

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 165**

[COTP Western Alaska 00-001]

RIN 2115-AA97

**Safety Zone; Kachemak Bay, Alaska; Correction****AGENCY:** Coast Guard, DOT.**ACTION:** Temporary final rule; correction of effective dates.

**SUMMARY:** This document corrects the effective dates of temporary final rule (COTP Western Alaska 00-001) which published April 28, 2000. The temporary final rule establishes a temporary 200-yard radius safety zone around the M/V SWAN to ensure the safe and timely anchoring, loading, and departure of vessels and a barge operating in Kachemak Bay.

**DATES:** As of May 4, 2000, the effective dates of the temporary rule published at 65 FR 24874 are corrected to 12:01 a.m. on May 11, 2000 until 11:59 p.m. on May 13, 2000. The correction to § 165.T17-00-001 is effective from May 11, 2000 until May 13, 2000.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Rick Rodriguez, Chief of Port Operations, USCG Marine Safety Office, Anchorage, at (907) 271-6724.

**SUPPLEMENTARY INFORMATION:****Background**

On April 28, 2000, the Coast Guard published a temporary final rule entitled Safety Zone; Kachemak Bay, Alaska, in the **Federal Register** (65 FR 24874) to be effective from 12:01 a.m. on May 4, 2000, until 11:59 p.m. on May 9, 2000. The Coast Guard has been notified that the estimated time of arrival of the M/V SWAN has been changed to May 10, 2000.

**Need for Modification**

As published, the effective date of the temporary final rule is now incorrect and therefore needs to be changed to reflect the new arrival time of M/V SWAN.

**Modification of Publication**

Accordingly, the publication on April 28, 2000 of the temporary final rule (COTP Western Alaska 00-001), which is the subject of FR Doc. 00-10607, is corrected as follows:

1. On page 24874, in the second column, in the **DATES** section, lines 2 and 3, correct the dates "May 4, 2000" and "May 9, 2000" to read "May

11, 2000" and "May 13, 2000" respectively.

**§ 165.T17-00-001 [Corrected]**

2. On page 24875, in the second column, in § 165.T17-00-001, paragraph (b), lines 2 and 3, correct the dates "May 4, 2000" and "May 9, 2000" to read "May 11, 2000" and "May 13, 2000" respectively.

Dated: May 2, 2000.

**R. Rodriguez,***LCDR, U.S. Coast Guard, COTP, Western Alaska, Acting.*

[FR Doc. 00-11554 Filed 5-4-00; 3:15 pm]

**BILLING CODE 4910-15-P****POSTAL SERVICE****39 CFR Part 111****Barcode Requirements for Special Services Labels****AGENCY:** Postal Service.**ACTION:** Extension of compliance date for commercially printed special services labels.

**SUMMARY:** In response to information received by the Postal Service from the mailing community, the Postal Service is extending the compliance date for barcoded special services labels from June 10, 2000, to February 3, 2001.

**DATES:** Effective May 9, 2000. All parties must comply with the final rules (published on January 24, 2000, at 65 FR 3609) for barcoding of special services labels and forms by February 3, 2001.

**FOR FURTHER INFORMATION CONTACT:** Tandelyia Samuels, (202) 268-5236.

**SUPPLEMENTARY INFORMATION:** On January 24, 2000, the Postal Service made a public announcement in the **Federal Register**, Volume 65, that any mailer using commercially printed special services labels on or after June 10, 2000, will be required to meet the new barcoded special services label requirements. In response to information received by the Postal Service from the mailing community since the January 24, 2000, announcement, the Postal Service is extending the compliance date for barcoded special services labels from June 10, 2000, to February 3, 2001. Any mail with PS Form 3800, Certified Mail Receipt, PS Form 3813P, Receipt for Insured Mail—Domestic-International, PS Form 8099, Receipt for Recorded Delivery, Label 200, Registered Mail, and PS Form 3804, Return Receipt for Merchandise, on or after February 3, 2001, will be required to meet the barcode requirements. The final rule

changes affecting the barcoding of special services labels and forms are set forth in the June 1 update to the Domestic Mail Manual (DMM) and in the International Mail Manual (IMM). The technical requirements for producing barcoded special services labels and forms are published in Publication 109, Special Services Technical Guide—Postal Forms and Labels, published March 2000. Publication 109 is available on the Postal Service Web site (<http://www.usps.com>). Click on "Get Info," then "Postal Periodicals and Publications," then "Publications," and scroll to Publication 109.

**Stanley F. Mires,***Chief Counsel, Legislative.*

[FR Doc. 00-11588 Filed 5-8-00; 8:45 am]

**BILLING CODE 7710-12-U****ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 271**

[FRL-6601-3]

**Montana: Final Authorization of State Hazardous Waste Management Program Revision****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Immediate final rule.

**SUMMARY:** Montana has applied to EPA for Final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements for Final authorization and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposed rule because we believe this action is not controversial. Unless we get significant written comments opposing this authorization during the comment period, the decision to authorize Montana's changes to their hazardous waste program will take effect as provided below. If we receive significant comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect. A separate document in the proposed rules section of this **Federal Register** will serve as the proposal to authorize the State's changes.

**DATES:** This Immediate Final Rule will become effective August 7, 2000, unless we receive significant adverse or critical written comments by June 23, 2000. If

significant adverse or critical written comments are received, we will publish a timely withdrawal of the rule in the **Federal Register**, informing the public that the rule will not take effect.

**ADDRESSES:** Send written comments to Kris Shurr, 8P-HW, U.S. EPA, Region VIII, 999 18th St, Ste 500, Denver, Colorado 80202-2466, phone number: (303) 312-6139. You can view and copy Montana's application at the following addresses: Air and Waste Management Bureau, Permitting and Compliance Division, Montana Department of Environmental Quality, Metcalf Building, 1520 East Sixth Ave., Helena, Montana 59620, Phone: 406/444-1430; and U.S. EPA Region VIII, Montana Office, 301 S. Park, Federal Building, Helena, MT 59626, Phone: 406/441-1130 ext 239.

**FOR FURTHER INFORMATION CONTACT:** Eric Finke, Waste and Toxics Team Leader, U.S. EPA, 301 S. Park, Drawer 10096, Helena, MT 59626, Phone: (406) 441-1130 ext 239, or Kris Shurr, EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2466, phone number: (303) 312-6139.

**SUPPLEMENTARY INFORMATION:**

**A. Why Are Revisions to State Programs Necessary?**

States that have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize their changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

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

We conclude that Montana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Montana Final authorization to operate its hazardous waste program with the changes described in the authorization application. Montana has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian Country, and for carrying out those portions of the RCRA program described in its revised

program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by EPA under the authority of HSWA take effect immediately and will be implemented by EPA until the State is granted authorization.

**C. What Is the Effect of Today's Authorization Decision?**

The effect of this decision is that a facility in Montana subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements. Montana has primary enforcement responsibilities under its state hazardous waste program for violations of the program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Conduct inspections, and require monitoring, tests, analyses, or reports; and
- Enforce RCRA requirements and suspend or revoke permits.
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Montana is being authorized are already effective, and are not changed by today's action.

**D. Why Wasn't There a Proposed Rule Before Today's Rule?**

EPA did not publish a proposed rule before today's rule because we view this as a routine program change and do not expect significant written comments opposing this approval. We are providing an opportunity for public comment at this time. In addition, in the proposed rules section of today's **Federal Register**, there is a separate document that proposes to authorize the State program changes. If we receive significant written comments opposing this authorization, that document will serve as a proposal to authorize the changes.

**E. What Happens if EPA Receives Written Comments Opposing This Action?**

If we receive significant written comments opposing this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. We then will address all public comments in a later **Federal Register**. You may not have another opportunity to comment. If you want to

comment on this action, you must do so at this time.

If we receive significant written comments opposing authorization of only a particular change to the State hazardous waste program, we will withdraw that part of the rule. However, the authorization of program changes that are not opposed by any comments will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective and which part is being withdrawn.

**F. What Has Montana Previously Been Authorized For?**

Montana initially received Final authorization on July 11, 1984, effective July 25, 1984 (49 FR 28245) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on July 11, 1984, effective September 25, 1985 (49 FR 28245), and January 19 1994, effective March 21, 1994 (59 FR 02752).

**G. Notice of Change in the Numbering System for the Administrative Rules of Montana (ARM).**

The Administrative Rules of Montana (ARM) were renumbered on October 30, 1995. The Montana hazardous waste rules that were previously found at ARM 16.44 are now found at ARM 17.54. All chapter and paragraph numbering remain the same (i.e., the old 16.44.101 is now 17.54.101) except as noted below:

Old	New
16.44.103 .....	17.54.105
16.44.104 .....	17.54.106
16.44.105 .....	17.54.107
16.44.106 .....	17.54.108
16.44.107 .....	17.54.109
16.44.108 .....	17.54.110
16.44.109 .....	17.54.111
16.44.110 .....	17.54.112
16.44.111 .....	17.54.113
16.44.112 .....	17.54.118
16.44.113 .....	17.54.119
16.44.114 .....	17.54.120
16.44.115 .....	17.54.125
16.44.116 .....	17.54.126
16.44.117 .....	17.54.127
16.44.118 .....	17.54.128
16.44.119 .....	17.54.130
16.44.120 .....	17.54.131
16.44.121 .....	17.54.132
16.44.122 .....	17.54.133
16.44.123 .....	17.54.136
16.44.124 .....	17.54.137
16.44.125 .....	17.54.138
16.44.126 .....	17.54.140
16.44.127 .....	17.54.145
16.44.128 .....	17.54.146
16.44.129 .....	17.54.150
16.44.130 .....	17.54.155

Old	New	Old	New	Old	New
16.44.202	17.54.201	16.44.814	17.54.820	16.44.413	17.54.418
16.44.304	17.54.307	16.44.815	17.54.821	16.44.415	17.54.421
16.44.305	17.54.308	16.44.816	17.54.822	16.44.1108	17.54.1112
16.44.306	17.54.309	16.44.817	17.54.823	16.44.1109	17.54.1113
16.44.307	17.54.310	16.44.818	17.54.824	16.44.1110	17.54.1114
16.44.308	17.54.312	16.44.819	17.54.825	16.44.1111	17.54.1118
16.44.310	17.54.315	16.44.820	17.54.830	16.44.1112	17.54.1119
16.44.311	17.54.316	16.44.821	17.54.831		
16.44.405	17.54.408	16.44.822	17.54.832		
16.44.406	17.54.409	16.44.823	17.54.833		
16.44.407	17.54.410	16.44.904	17.54.905		
16.44.416	17.54.425	16.44.905	17.54.907		
16.44.417	17.54.426	16.44.906	17.54.908		
16.44.418	17.54.427	16.44.907	17.54.909		
16.44.425	17.54.435	16.44.908	17.54.910		
16.44.430	17.54.440	16.44.909	17.54.911		
16.44.703	17.54.705	16.44.910	17.54.912		
16.44.804	17.54.807	16.44.911	17.54.915		
16.44.805	17.54.808	16.44.1103	17.54.1105		
16.44.806	17.54.809	16.44.1104	17.54.1106		
16.44.807	17.54.810	16.44.1105	17.54.1107		
16.44.808	17.54.811	16.44.1106	17.54.1108		
16.44.809	17.54.812	16.44.1107	17.54.1109		
16.44.810	17.54.813	16.44.408	17.54.411		
16.44.811	17.54.814	16.44.410	17.54.415		
16.44.812	17.54.817	16.44.411	17.54.416		
16.44.813	17.54.818	16.44.412	17.54.417		

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

In February 1995, Montana submitted a final revision application, seeking authorization of program changes in accordance with 40 CFR 271.21.

We now make an immediate final decision, subject to receipt of significant written comments opposing this action, that Montana's hazardous waste program revision satisfies all of the requirements necessary for Final authorization. Therefore, we grant Montana Final authorization for the following program changes:

Description of federal requirement	Analogous state authority <sup>1</sup> and effective date
Dioxin Waste Listing and Management Standards; 50 FR 01978, 01/14/85. (Checklist 14).	ARM 17.54.131, .310, .330, .331, .333, .351, .352, .401, .603, .609, .702.
Paint Filter Test; 50 FR 18370, 04/30/85. (Checklist 16)	ARM 17.54.609, .702.
Sharing of Information with the Agency for Toxic Substances and Disease Registry; HSWA 3019(b), 07/15/85. (Non-checklist SI).	ARM 17.54.1008; & MCA 2-6-102.
HSWA Codification Rule; 50 FR 28701, 07/15/85. (Checklist 17)	ARM 17.54.106, .107, .108, .111, .113, .126, .131, .132, .140, .303, .307, .309, .402, .408, .409, .426, .605, .609, .702; & MCA 75-10-406.
Listing of TDI, TDA, and DNT; 50 FR 42936, 10/23/85. (Checklist 18)	ARM 17.54.332, .333, .351, .352.
Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces; 50 FR 49164, 11/29/85; & 52 FR 11819, 04/13/87. (Checklist 19 & 19.1).	ARM 17.54.303, .309, .402, .609, .702.
Listing of Spent Solvents; 50 FR 53315, 12/31/85, & 51 FR 2702, 01/21/86. (Checklist 20).	ARM 17.54.331.
Listing of EDB Waste, 51 FR 5327, 02/13/86. (Checklist 21)	ARM 17.54.332, .351, .352.
Listing of Four Spent Solvents, 51 FR 6537, 02/25/86. (Checklist 22)	ARM 17.54.331, .333, .351, .352.
Codification Rule; Technical Correction (Paint Filter Test), 51 FR 19176, 05/28/96. (Checklist 25).	ARM 17.54.609.
Exports of Hazardous Waste, 51 FR 28664, 08/08/86. (Checklist 31)	ARM 17.54.201, .309, .402, .408, .426, .435, .440, .505.
Standards for Generators; Waste Minimization Certifications, 51 FR 35190, 10/01/86. (Checklist 32).	ARM 17.54.408.
Listing of EBDC, 51 FR 37725, 10/24/86. (Checklist 33)	ARM 17.54.332, .351, .352.
Farmer Exemptions; Technical Corrections, 53 FR 27164, 07/19/88. (Checklist 48).	ARM 17.54.105, .150, .401, .612.
Exports of Hazardous Waste; Technical Corrections, 56 FR 43704, 09/04/91. (Checklist 97).	ARM 17.54.435.
Land Disposal Restrictions; 51 FR 40572, 11/07/86, & 52 FR 21010, 06/04/87. (Checklist 34).	ARM 17.54.101, .112, .128, .131, .150, .201, .301, .307, .308, .309, .310, .320, .330, .401, .402, .504, .601, .609, .701, .702, .1008.
California List Waste Restrictions; 52 FR 25760, 07/08/87, & 52 FR 41295, 11/27/87. (Checklist 39).	ARM 17.54.102, .128, .150, .440, .609, .610, .702.
Land Disposal Restrictions for First Third Scheduled Wastes; 53 FR 31138, 08/17/88, & 54 FR 8264, 02/27/89. (Checklist 50).	ARM 17.54.150, .309, .609, .702.
Land Disposal Restriction Amendments to First Third Scheduled Wastes, 54 FR 18836, 05/02/89. (Checklist 62).	ARM 17.54.150.
Land Disposal Restrictions for Second Third Scheduled Wastes, 54 FR 26594, 06/23/89. (Checklist 63).	ARM 17.54.150.
Land Disposal Restrictions; Corrections to First Third Scheduled Wastes, 54 FR 36967, 09/06/89, & 55 FR 23935, 06/13/90. (Checklist 66).	ARM 17.54.150.
Land Disposal Restrictions for Third Third Scheduled Wastes, 55 FR 22520, 06/01/90. (Checklist 78).	ARM 17.54.128, .150, .320, .321, .322, .323, .324, .331, .333, .352, .402, .421, .601, .609, .702.
Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendment, 56 FR 3864, 01/31/91. (Checklist 83).	ARM 17.54.128, .150, .303, .320, .331, .402, .421.

Description of federal requirement	Analogous state authority <sup>1</sup> and effective date
Standards for Generators of Hazardous Waste, 53 FR 45089, 11/08/88. (Checklist 58).	ARM 17.54.408.

<sup>1</sup> Administrative Rules of Montana (ARM), revised September 30, 1995, and the Montana Code Annotated (MCA).

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

The following State requirements are considered to be more stringent than the Federal requirements: ARM 17.54.113(4) and 17.54.126(2) as they relate to Boiler and Industrial Furnaces only and ARM 17.54.435(6) regarding Annual Reporting requirements. Nevertheless, these requirements are part of Montana's authorized program and are Federally enforceable.

States cannot assume the authority at 40 CFR 262.53 regarding the "Notifications of Intent to Export" and "Acknowledgments of Consent." EPA will continue to implement these requirements. As indicated in the above paragraph, Montana is more stringent because it requires reporting to the State (ARM 17.54.435(6)), as well as, the EPA.

### J. Who Handles Permits After This Authorization Takes Effect?

Montana will issue and administer permits for all the provisions for which it is authorized. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that we issued prior to the effective date of this authorization. EPA will transfer any pending permit applications, completed permits, or pertinent file information to Montana within 30 days after the effective date of this approval. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA and Montana have agreed to joint permitting and enforcement for those HSWA requirements for which Montana is not yet authorized.

### K. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Montana?

Montana is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. This includes:

1. Lands within the exterior boundaries of the following Indian Reservations located within the State of Montana:
  - a. Blackfeet Indian Reservation
  - b. Crow Tribe of Montana Indian Reservation
  - c. Flathead Indian Reservation
  - d. Fort Belknap Indian Reservation
  - e. Fort Peck Indian Reservation

f. Northern Cheyenne Indian Reservation

g. Rocky Boy's Indian Reservation

2. Any land held in trust by the U.S. for an Indian tribe, and
3. Any other land, whether on or off a reservation that qualifies as Indian country.

Therefore, this action has no effect in Indian country where EPA will continue to implement and administer the RCRA program in these lands.

The State's application did not seek to demonstrate authority over Indian country in Montana. Before EPA could approve the State's program for any portion of Indian country, we must be satisfied that the State has authority, either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval and that such approval would constitute sound administrative practice.

### L. What Is Codification and Is EPA Codifying Montana's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's authorized hazardous waste program statutes and regulations into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart BB for this authorization of Montana's program changes until a later date.

### M. Regulatory Analysis and Notices

#### *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 State 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 (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.*

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this authorization on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that are hazardous waste generators, transporters, or that own and/or operate TSDFs are already subject to the regulatory requirements under the State laws which EPA is now authorizing. This action merely authorizes for the purpose of RCRA section 3006 those existing State requirements.

*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 13132 (Federalism)*

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This authorization does not have federalism implications. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because this rule affects only one State. This action simply approves the State's proposal to be authorized for updated requirements of the hazardous waste program that the State has voluntarily chosen to operate. Further, as a result of this action, newly authorized provisions of the State's program now apply in lieu of the equivalent Federal program provisions implemented by EPA under HSWA. Affected parties are subject only to those authorized State program provisions, as opposed to being subject to both Federal

and State regulatory requirements. Thus, the requirements of section 6 of the Executive Order do not apply.

*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.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it authorizes a state program.

*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 affects the communities of Indian tribal governments. The State 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 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian country, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 28, 2000.

**Jack W. McGraw,**

*Acting Regional Administrator, Region VIII.*  
[FR Doc. 00-11420 Filed 5-8-00; 8:45 am]

**BILLING CODE 6560-50-U**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 271**

[FRL-6601-4]

### **South Dakota: Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is granting final authorization to the hazardous waste program revisions submitted by South Dakota. The Agency published a proposed rule on August 10, 1999 at 64 FR 43331 and provided for public comment. The public comment period ended on September 9, 1999. No comments were received regarding Resource Conservation and Recovery Act (RCRA) program issues and no further opportunity for comment will be provided.

**DATES:** This authorization will be effective on June 8, 2000.

**ADDRESSES:** You can view and copy South Dakota's applications at the following addresses:

SDDENR, from 9 AM to 5 PM, Joe Foss Building, 523 E. Capitol, Pierre, South Dakota 57501-3181. Contact: Carrie Jacobson, phone number (605) 773-3153; and

EPA Region VIII, from 8 AM to 4 PM, 999 18th Street, Suite 500, Denver, CO 80202-2466. Contact: Kris Shurr, phone number: (303) 312-6139.

**FOR FURTHER INFORMATION CONTACT:** Kris Shurr, EPA Region VIII, 999 18th Street, Suite 500, Denver, CO 80202-2466, phone number: (303) 312-6139.

**SUPPLEMENTARY INFORMATION:** On August 1, 1997, September 3, 1997, and March 23, 1999, South Dakota submitted final complete program revision applications seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision that South Dakota's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. For a list of rules that become effective with this final rule, please see the proposed rule published in the August 10, 1999 **Federal Register** at 64 FR 43331.

#### **How This Action Affects Indian Country in South Dakota**

South Dakota is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. This includes, but is not limited to: Lands within the exterior

boundaries of the following Indian Reservations located within the State of South Dakota:

- a. Cheyenne River Indian Reservation.
- b. Crow Creek Indian Reservation.
- c. Flandreau Indian Reservation.
- d. Lower Brule Indian Reservation.
- e. Pine Ridge Indian Reservation.
- f. Rosebud Indian Reservation.
- g. Standing Rock Indian Reservation.
- h. Yankton Indian Reservation

EPA held a public hearing on December 2, 1999, in Badlands National Park, South Dakota, and accepted public comments on the question of the location and extent of Indian country within the State of South Dakota. In a forthcoming **Federal Register** notice, EPA will respond to comments and more specifically identify Indian country areas in the State of South Dakota.

#### **Regulatory Analysis and Notices**

##### *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