40 CFR Part 271

[FRL–5630–4]

Oklahoma: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Oklahoma has applied for Final authorization of revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), and the Environmental Protection Agency (EPA) has reviewed Oklahoma's application and decided that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period provided for public participation in this process, EPA intends to approve Oklahoma's hazardous waste program revision subject to the authority retained by EPA in accordance with Hazardous and Solid Waste Amendments of 1984 (HSWA). The Oklahoma's application for the program revision is available for public review and comment.

DATES: This final authorization for Oklahoma is effective December 23, 1996, unless EPA publishes a prior Federal Register (*FR*) action withdrawing this Immediate Final Rule. All comments on the Oklahoma's program revision application must be received by the close of business November 25, 1996.

ADDRESSES: Copies of the Oklahoma program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: State of Oklahoma Department of Environmental Quality, 1000 Northeast Tenth Street, Oklahoma City, Oklahoma 73117–1212, phone (405) 271–5338 and EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 65202, phone (214) 665–6444. Written comments, referring to Docket Number OK–96–1, should be sent to Alima Patterson, Authorization Coordinator, Grants and Authorization Section (6PD–G), EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, Phone number: (214) 665–8533.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Authorization Coordinator, Grants and Authorization Section (6PG–G), EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, Phone number: (214) 665–8533.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 124, 260–268, and 270.

B. Oklahoma

Oklahoma initially received Final Authorization on January 10, 1985, (49 *FR* 50362) to implement its base hazardous waste management program. Oklahoma received authorization for revisions to its program on June 18, 1990 (55 *FR* 14280), November 27, 1990 (55 *FR* 39274), June 3, 1991 (56 *FR* 13411), November 19, 1991 (56 *FR* 47675), effective December 21, 1994 (59 *FR* 51116–51123) and (60 *FR* 2699–2701), effective April 27, 1995. The authorized Oklahoma RCRA program was incorporated by reference into the Code of Federal Regulations effective December 13, 1993. On March 13, 1996, Oklahoma submitted a final complete program revision application for additional program approvals. Today, Oklahoma is seeking approval of its program revision in accordance with § 271.21(b)(3).

Specific statutory language which addressed adoption of Federal Regulations by reference was formerly found at 63 Oklahoma Statutes (O.S.), Supp. 1992 § 1–2005. This section was repealed by House Bill 1002, effective July 1, 1993. Adoption by reference was continued through the general rule making language of 27A O.S. Supp. 1993 § 2–7–106. 27A O.S. Supp. § 2–2–104 was enacted to clarify the adoption by reference abilities of the Oklahoma Department of Environmental Quality (ODEQ). See Rules 252:200–3–2 through 252:200–3–6 adopt the Federal Requirements by reference.

The EPA reviewed ODEQ's application, and made an immediate final decision that ODEQ's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Final Authorization for the additional program modifications to Oklahoma. The public may submit written comments on the EPA's final decision until November 25, 1996. Copies of Oklahoma's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of ODEQ's program revision shall become effective 75 days from the date this notice is published, unless an adverse written comment pertaining to the State's revision discussed in this document is received by the end of the comment period. If an adverse written comment is received, EPA will publish either (1) A withdrawal of the immediate final decision or (2) a notice containing a response to the comment that either affirms that the immediate final decision takes effect or reverses the decision.

Oklahoma's program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR Parts 124, 260–262, 264, 265, 266 and 270 that were published in the *FR* through June 30, 1994. This proposed approval includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Federal citation	State analog
1. Requirements for Preparation, Adoption, and Submittal of Implementation Plans, [58 FR 38816] July 20, 1993. (Checklist 125).	Oklahoma Hazardous Waste Management Act (OHWMA), as amended, 27A Oklahoma Statutes (O.S.), Supp. 1994, §§ 2–7–107(A), (4) and 5), and 2–2–104, effective July 1, 1994; and Oklahoma Administrative Code (OAC) Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
2. Testing and Monitoring Activities, [58 FR 46040] August 31, 1993. (Checklist 126).	OHWMA, as amended, 27A O.S., Supp. 1994, §§ 2–2–106, effective July 1, 1994, OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.

Federal citation	State analog
3. Burning of Hazardous Waste in Boilers and Industrial Furnaces, [58 FR 59598] November 9, 1993. (Checklist 127).	OHWMA, as amended, 27A O.S., Supp. 1994, §§ 2–2–104, and 2–7–107(A)(5), effective July 1, 1994, and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
4. Hazardous Waste Management Systems; Identification and Listing of Hazardous Waste; Waste from Wood Surface Protection, [59 FR 458] January 4, 1994. (Checklist 128).	OHWMA, as amended, 27A O.S., Supp. 1994, §§ 2–2–104 and § 2–7–106, effective July 1, 1994, and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
5. Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Treatability Studies Sample Exclusion, [59 FR 8362] February 18, 1994. (Checklist 129).	OHWMA, as amended, 27A O.S., Supp. 1994, §§ 2–2–104 and 2–7–106, effective July 1, 1994, and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
6. Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Recycled Used Oil Management Standards, [59 FR 10550] March 4, 1994. (Checklist 130).	OHWMA, as amended, 27A O.S., Supp. 1994, §§ 2–2–104, and 2–7–107(A)(5) effective July 1, 1994, and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
7. Recordkeeping Instructions, [59 FR 13891] March 24, 1994. (Checklist 131).	OHWMA, as amended, 27A O.S., Supp. 1994, §§ 2–2–104, and 2–7–105(5), and 2–7–106, effective July 1, 1994, and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
8. Hazardous Waste Management System; Identification and Listing of Hazardous Wastes; Wastes from Wood Surface Protection; Correction, [59 FR 28484] June 2, 1994. (Checklist 132).	OHWMA, as amended, 27A O.S., Supp. 1994, § 2–7–106, and 2–2–104, effective July 1, 1994, and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
9. Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Underground Storage, Tanks, and Underground Injection Control Systems; Financial Assurance; Letter of Credit, [59 FR 29958] June 10, 1994. (Checklist 133).	OHWMA, as amended, 27A O.S., Supp. 1994, §§ 2–2–104, effective July 1, 1994, and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.
10. Hazardous Waste Management System; Correction of Listing of P015–Beryllium Powder, [59 FR 31551–31552] June 20, 1994. (Checklist 134).	OHWMA, as amended, 27A O.S., Supp. 1994, §§ 2–2–104, and 2–7–106, effective July 1, 1994, and OAC Rules 252:200–3–1 through 252:200–3–6, effective May 26, 1994.

Oklahoma is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

C. Decision

I conclude that ODEQ's application for a program revision meets the statutory and regulatory requirements established by RCRA. Accordingly, ODEQ is granted Final Authorization to operate its hazardous waste program as revised. Oklahoma now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Oklahoma also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA, and to take enforcement actions under Sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize ODEQ's program and for incorporation by reference of those provisions of its Statutes and regulations that EPA will enforce under Sections 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR part 272, subpart LL until a later date.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The

EPA does not anticipate that the approval of Oklahoma's hazardous waste program referenced in today's notice will result in annual costs of $100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector. The Act excludes from the definition of a ''Federal mandate'' duties that arise from participation in a voluntary Federal program, except in certain cases where a ''federal intergovernmental mandate'' affects an annual federal entitlement program of $500 million or more that are not applicable here. Oklahoma's request for approval of a hazardous waste program is voluntary; if a state chooses not to seek authorization for administration of a hazardous waste program under RCRA Subtitle C, RCRA regulation is left to EPA.

The EPA has determined that this rule does not contain a Federal mandate that may result in expenditures $100 million or more for state, local, and tribal governments in the aggregate, or the private sector in any one year. The EPA does not anticipate that the approval of Oklahoma's hazardous waste program referenced in today's notice will result in annual costs of $100 million or more. The EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector since the State, by virtue of the approval, may now administer the program in lieu of the EPA and exercise primary enforcement. Hence, owners and operators of treatment, storage, or disposal facilities TSDFs generally no longer face dual federal and state compliance requirements, thereby reducing overall compliance costs. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Certification Under the Regulatory Flexibility Act

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. The EPA recognizes that small entities may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, since such small entities which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265 and 270, this authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would result in an administrative change (i.e., whether the Environmental Protection Agency or the state administers the RCRA Subtitle C program in that state), rather than result in a change in the substantive requirements imposed on small entities. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small entities will be able to own and operate their TSDFs under the approved state program, in lieu of the federal program. Moreover, this authorization, in approving a state program to operate in lieu of the federal program, eliminates duplicative requirements for owners and operators of TSDFs in that particular state.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Oklahoma's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted a report containing this rule and other required information to the U.S. Senate, the U. S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule 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 materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This document 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: September 26, 1996.

Jerry Clifford,

Deputy Regional Administrator.

[FR Doc. 96–25791 Filed 10–8–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 300

[FRL–5632–5]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Deletion for Chemet Company Superfund Site, Fayette County, Tennessee, from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces the deletion of the Chemet Company Superfund Site from the National Priorities List (NPL), (Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP)). EPA and the State have determined that all appropriate Fund-financed responses under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that remedial actions conducted at the site to date have been protective of public health, welfare and the environment. This deletion does not preclude future action under Superfund.

EFFECTIVE DATE: September 30, 1996.

FOR FURTHER INFORMATION CONTACT: Robert West, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, North Site Management Branch, 100 Alabama Street, S.W., Atlanta, Georgia 30303, (404) 562–8806.

SUPPLEMENTARY INFORMATION: The Site to be deleted from the NPL is: Chemet Company Superfund Site in Fayette County, Tennessee.

A Notice of Intent to Delete for this site was published on August 21, 1996, 61 FR 43205 (FR–5556–4). The closing date for comments on the Notice of Intent to Delete was September 20, 1996. EPA received no comments.

EPA identifies sites that appear to present a significant risk to the public health, welfare and the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the future. Section 300.425(e)(3) of the NCP states that