursuant to the Hazardous and Solid Waste Amendments of 1984 takes effect in each State having a finally authorized State program on the same date as such requirement takes effect in other States. These requirements and prohibitions are identified in §271.1(j).

(2) The requirements and prohibitions in §271.1(j) supersede any less stringent provision of a State program. The Administrator is authorized to carry out each such Federal requirement and prohibition in an authorized State except where, pursuant to section 3006(b) or 3006(g)(2) of RCRA, the State has received final or interim authorization to carry out the particular requirement or prohibition. Violations of Federal requirements and prohibitions effective in authorized States are enforceable under sections 3008, 3013 and 7003 of RCRA.

(3) Until an authorized State program is revised to reflect the amendments made by the Hazardous and Solid Waste Amendments of 1984 and such program revisions receive final or interim authorization pursuant to section 3006(b) or 3006(g)(2) of RCRA, the Administrator shall have the authority in such State to issue or deny permits or those portions of permits affected by the requirements and prohibitions established by the Hazardous and Solid Waste Amendments of 1984.

(4) Any requirement applicable to the content or use of electronic manifests, including electronic signature requirements, and imposed under the authority of the Hazardous Waste Electronic Manifest Establishment Act:

(i) Shall take effect in each State having a finally authorized State program on the same date as such requirement takes effect in other States;

(ii) Shall supersedes any less stringent or inconsistent provision of a State program, and

(iii) Shall be carried out by the Administrator in an authorized state except where, pursuant to section 3006(b) of RCRA, the State has received final authorization to carry out the requirement in lieu of the Administrator.

(c) Official State applications for final authorization may be reviewed on the basis of Federal self-implementing statutory provisions that were in effect 12 months prior to the State’s submission of its official application (if no implementing regulations have previously been promulgated) and the regulations in 40 CFR parts 124, 260–266, 268, 270 and 271 that were in effect 12
Environmental Protection Agency

§ 271.6 Program description.

Any State that seeks to administer a program under this subpart shall submit to the Administrator a description of the program it proposes to administer in lieu of the Federal program under State law or under an interstate compact. The program description shall include:

(a) A description in narrative form of the scope, structure, coverage and processes of the State program.

(b) A description (including organization charts) of the organization and

months prior to the State’s submission of its official application. To meet this requirement the State may demonstrate that its program qualifies for final authorization pursuant to this subpart or interim authorization under § 271.24. States are not precluded from seeking authorization for requirements taking effect less than 12 months prior to the State’s submittal of its final application.


§ 271.4 Consistency.

To obtain approval, a State program must be consistent with the Federal program and State programs applicable in other States and in particular must comply with the provisions below. For purposes of this section the phrase “State programs applicable in other States” refers only to those State hazardous waste programs which have received final authorization under this part.

(a) Any aspect of the State program which unreasonably restricts, impedes, or operates as a ban on the free movement across the State border of hazardous wastes from or to other States for treatment, storage, or disposal at facilities authorized to operate under the Federal or an approved State program shall be deemed inconsistent.

(b) Any aspect of State law or of the State program which has no basis in human health or environmental protection and which acts as a prohibition on the treatment, storage or disposal of hazardous waste in the State may be deemed inconsistent.

(c) If the state manifest system does not meet the requirements of this part, the state program shall be deemed inconsistent. The state manifest system must further allow the use and recognize the validity of electronic manifests as described in §260.10 of this chapter.


§ 271.5 Elements of a program submission.

(a) Any State that seeks to administer a program under this part shall submit to the Administrator at least three copies of a program submission. The submission shall contain the following:

(1) A letter from the Governor of the State requesting program approval;

(2) A complete program description, as required by §271.6 describing how the State intends to carry out its responsibilities under this subpart;

(3) An Attorney General’s statement as required by §271.7;

(4) A Memorandum of Agreement with the Regional Administrator as required by §271.8;

(5) Copies of all applicable State statutes and regulations, including those governing State administrative procedures; and

(6) The showing required by §271.20(c) of the State’s public participation activities prior to program submission.

(b) Within 30 days of receipt by EPA of a State program submission, EPA will notify the State whether its submission is complete. If EPA finds that a State’s submission is complete, the statutory review period (i.e., the period of time allotted for formal EPA review of a proposed State program under section 3006(b) of the Act) shall be deemed to have begun on the date of receipt of the State’s submission. If EPA finds that a State’s submission is incomplete, the review period shall not begin until all necessary information is received by EPA.

(c) If the State’s submission is materially changed during the review period, the review period shall begin again upon receipt of the revised submission.

(d) The State and EPA may extend the review period by agreement.

§271.7  Attorney General’s statement.

(a) Any State that seeks to administer a program under this subpart shall submit a statement from the State Attorney General (or the attorney for those State agencies which have independent legal counsel) that the laws of the State provide adequate authority to carry out the program described under §271.6 and to meet the requirements of this subpart. This statement shall include citations to the specific statutes, administrative regulations and, where appropriate, judicial decisions which demonstrate adequate authority. State statutes and regulations cited by the State Attorney General or independent legal counsel shall be in the form of lawfully adopted State statutes and regulations at the

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time the statement is signed and shall be fully effective by the time the program is approved. To qualify as “independent legal counsel” the attorney signing the statement required by this section must have full authority to independently represent the State agency in court on all matters pertaining to the State program.

NOTE: EPA will supply States with an Attorney General’s statement format on request.

(b) When a State seeks authority over activities on Indian lands, the statement shall contain an appropriate analysis of the State’s authority.

§ 271.8 Memorandum of Agreement with the Regional Administrator.

(a) Any State that seeks to administer a program under this subpart shall submit a Memorandum of Agreement (MOA). The Memorandum of Agreement shall be executed by the State Director and the Regional Administrator and shall become effective when approved by the Administrator. In addition to meeting the requirements of paragraph (b) of this section, the Memorandum of Agreement may include other terms, conditions, or agreements consistent with this subpart and relevant to the administration and enforcement of the State’s regulatory program. The Administrator shall not approve any Memorandum of Agreement which contains provisions which restrict EPA’s statutory oversight responsibility.

(b) All Memoranda of Agreement shall include the following:

(1) Provisions for the Regional Administrator to promptly forward to the State Director information obtained prior to program approval in notifications provided under section 3010(a) of RCRA. The Regional Administrator and the State Director shall agree on procedures for the assignment of EPA identification numbers for new generators, transporters, treatment, storage, and disposal facilities.

(2) Provisions specifying the frequency and content of reports, documents and other information which the State is required to submit to EPA. The State shall allow EPA to routinely review State records, reports, and files relevant to the administration and enforcement of the approved program. State reports may be combined with grant reports where appropriate.

(3) Provisions on the State’s compliance monitoring and enforcement program, including:

(i) Provisions for coordination of compliance monitoring activities by the State and by EPA. These may specify the basis on which the Regional Administrator will select facilities or activities within the State for EPA inspection. The Regional Administrator will normally notify the State at least 7 days before any such inspection; and

(ii) Procedures to assure coordination of enforcement activities.

(4) Provisions allowing EPA to conduct compliance inspections of all generators, transporters, and HW facilities in each year for which the State is operating under final authorization. The Regional Administrator and the State Director may agree to limitations on compliance inspections of generators, transporters, and non-major HW facilities.

(5) No limitations on EPA compliance inspections of generators, transporters, or non-major HW facilities under paragraph (b)(4) of this section shall restrict EPA’s right to inspect any generator, transporter, or HW facility which it has cause to believe is not in compliance with RCRA; however, before conducting such an inspection, EPA will normally allow the State a reasonable opportunity to conduct a compliance evaluation inspection.

(6) Provisions for the prompt transfer from EPA to the State of pending permit applications and any other information relevant to program operation not already in the possession of the State Director (e.g., support files for permit issuance, compliance reports, etc.). When existing permits are transferred from EPA to the State for administration, the Memorandum of Agreement shall contain provisions specifying a procedure for transferring the administration of these permits. If a State lacks the authority to directly administer permits issued by the Federal government, a procedure may be established to transfer responsibility for these permits.
§ 271.9 Requirements for identification and listing of hazardous wastes.

(a) The State program must control all the hazardous wastes controlled under 40 CFR part 261 and must adopt a list of hazardous wastes and set of characteristics for identifying hazardous wastes equivalent to those under 40 CFR part 261.

(b) The State is not required to have a delisting mechanism. A State may receive authorization for delisting if the State regulations for delisting decisions are equivalent to §260.20(b) and §260.22, and the State provides public notice and opportunity for comment before granting or denying delisting requests.

[51 FR 33721, Sept. 22, 1986]

§ 271.10 Requirements for generators of hazardous wastes.

(a) The State program must cover all generators covered by 40 CFR part 262. States must require new generators to contact the State and obtain an EPA identification number before they perform any activity subject to regulation under the approved State hazardous waste program.

(b) The State shall have authority to require and shall require all generators to comply with reporting and record-keeping requirements equivalent to those under 40 CFR 262.40 and 262.41. States must require that generators keep these records at least 3 years. States that choose to receive electronic documents must include the requirements of 40 CFR Part 3—(Electronic reporting) in their Program (except that states that choose to receive electronic manifests and/or permit the use of electronic manifests must comply with any applicable requirements for e-manifest in this section of this section).

(c) The State program must require that generators who accumulate hazardous wastes for short periods of time comply with requirements that are more appropriately negotiated in the context of annual agreements rather than in the MOA. However, it may still be appropriate to specify in the MOA the basis for such detailed agreements, e.g., a provision in the MOA specifying that EPA will select facilities in the State for inspection annually as part of the State/EPA agreement.

Note: Detailed program priorities and specific arrangements for EPA support of the State program will change and are therefore more appropriately negotiated in the context of annual agreements rather than in the MOA. However, it may still be appropriate to specify in the MOA the basis for such detailed agreements, e.g., a provision in the MOA specifying that EPA will select facilities in the State for inspection annually as part of the State/EPA agreement.

Note: For example, EPA and the State and the permittee could agree that the State would issue a permit(s) identical to the outstanding Federal permit which would simultaneously be terminated.
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equivalent to the requirements for accumulating hazardous wastes for short periods of time under 40 CFR 262.34.

(d) The State program must require that generators comply with requirements that are equivalent to the requirements for the packaging, labeling, marking, and placarding of hazardous waste under 40 CFR 262.30 to 262.33, and are consistent with relevant DOT regulations under 49 CFR parts 172, 173, 178 and 179.

(e) The State program shall provide requirements respecting international shipments which are equivalent to those at 40 CFR part 262 subparts E and F, except that:

(1) Advance notification, annual reports and exception reports in accordance with 40 CFR 262.53, 262.55 and 262.56 shall be filed with the Administrator; States may require that copies of the documents referenced also be filed with the State Director; and

(2) The Administrator will notify foreign countries of intended exports in conjunction with the Department of State and primary exporters of foreign countries’ responses in accordance with 40 CFR 262.53.

NOTE: Such notices shall be mailed to the Office of Waste Programs Enforcement, RCRA Enforcement Division (OS–520), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

(f) The State must require that all generators of hazardous waste who transport (or offer for transport) such hazardous waste off-site:

(1) Use a manifest system that ensures that interstate and intrastate shipments of hazardous waste are designated for delivery and, in the case of intrastate shipments, are delivered to facilities that are authorized to operate under an approved state program or the federal program. The manifest system must require the use of the paper or electronic manifest formats as required by §262.20(a) of this chapter. No other manifest form, electronic manifest format, shipping paper, or information other than that required by federal requirements, may be required by the state to travel with the shipment, or to be transmitted electronically, as a means to track the transportation and delivery of hazardous waste shipments. No other electronic signature other than that required by the federal electronic manifest requirements may be required by a state to be executed in connection with the signing of an electronic manifest.

(2) Initiate the manifest and designate on the manifest the treatment, storage or disposal facility to which the waste is to be shipped.

(3) Ensure that all wastes offered for transportation are accompanied by a manifest form, or are tracked with an electronic manifest, except:

(i) Shipments subject to 40 CFR 262.20(e) or (f);

(ii) Shipments by rail or water, as specified in 40 CFR 262.23(c) and (d).

(4) Investigate instances where manifests have not been returned by the owner or operator of the designated facility and report such instances to the State in which the shipment originated.

(g) In the case of interstate shipments for which the manifest has not been returned, the State program must provide for notification to the State in which the facility designated on the manifest is located and to the State in which the shipment may have been delivered (or to EPA in the case of unauthorized States).

(h) The state must follow the federal manifest format for the paper manifest forms (EPA Forms 8700–22 and 8700–22A) and the instructions in the appendix to part 262, and must follow the federal electronic manifest format and instructions as obtained from the Electronic Manifest System described in §260.10 of this chapter.

(1) A state may require the entry of waste codes associated with particular wastes that are regulated as hazardous wastes by the state, if the state codes are not redundant with a federally required code for the same waste. No state, however, may impose enforcement sanctions on a transporter during transportation of the shipment for failure of the form to include a state-required waste code.

(2) Either the State to which a shipment is manifested (consignment State) or the State in which the generator is located (generator State), or both, may require that copies of the manifest form be submitted to the State.
§ 271.11 Requirements for transporters of hazardous wastes.

(a) The State program must cover all transporters covered by 40 CFR part 263. New transporters must be required to contact the State and obtain an EPA identification number from the State before they accept hazardous waste for transport.

(b) The State shall have authority to require and shall require all transporters to comply with reporting and recordkeeping requirements equivalent to those under 40 CFR 263.22. States must require that transporters keep these records at least 3 years. States that choose to receive electronic documents must include the requirements of 40 CFR Part 3—(Electronic reporting) in their Program (except that states that choose to receive electronic manifests must comply with any applicable requirements for e-manifest in this section of this section).

(c)(1) The state must require the transporter to carry the manifest forms (EPA Forms 8700–22 and 8700–22A) during transport, or, where the electronic manifest is used and the U. S. Department of Transportation’s Hazardous Materials Regulations, 49 CFR parts 171–180, require a paper shipping document on the transport vehicle, to carry one printed copy of the electronic manifest during transport, except in the case of shipments by rail or water, for which transporters may carry a shipping paper as specified in 40 CFR 263.20(e) and (f).

(2) The State must require the transporter to deliver waste only to the facility designated on the manifest, which in the case of return shipments of rejected wastes or regulated container residues, may also include the original generator of the waste shipment.

(3) The State program must provide requirements for shipments by rail or water equivalent to those under 40 CFR 263.20(e) and (f).

(4) For exports of hazardous waste, the state must require the transporter to refuse to accept hazardous waste for export if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent, to carry an EPA Acknowledgment of Consent to the shipment, to sign and date the International Shipments Block of the manifest to indicate the date the shipment leaves the U.S., and to provide a copy of the manifest to the U.S. Customs official at the point the waste leaves the United States.

(d) For hazardous wastes that are discharged in transit, the State program must require that transporters notify appropriate State, local, and Federal agencies of such discharges, and clean up such wastes, or take action so that such wastes do not present a hazard to human health or the environment. These requirements shall be equivalent to those found at 40 CFR 263.30 and 263.31.

(e) Unless otherwise provided in part 271, the State program shall have standards for transporters which are at least as stringent as any amendment to 40 CFR 263.20(e) and (f).

§ 271.12 Requirements for hazardous waste management facilities.

The State shall have standards for hazardous waste management facilities which are equivalent to 40 CFR parts 264 and 266. These standards shall include:

(a) Technical standards for tanks, containers, waste piles, incineration,
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chemical, physical and biological treatment facilities, surface impoundments, landfills, and land treatment facilities;

(b) Financial responsibility during facility operation;

(c) Preparedness for and prevention of discharges or releases of hazardous waste; contingency plans and emergency procedures to be followed in the event of a discharge or release of hazardous waste;

(d) Closure and post-closure requirements including financial requirements to ensure that money will be available for closure and post-closure monitoring and maintenance;

(e) Groundwater monitoring;

(f) Security to prevent unauthorized access to the facility;

(g) Facility personnel training;

(h) Inspections, monitoring, recordkeeping, and reporting. States that choose to receive electronic documents must include the requirements of 40 CFR Part 3—(Electronic reporting) in their Program (except that states that choose to receive electronic manifests and/or permit the use of electronic manifests must comply with paragraph (i) of this section);

(i) Compliance with the manifest system including the requirement that facility owners or operators return a signed copy of the manifest:

(1) To the generator to certify delivery of the hazardous waste shipment or to identify discrepancies; and

(2) To EPA's International Compliance Assurance Division program, at the address referenced in 40 CFR 264.71(a)(3) and 265.71(a)(3), to indicate the receipt of a shipment of hazardous waste imported into the U.S. from a foreign source.

(j) Other requirements to the extent that they are included in 40 CFR parts 264 and 266.


§ 271.14 Requirements for permitting.

All State programs under this subpart must have legal authority to implement each of the following provisions and must be administered in conformance with each; except that States are not precluded from omitting or modifying any provisions to impose more stringent requirements:

(a) Section 270.1(c)(1)—(Specific inclusions);

(b) Section 270.4—(Effect of permit);

(c) Section 270.5—(Noncompliance reporting);

(d) Section 270.10—(Application for a permit);

(e) Section 270.11—(Signatories);

(f) Section 270.12—(Confidential Information);

(g) Section 270.13—(Contents of part A);

(h) Sections 270.14 through 270.29—(Contents of part B);
§ 271.15 Requirements for compliance evaluation programs.

(a) State programs shall have procedures for receipt, evaluation, retention and investigation for possible enforcement of all notices and reports required of permittees and other regulated persons (and for investigation for possible enforcement of failure to submit these notices and reports).

(b) State programs shall have inspection and surveillance procedures to determine, independent of information supplied by regulated persons, compliance or noncompliance with applicable program requirements. The State shall maintain:

(1) A program which is capable of making comprehensive surveys of all facilities and activities subject to the State Director's authority to identify persons subject to regulation who have failed to comply with permit application or other program requirements. Any compilation, index, or inventory of such facilities and activities shall be made available to the Regional Administrator upon request;

(2) A program for periodic inspections of the facilities and activities subject to regulation. These inspections shall be conducted in a manner designed to:

(i) Determine compliance or noncompliance with issued permit conditions and other program requirements;

(ii) Verify the accuracy of information submitted by permittees and other regulated persons in reporting forms and other forms supplying monitoring data; and

(iii) Verify the adequacy of sampling, monitoring, and other methods used by permittees and other regulated persons to develop that information;

(3) A program for investigating information obtained regarding violations of applicable program and permit requirements; and

(4) Procedures for receiving and ensuring proper consideration of information submitted by the public about violations. Public effort in reporting violations shall be encouraged, and the State Director shall make available information on reporting procedures.

(c) The State Director and State officers engaged in compliance evaluation shall have authority to enter any site or premises subject to regulation or in which records relevant to program operation are kept in order to copy any records, inspect, monitor or otherwise investigate compliance with the State
program including compliance with permit conditions and other program requirements. States whose law requires a search warrant before entry conform with this requirement.

(d) Investigatory inspections shall be conducted, samples shall be taken and other information shall be gathered in a manner (e.g., using proper “chain of custody” procedures) that will produce evidence admissible in an enforcement proceeding or in court.

§ 271.16 Requirements for enforcement authority.

(a) Any State agency administering a program shall have available the following remedies for violations of State program requirements:

(1) To restrain immediately and effectively any person by order or by suit in State court from engaging in any unauthorized activity which is endangering or causing damage to public health or the environment.

NOTE: This paragraph requires that States have a mechanism (e.g., an administrative cease and desist order or the ability to seek a temporary restraining order) to stop any unauthorized activity endangering public health or the environment.

(2) To sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of any program requirement, including permit conditions, without the necessity of a prior revocation of the permit;

(3) To access or sue to recover in court civil penalties and to seek criminal remedies, including fines, as follows:

(i) Civil penalties shall be recoverable for any program violation in at least the amount of $10,000 per day.

(ii) Criminal remedies shall be obtainable against any person who knowingly transports any hazardous waste to an unpermitted facility; who treats, stores, or disposes of hazardous waste without a permit; who knowingly transports, treats, stores, disposes, recycles, causes to be transported, or otherwise handles any used oil regulated by EPA under section 3014 of RCRA that is not listed or identified as a hazardous waste under the state’s hazardous waste program in violation of standards or regulations for management of such used oil; or who makes any false statement, or representation in any application, label, manifest, record, report, permit or other document filed, maintained, or used for purposes of program compliance (including compliance with any standards or regulations for used oil regulated by EPA under section 3014 of RCRA that is not listed or identified as hazardous waste). Criminal fines shall be recoverable in at least the amount of $10,000 per day for each violation, and imprisonment for at least six months shall be available.

(b)(1) The maximum civil penalty or criminal fines (as provided in paragraph (a)(3) of this section) shall be assessable for each instance of violation and, if the violation is continuous, shall be assessable up to the maximum amount for each day of violation.

(2) The burden of proof and degree of knowledge or intent required under State law for establishing violations under paragraph (a)(3) of this section, shall be no greater than the burden of proof or degree of knowledge or intent EPA must provide when it brings an action under the Act.

NOTE: For example, this requirement is not met if State law includes mental state as an element of proof for civil violations.

(c) A civil penalty assessed, sought, or agreed upon by the State Director under paragraph (a)(3) of this section shall be appropriate to the violation.

NOTE: To the extent the State judgments or settlements provide penalties in amounts which EPA believes to be substantially inadequate in comparison to the amounts which EPA would require under similar facts, EPA, when authorized by the applicable statute, may commence separate actions for penalties.

In addition to the requirements of this paragraph, the State may have other enforcement remedies. The following enforcement options, while not mandatory, are highly recommended:

Procedures for assessment by the State of the costs of investigations, inspections, or monitoring surveys which lead to the establishment of violations;

Procedures which enable the State to assess or to sue any persons responsible for unauthorized activities for any expenses incurred by the State in removing, correcting, or terminating any adverse effects upon human health and the environment resulting from the unauthorized activity, whether or not accidental;
Procedures which enable the State to sue for compensation for any loss or destruction of wildlife, fish or aquatic life, or their habitat, and for any other damages caused by unauthorized activity, either to the State or to any residents of the State who are directly aggrieved by the unauthorized activity, or both; and

Procedures for the administrative assessment of penalties by the Director.

(d) Any State administering a program under this subpart shall provide for public participation in the State enforcement process by providing either:

(1) Authority which allows intervention as of right in any civil action to obtain the remedies specified in paragraph (a) (2) or (3) of this section by any citizen having an interest which is or may be adversely affected; or

(2) (i) Assurance by the appropriate State agency that it will investigate and provide written responses to all citizen complaints submitted pursuant to the procedures specified in §271.15(b)(4);

(ii) Assurance by the appropriate State enforcement authority that it will not oppose intervention by any citizen when permissive intervention is authorized by statute, rule, or regulation; and

(iii) Assurance by the appropriate State enforcement authority that it will publish notice of and provide at least 30 days for public comment on all proposed settlements of civil enforcement actions, except in cases where a settlement requires some immediate action (e.g., cleanup) which if otherwise delayed could result in substantial damage to either public health or the environment.

(e) Any State authority used to issue an enforceable document either in lieu of a post-closure permit as provided in 40 CFR 270.1(c)(7), or as a source of alternative requirements for regulated units, as provided under 40 CFR 264.90(f), 264.110(c), 264.140(d), 265.90(d), 265.110(d), and 265.140(d), shall have available the following remedies:

(1) Authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of the requirements of such documents, as well as authority to compel compliance with requirements for corrective action or other emergency response measures deemed necessary to protect human health and the environment; and

(2) Authority to access or sue to recover in court civil penalties, including fines, for violations of requirements in such documents.


§271.17 Sharing of information.

(a) Any information obtained or used in the administration of a State program shall be available to EPA upon request without restriction. If the information has been submitted to the State under a claim of confidentiality, the State must submit that claim to EPA when providing information under this subpart. Any information obtained from a State and subject to a claim of confidentiality will be treated in accordance with the regulations in 40 CFR part 2. If EPA obtains from a State information that is not claimed to be confidential, EPA may make that information available to the public without further notice.

(b) EPA shall furnish to States with approved programs the information in its files not submitted under a claim of confidentiality that the State needs to implement its approved program. EPA shall furnish to States with approved programs information submitted to EPA under a claim of confidentiality, which the State needs to implement its approved program, subject to the conditions in 40 CFR part 2.

(c)(1) The State program must provide for the public availability of information obtained by the State regarding facilities and sites for the treatment, storage, and disposal of hazardous waste. Such information must be made available to the public in substantially the same manner, and to the same degree, as would be the case if the Administrator was carrying out the
provisions of Subtitle C of RCRA in the State.

(2) A State must revise its program to comply with this section in accordance with §271.21(e)(2)(ii). Interim authorization under §271.24 is not available to demonstrate compliance with this section.

§ 271.19 EPA review of State permits.

(a) The Regional Administrator may comment on permit applications and draft permits as provided in the Memorandum of Agreement under §271.8.

(b) Where EPA indicates, in a comment, that issuance of the permit would be inconsistent with the approved State program, EPA shall include in the comment:

(1) A statement of the reasons for the comment (including the section of RCRA or regulations promulgated thereunder that support the comment); and

(2) The actions that should be taken by the State Director in order to address the comments (including the conditions which the permit would include if it were issued by the Regional Administrator).

(c) A copy of any comment shall be sent to the permit applicant by the Regional Administrator.

(d) The Regional Administrator shall withdraw such a comment when satisfied that the State has met or refuted his or her concerns.

(e) Under section 3008(a)(3) of RCRA, EPA may terminate a State-issued permit or bring an enforcement action in accordance with the procedures of 40 CFR part 22 in the case of a violation of a State program requirement. In exercising these authorities, EPA will observe the following conditions:

(1) The Regional Administrator may take action under section 3008(a)(3) of RCRA against a holder of a State-issued permit at any time on the ground that the permittee is not complying with a condition of that permit.

(2) The Regional Administrator may take action under section 3008(a)(3) of RCRA against a holder of a State-issued permit at any time on the ground that the permittee is not complying with a condition that the Regional Administrator in commenting on the permit application or draft permit stated was necessary to implement approved State program requirements, whether or not that condition was included in the final permit.

(3) The Regional Administrator may not take action under section 3008(a)(3) of RCRA against a holder of a State-issued permit on the ground that the permittee is not complying with a condition necessary to implement approved State program requirements unless the Regional Administrator stated in commenting on the permit application or draft permit that the condition was necessary.

(4) The Regional Administrator may take action under section 7003 of RCRA against a permit holder at any time whether or not the permit holder is complying with permit conditions.

(f) Notwithstanding the above provisions, EPA shall issue permits, or portions of permits, to facilities in authorized States as necessary to implement the Hazardous and Solid Waste Amendments of 1984.

§ 271.20 Approval process.

(a) Prior to submitting an application to EPA for approval of a State program, the State shall issue public
notice of its intent to seek program approval from EPA. This public notice shall:

(1) Be circulated in a manner calculated to attract the attention of interested persons including:
   (i) Publication in enough of the largest newspapers in the State to attract statewide attention; and
   (ii) Mailing to persons on the State agency mailing list and to any other persons whom the agency has reason to believe are interested;

(2) Indicate when and where the State’s proposed submission may be reviewed by the public;

(3) Indicate the cost of obtaining a copy of the submission;

(4) Provide for a comment period of not less than 30 days during which time interested members of the public may express their views on the proposed program;

(5) Provide that a public hearing will be held by the State or EPA if sufficient public interest is shown or, alternatively, schedule such a public hearing. Any public hearing to be held by the State on its application for authorization shall be scheduled no earlier than 30 days after the notice of hearing is published;

(6) Briefly outline the fundamental aspects of the State program; and

(7) Identify a person that an interested member of the public may contact with any questions.

(b) If the proposed State program is substantially modified after the public comment period provided in paragraph (a)(4) of this section, the State shall, prior to submitting its program to the Administrator, provide an opportunity for further public comment in accordance with the procedures of paragraph (a) of this section. Provided, that the opportunity for further public comment may be limited to those portions of the State’s application which have been changed since the prior public notice.

(c) After complying with the requirements of paragraphs (a) and (b) of this section, the State may submit, in accordance with §271.5, a proposed program to EPA for approval. Such formal submission may only be made after the date of promulgation of the last component of Phase II. The program submission shall include copies of all written comments received by the State, a transcript, recording, or summary of any public hearing which was held by the State, and a responsiveness summary which identifies the public participation activities conducted, describes the matters presented to the public, summarizes significant comments received and responds to these comments.

(d) Within 90 days from the date of receipt of a complete program submission for final authorization, the Administrator shall make a tentative determination as to whether or not he expects to grant authorization to the State program. If the Administrator indicates that he may not approve the State program he shall include a general statement of his areas of concern. The Administrator shall give notice of this tentative determination in the FEDERAL REGISTER and in accordance with paragraph (a)(1) of this section. Notice of the tentative determination of authorization shall also:

(1) Indicate that a public hearing will be held by EPA no earlier than 30 days after notice of the tentative determination of authorization. The notice may require persons wishing to present testimony to file a request with the Regional Administrator, who may cancel the public hearing if sufficient public interest in a hearing is not expressed.

(2) Afford the public 30 days after the notice to comment on the State’s submission and the tentative determination; and

(3) Note the availability of the State submission for inspection and copying by the public.

(e) Within 90 days of the notice given pursuant to paragraph (d) of this section, the Administrator shall make a final determination whether or not to approve the State’s program, taking into account any comments submitted. The Administrator shall give notice of this final determination in the FEDERAL REGISTER and in accordance with
paragraph (a)(1) of this section. The notification shall include a concise statement of the reasons for this determination, and a response to significant comments received.


§ 271.21 Procedures for revision of State programs.

(a) Either EPA or the approved State may initiate program revision. Program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or supplemented. The State shall keep EPA fully informed of any proposed modifications to its basic statutory or regulatory authority, its forms, procedures, or priorities.

(b) Revision of a State program shall be accomplished as follows:

(1) The State shall submit a modified program description, Attorney General’s statement, Memorandum of Agreement, or such other documents as EPA determines to be necessary under the circumstances.

(2) The Administrator shall approve or disapprove program revisions based on the requirements of this part and of the Act. In approving or disapproving program revisions, the Administrator shall follow the procedures of paragraph (b)(3) or (4) of this section.

(3) The procedures for an immediate final publication of the Administrator’s decision are as follows:

(i) The Administrator shall issue public notice of his approval or disapproval of a State program revision:

(A) In the FEDERAL REGISTER;

(B) In enough of the largest newspapers in the State to attract statewide attention; and

(C) By mailing to persons on the State agency mailing list and to any other persons whom the agency has reason to believe are interested.

(ii) The public notice shall summarize the State program revision, indicate whether EPA intends to approve or disapprove the revision and provide for an opportunity to comment for a period of at least 30 days.

(iii) A State program revision shall become effective when the Administrator’s final approval is published in the FEDERAL REGISTER.

(c) States with approved programs shall notify EPA whenever they propose to transfer all or part of any program from the approved State agency to any other State agency, and shall identify any new division of responsibilities among the agencies involved. The new agency is not authorized to administer the program until approved by the Administrator under paragraph (b) of this section. Organizational charts required under §271.6(b) shall be revised and resubmitted.

(d) Whenever the Administrator has reason to believe that circumstances have changed with respect to a State program, he may request, and the
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State shall provide, a supplemental Attorney General’s statement, program description, or such other documents or information as are necessary.

(e)(1) As the Federal program changes, authorized State programs must be revised to remain in compliance with this subpart.

(2) Federal program changes are defined for purposes of this section as promulgated amendments to 40 CFR parts 124, 270, 260–266, or 268 and any self-implementing statutory provisions (i.e., those taking effect without prior implementing regulations) which are listed as State program requirements in this subpart. States must modify their programs to reflect Federal program changes and must subsequently submit the modifications to EPA for approval.

(i) For Federal program changes occurring before July 1, 1984, the State program must be modified within one year of the date of the Federal program change.

(ii) Except as provided in paragraphs (e)(iii) and (iv) of this section, for Federal program changes occurring on or after July 1, 1984, the State program must be modified by July 1 of each year to reflect all changes to the Federal program occurring during the 12 months preceding the previous July 1.

(For example, States must modify their programs by July 1, 1986 to reflect all changes from July 1, 1984 to June 30, 1985.)

(iii) For Federal program changes identified in §271.1(j) that occur between November 8, 1984 and June 30, 1987 (inclusive), the State program must be modified by July 1, 1989.

(iv) For Federal program changes identified in §271.1(j) that occur between July 1, 1987 and June 30, 1990 (inclusive), the State program must be modified by July 1, 1991.

(v) States may have an additional year to modify their programs for those changes to the Federal program identified in paragraphs (e) (i), (ii), (iii), and (iv) of this section which necessitate a State statutory amendment.

(3) The deadlines in paragraphs (e)(2)(i) through (v) may be extended by the Regional Administrator upon an adequate demonstration by a State that it has made a good faith effort to meet these deadlines and that its legislative or rulemaking procedures render the State unable to do so. No such extension shall exceed six months.

(4)(i) Within 30 days of the completion of the State program modification the State must submit to EPA a copy of the program change and a schedule indicating when the State intends to seek approval of the change. Such schedule shall not exceed the dates provided for in paragraph (e)(4)(ii).

(ii) Within 60 days of the appropriate deadline in paragraphs (e), (f), and (g) of this section, the State must submit to EPA the documentation described in paragraph (b) of this section to revise its program.

(f) A State must modify its program to comply with any Federal program changes which occur prior to the day that final authorization is received, except for those changes that the State has already received authorization for pursuant to §271.3(f). Such State program modifications must be completed and submitted by the deadlines specified in paragraph (e) of this section or by the date of final authorization, whichever is later.

(g)(1) States that are unable to modify their programs by the deadlines in paragraph (e) may be placed on a schedule of compliance to adopt the program revision(s) provided that:

(i) The State has received an extension of the program modification deadline under paragraph (e)(3) and has made diligent efforts to revise its program during that period of time.

(ii) The State has made progress in adopting the program modifications.

(iii) The State submits a proposed timetable for the requisite regulatory and/or statutory revisions by the deadline granted under paragraph (e)(3).

(iv) The schedule of compliance for program revisions does not exceed one year from the extended program modification deadline under paragraph (e)(3).

(v) The schedule of compliance is published in the FEDERAL REGISTER.

(2) If a State fails to comply with the schedule of compliance, the Administrator may initiate program withdrawal procedures pursuant to §§271.22 and 271.23.
(h) Abbreviated authorization revisions. This abbreviated procedure applies to State Program revisions for the Federal rulemakings listed in Table 1 of this section. The abbreviated procedures are as follows:

(1) An application for a revision of a State’s program for the rulemakings listed in Table 1 of this section shall consist of:

(i) A statement from the State that its laws and regulations provide authority that is equivalent to, and no less stringent than, the designated minor rules or parts of rules specified in Table 1 of this section, and which includes references to the specific statutes, administrative regulations and where appropriate, judicial decisions. State statutes and regulations cited in the statement shall be lawfully adopted at the time the statement is signed and fully effective by the time the program revisions are approved; and

(ii) Copies of all applicable State statutes and regulations.

(2) Within 30 days of receipt by EPA of a State’s application for final authorization to implement a rule specified in Table 1 of this section, if the Administrator determines that the application is not complete or contains errors, the Administrator shall notify the State. This notice will include a concise statement of the deficiencies which form the basis for this determination. The State will address all deficiencies and resubmit the application to EPA for review.

(3) For purposes of this section an application is considered incomplete when:

(i) Copies of applicable statutes or regulations were not included;

(ii) The statutes or regulations relied on by the State to implement the program revisions are not lawfully adopted at the time the statement is signed or fully effective by the time the program revisions are approved;

(iii) In the statement, the citations to the specific statutes, administrative regulations and where appropriate, judicial decisions are not included or incomplete; or

(iv) The State is not authorized to implement the prerequisite RCRA rules as specified in paragraph (b)(5) of this section.

(4) Within 60 days after receipt of a complete final application from a State for final authorization to implement a rule or rules specified in Table 1 of this section, the Administrator shall publish a notice of the decision to grant final authorization in accordance with the procedures for immediate final publication in paragraph (b)(3) of this section.

(5) To be eligible to use the procedure in this paragraph (h), a State must be authorized for the provisions which the rule listed in Table 1 to this section amends.

Table 1 to § 271.21

<table>
<thead>
<tr>
<th>Title of regulation</th>
<th>Promulgation date</th>
<th>FEDERAL REGISTER reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Disposal Restictions Phase II—the Universal Treatment Standards in §§268.40 and 268.48 of this chapter only.</td>
<td>Sept. 19, 1994</td>
<td>59 FR 47982</td>
</tr>
<tr>
<td>Burning of hazardous waste in boilers and industrial furnaces.</td>
<td>July 14, 2005</td>
<td>70 FR 346538, June 14, 2005</td>
</tr>
<tr>
<td>Air Emissions Standards for Tanks, Surface Impoundments, and Containers.</td>
<td>July 14, 2005</td>
<td>70 FR 346538, June 14, 2005</td>
</tr>
</tbody>
</table>

§ 271.22 Criteria for withdrawing approval of State programs.

(a) The Administrator may withdraw program approval when a State program no longer complies with the requirements of this subpart, and the State fails to take corrective action. Such circumstances include the following:

(1) When the State's legal authority no longer meets the requirements of this part, including:
   (i) Failure of the State to promulgate or enact new authorities when necessary; or
   (ii) Action by a State legislature or court striking down or limiting State authorities.

(2) When the operation of the State program fails to comply with the requirements of this part, including:
   (i) Failure to exercise control over activities required to be regulated under this part, including failure to issue permits;
   (ii) Repeated issuance of permits which do not conform to the requirements of this part; or
   (iii) Failure to comply with the public participation requirements of this part.

(3) When the State's enforcement program fails to comply with the requirements of this part, including:
   (i) Failure to act on violations of permits or other program requirements;
   (ii) Failure to seek adequate enforcement penalties or to collect administrative fines when imposed; or
   (iii) Failure to inspect and monitor activities subject to regulation.

(4) When the State program fails to comply with the terms of the Memorandum of Agreement required under § 271.8.

§ 271.23 Procedures for withdrawing approval of State programs.

(a) A State with a program approved under this part may voluntarily transfer program responsibilities required by Federal law to EPA by taking the following actions, or in such other manner as may be agreed upon with the Administrator.

(1) The State shall give the Administrator 180 days notice of the proposed transfer and shall submit a plan for the orderly transfer of all relevant program information not in the possession of EPA (such as permits, permit files, compliance files, reports, permit applications) which are necessary for EPA to administer the program.

(2) Within 60 days of receiving the notice and transfer plan, the Administrator shall evaluate the State's transfer plan and shall identify any additional information needed by the Federal government for program administration and/or identify any other deficiencies in the plan.

(3) At least 30 days before the transfer is to occur the Administrator shall publish notice of the transfer in the Federal Register and in enough of the largest newspapers in the State to provide Statewide coverage, and shall mail notice to all permit holders, permit applicants, other regulated persons and other interested persons on appropriate EPA and State mailing lists.

(b) The following procedures apply when the Administrator orders the commencement of proceedings to determine whether to withdraw approval of a State program.

(1) Order. The Administrator may order the commencement of withdrawal proceedings on his or her own initiative or in response to a petition from an interested person alleging failure of the State to comply with the requirements of this part as set forth in § 271.22. The Administrator shall respond in writing to any petition to commence withdrawal proceedings. He may conduct an informal investigation of the allegations in the petition to determine whether cause exists to commence withdrawal proceedings. He may conduct an informal investigation of the allegations in the petition to determine whether cause exists to commence withdrawal proceedings. He may conduct an informal investigation of the allegations in the petition to determine whether cause exists to commence withdrawal proceedings. He may conduct an informal investigation of the allegations in the petition to determine whether cause exists to commence withdrawal proceedings. He may conduct an informal investigation of the allegations in the petition to determine whether cause exists to commence withdrawal proceedings.

(2) Definitions. For purposes of this paragraph the definitions of Act, Administrative Law Judge, Hearing, Hearing
Clerk, and Presiding Officer in 40 CFR § 22.03 apply in addition to the following:

(i) **Party** means the petitioner, the State, the Agency and any other person whose request to participate as a party is granted.

(ii) **Person** means the Agency, the State and any individual or organization having an interest in the subject matter of the proceeding.

(iii) **Petitioner** means any person whose petition for commencement of withdrawal proceedings has been granted by the Administrator.

(3) **Procedures.** The following provisions of 40 CFR part 22 (Consolidated Rules of Practice) are applicable to proceedings under this paragraph:

(i) Section 22.02—(use of number/gender);

(ii) Section 22.04(c)—(authorities of Presiding Officer);

(iii) Section 22.06—(filing/service of rulings and orders);

(iv) Section 22.07 (a) and (b)—except that, the time for commencement of the hearing shall not be extended beyond the date set in the Administrator's order without approval of the Administrator (computation/extension of time);

(v) Section 22.08—however, substitute "order commencing proceedings" for "complaint"—(Ex Parte contacts);

(vi) Section 22.09—(examination of filed documents);

(vii) Section 22.11 (a), (c) and (d), however, motions to intervene must be filed 15 days from the date the notice of the Administrator’s order is first published—(intervention);

(viii) Section 22.16 except that, service shall be in accordance with paragraph (b)(4) of this section, the first sentence in §22.16(c) shall be deleted, and, the word “recommended” shall be substituted for the word “initial” in §22.16(c)—( motions);

(ix) Section 22.19 (a), (b) and (c)—(prehearing conference);

(x) Section 22.22—(evidence);

(xi) Section 22.23—(objections/offers of proof);

(xii) Section 22.25—(filing the transcript); and

(xiii) Section 22.26—(findings/conclusions).

(4) **Record of proceedings.** (i) The hearing shall be either stenographically reported verbatim or tape recorded, and thereupon transcribed by an official reporter designated by the Presiding Officer;

(ii) All orders issued by the Presiding Officer, transcripts of testimony, written statements of position, stipulations, exhibits, motions, briefs, and other written material of any kind submitted in the hearing shall be a part of the record and shall be available for inspection or copying in the Office of the Hearing Clerk, 1200 Pennsylvania Ave., NW., Washington, DC 20460;

(iii) Upon notice to all parties the Presiding Officer may authorize corrections to the transcript which involve matters of substance;

(iv) An original and two (2) copies of all written submissions to the hearing shall be filed with the Hearing Clerk;

(v) A copy of each such submission shall be served by the person making the submission upon the Presiding Officer and each party of record. Service under this paragraph shall take place by mail or personal delivery;

(vi) Every submission shall be accompanied by an acknowledgement of service by the person served or proof of service in the form of a statement of the date, time, and manner of service and the names of the persons served, certified by the person who made service; and

(vii) The Hearing Clerk shall maintain and furnish to any person upon request, a list containing the name, service address, and telephone number of all parties and their attorneys or duly authorized representatives.

(5) **Participation by a person not a party.** A person who is not a party may, at the discretion of the Presiding Officer, be permitted to make a limited appearance by making an oral or written 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.
§ 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 cited in Table 1 in §271.1 expires on August 30, 2004 if the State has not submitted an application for final authorization.

§ 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).
§ 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:

(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, 1985 regarding the burning of used oil for energy recovery.

(2) In states that have not been authorized for the RCRA base program, all requirements of Part 279 will be Federally enforceable effective March 8, 1993.

§ 271.27 Interim authorization-by-rule for the revised Corrective Action Management Unit rule.

(a) States shall be deemed to have interim authorization pursuant to section 3006(g) of RCRA for the revised Corrective Action Management Unit rule if:

(1) The State has been granted final authorization pursuant to section 3006(b) of RCRA for the regulation entitled “Corrective Action Management Units and Temporary Units,” February 16, 1993 and cited in Table 1 in §271.1; and

(2) The State notifies the Regional Administrator by March 25, 2002 that the State intends to and is able to use the revised Corrective Action Management Unit Standards rule as guidance.

(b) Interim authorization pursuant to this section expires on August 30, 2004 if the State has not submitted an application for final authorization.

[67 FR 3029, Jan. 22, 2002]

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