

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(6) <i>Reopener</i> : (a) If Occidental Chemical discovers that a condition at the facility or an assumption related to the disposal of the excluded waste that was modeled or predicted in the petition does not occur as modeled or predicted, then Occidental Chemical must report any information relevant to that condition, in writing, to the Director of the Multimedia Planning and Permitting Division or his delegate within 10 days of discovering that condition. (b) Upon receiving information described in paragraph (a) from any source, the Director or his delegate will determine whether the reported condition requires further action. Further action may include re-voking the exclusion, modifying the exclusion, or other appropriate response necessary to protect human health and the environment.
		(7) <i>Notification Requirements</i> : Occidental Chemical must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activities. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision.

TABLE 2.—WASTES EXCLUDED FROM EXCLUDED SPECIFIC SOURCES

Facility	Address	Waste description
* Occidental Chemical.	* Ingleside, Texas.	* Limestone Sludge, (at a maximum generation of 1,114 cubic yards per calendar year) Rockbox Residue, (at a maximum generation of 1,000 cubic yards per calendar year) generated by Occidental Chemical using the wastewater treatment process to treat the Rockbox Residue and the Limestone Sludge (EPA Hazardous Waste No. K019, K020). Occidental Chemical must implement a testing program that meets conditions found in Table 1. Wastes Excluded From Non-Specific Sources from the petition to be valid.
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[FR Doc. 99-2198 Filed 1-28-99; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL-6226-1]

**Nevada; Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Immediate final rule.

**SUMMARY:** Nevada has applied for Final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The revision covers regulatory changes that occurred between July 1, 1995 through June 30, 1997. The EPA has reviewed Nevada's application and determined 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, EPA's decision to authorize Nevada's hazardous waste program revision will take effect as provided below.

**DATES:** This final authorization for Nevada will become effective without

further notice on March 30, 1999, if EPA receives no adverse comment. Should EPA receive such comments EPA will withdraw this rule before its effective date by publishing a notice of withdrawal in the **Federal Register**. Any comments on Nevada's program revision application must be filed by March 1, 1999.

**ADDRESSES:** Written comments should be sent to Lisa McClain-Vanderpool, U.S. EPA Region IX (WST-3), 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744-2086. Copies of Nevada's program revision application is available during the business hours of 9:00 a.m. to 5:00 p.m. at the following addresses for inspection and copying:

Nevada Department of Conservation and Natural Resources, Division of Environmental Protection, 333 W. Nye Lane, Carson City, NV 89710, Phone: 702/687-5872. Contact Allen Biaggi, Administrator.

U.S. EPA Region IX Library-Information Center, 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744-1510.

**FOR FURTHER INFORMATION CONTACT:** Lisa McClain-Vanderpool, U.S. EPA Region IX (WST-3), 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744-2086.

**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. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

**B. Nevada**

Nevada initially received final authorization for the base program on August 19, 1985 effective October 18, 1985 (160 FR 33359). Nevada received authorization for revisions to its program on April 29, 1992 effective June 29, 1992 (57 FR 18083), on May 27, 1994 effective July 26, 1994 (59 FR 27472), on April 11, 1995 effective June 12, 1995 (60 FR 18358) and on June 24, 1996 effective August 23, 1996 (60 FR 32345).

On September 22, 1998, Nevada submitted a final complete program revision application, seeking

authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Nevada's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Nevada's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Nevada Final Authorization for the program modifications contained in the revision.

The public may submit written comments on EPA's immediate final

decision until March 1, 1999. Copies of Nevada's application for program revision are available for inspection and copying at the locations indicated in the ADDRESSES section of this document.

If EPA does not receive adverse written comment pertaining to Nevada's program revision by the end of the comment period, the authorization of Nevada's revision will become effective 60 days from the date this document is published. If the Agency does receive adverse written comment, it will publish a document withdrawing this immediate final rule before its effective

date. EPA will then address the comments in a later final rule based on the companion document appearing in the Proposed Rules section of today's Federal Register. EPA may not provide additional opportunity for comment. Any parties interested in commenting should do so at this time.

Nevada is applying for authorization for changes and additions to the Federal RCRA implementing regulations that occurred between July 1, 1995 and June 30, 1997, as listed below.

Description of Federal requirement	Federal Register	Analogous State authority
Hazardous Waste Management: Liquids in Landfills III/ Checklist 145.	July 11, 1995, 60 FR 35703 .....	Nevada Revised Statutes (NRS) 459.485 and 459.490; Nevada Administrative Code (NAC) 444.8632 through 444.8634 and regulations included as Sections 8 and 9 of LCB File No. R-202-97 filed with the Secretary of State, March 5, 1998.
RCRA Expanded Public Participation/Checklist 148 ..... Identification and Listing of Hazardous Waste: Amendments to Definition of Solid Waste/Recovered Oil Exclusion, Correction Checklist 150.	December 11, 1995, 60 FR 63417 ..... March 26, 1996, 61 FR 13103 .....	Same as above. Same as above.
Land Disposal Restrictions Phase III-Decharacterized Waste Waters, Carbamate Wastes and Spent Potliners/Checklist 151.	61 FR 15566 and 15660, April 8, 1996; 61 FR 19117, April 30, 1996; 61 FR 33680, June 28, 1996; 61 FR 36419, July 10, 1996; 61 FR 43924, August 26, 1996; 62 FR 7502, February 19, 1997.	Same as above.
Conditionally Exempt Small Quantity Disposal Options under RCRA subtitle D/Checklist 153.	July 1, 1996, 61 FR 34252 .....	Same as above.
Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments and Containers/Checklist 154.	December 6, 1994, 59 FR 62896-62953; May 19, 1995, 60 FR 26828-26829; September 29, 1995, 60 FR 50426-50430; November 13, 1995, 60 FR 56952-56954; February 9, 1996, 61 FR 4903-4916; June 5, 1996, 61 FR 28508-28511; and November 25, 1996, 61 FR 59932-59997.	Same as above.
Land Disposal Restrictions Phase III: Emergency Extension of K088 Capacity/Checklist 155.	January 14, 1997, 62 FR 1992 .....	Same as above.
Military Munitions Rule/Checklist 156 .....	February 12, 1997, 62 FR 6622 .....	Same as above.
Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions/Checklist 157.	May 12, 1997, 62 FR 25998 .....	Same as above.
Testing and Monitoring Activities/Checklist 158 .....	June 13, 1997, 62 FR 32452 .....	Same as above.
Conformance with Carbamate Vacatur/Checklist 159 .....	June 17, 1997, 62 FR 32974 .....	Same as above.

**Note:** NRS 459.485 effective 1981, amended 1991; NRS 459.490 effective 1981, amended 1987. NAC 444.8632 adopts by reference 40 CFR part 2, subpart A; part 124, subparts A and B; parts 260 through 270, inclusive; part 273 and part 279 as modified by NAC 444.8633, NAC 444.8634, 444.86325 and the regulations included as section 8 and 9 of LCB File No. R-202-97 (filed with the Secretary of State on March 5, 1998).

Nevada agrees to review all State hazardous waste permits which have been issued under State law prior to the effective date of this authorization. Nevada agrees to then modify or revoke and reissue such permits as necessary to require compliance with the amended State program. Nevada is not being authorized to operate any portion of the

hazardous waste program on Indian lands.

**C. Decision**

I conclude that Nevada's application for program revision authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants Nevada Final Authorization to operate its hazardous waste program as revised. Nevada now

has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Nevada 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 Nevada'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. EPA reserves amendment of 40 CFR part 272, subpart DD until a later date.

#### **Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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 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 EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of \$100

million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Nevada program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

#### **Certification Under the Regulatory Flexibility Act**

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive

requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. 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 Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit 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 United States 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).

#### **Compliance With Executive Order 12866**

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

#### **Compliance With Executive Order 12875**

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal

governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from today's action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

#### **Compliance With Executive Order 13045**

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) The Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

#### **Compliance With Executive Order 13084**

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting

elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Nevada is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State.

#### **Paperwork Reduction Act**

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

#### **National Technology Transfer and Advancement Act**

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### **List of Subjects in 40 CFR Part 272**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, 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: December 21, 1998.

**Laura Yoshii,**

*Acting Regional Administrator, Region 9.*

[FR Doc. 99-1908 Filed 1-28-99; 8:45 am]

BILLING CODE 6560-50-P

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 600**

[Docket No. 970527125-8310-04; I.D. 122297D]

RIN 0648-AJ95

#### **Appointment of Members to the Regional Fishery Management Councils**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS revises guidelines for requirements and procedures for the appointment of members to the Regional Fishery Management (RFMCs). The guidelines are revised to clarify compliance requirements, improve their readability, and emphasize the

March 15 deadline for information from the RFMC governors, appropriate chairpersons of tribal Indian governments and RFMC nominees. On January 30, 1998, NMFS published in the **Federal Register** a proposed rule requesting comments on revisions to regulations affecting the nomination and appointment of RFMC members. Comments on the revised guidelines contained in the proposed rule were requested by March 2, 1998. This rule implements the regulations contained in the proposed rule.

**DATES:** Effective January 29, 1999.

**ADDRESSES:** Comments regarding the collection-of-information contained in this final rule should be sent to the Director, Office of Sustainable Fisheries, 1315 East-West Highway, Silver Spring, Maryland 20910, and to the Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Loretta E. Williams, F/SF5, NMFS, 301-713-2337.

**SUPPLEMENTARY INFORMATION:** Additional background for this final rule may be found in the preamble to the proposed rule published at 63 FR 4618 (January 30, 1998), and in regulations contained at 50 CFR part 600.215. The primary purposes of this