

7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 17, 2003.

**Nat Scurrey,**

*Acting Regional Administrator, Region 7.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7480-6]

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

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

**ACTION:** Immediate final rule.

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

**DATES:** This Final authorization will become effective on June 9, 2003 unless EPA receives adverse written comment by May 12, 2003. If EPA receives such comment, it will publish a timely withdrawal of this Immediate Final Rule in the **Federal Register** and inform the public that this authorization will not take effect.

**ADDRESSES:** Copies of the Utah program revision applications and the materials which EPA used in evaluating the revisions are available for inspection and copying at the following locations: EPA Region VIII, from 7 a.m. to 4 p.m., 999 18th Street, Suite 300, Denver, Colorado 80202-2466, contact: Kris Shurr, phone number: (303) 312-6139 or Utah Department of Environmental Quality (UDEQ), from 8 a.m. to 5 p.m.,

288 North 1460 West, Salt Lake City, Utah 84114-4880, contact: Susan Toronto, phone number: (801) 538-6776. Send written comments to Kris Shurr, 8P-HW, U.S. EPA, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, phone number: (303) 312-6139 or electronically to [shurr.kris@epa.gov](mailto:shurr.kris@epa.gov).

**FOR FURTHER INFORMATION CONTACT:** Kris Shurr, 8P-HW, U.S. EPA, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, phone number: (303) 312-6139 or [shurr.kris@epa.gov](mailto:shurr.kris@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

States which have received Final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, 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 the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 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 Utah's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Utah Final authorization to operate its hazardous waste program with the changes described in the authorization application. Utah has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) 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 Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Utah, including issuing permits, until Utah is authorized to do so.

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

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

- Conduct inspections; require monitoring, tests, analyses, or reports;
- enforce RCRA requirements; suspend or revoke permits; and,
- take enforcement actions regardless of whether Utah has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Utah is being authorized by today's action 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 proposal before today's rule because we view this as a routine program change. We are providing an opportunity for the public to comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

##### E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment, therefore, if you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the Utah hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose 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 Utah Previously Been Authorized for?

Utah initially received Final Authorization on October 10, 1984, effective October 24, 1984 (49 FR 39683) to implement its base hazardous waste management program. Utah received authorization for revisions to its program on February 21, 1989 (54 FR 7417), effective March 7, 1989; May 23, 1991 (56 FR 23648) and August 6, 1991 (56 FR 37291), both effective July 22, 1991; May 15, 1992 (57 FR 20770), effective July 14, 1992; February 12, 1993 (58 FR 8232) and May 5, 1993 (58 FR 26689), both effective April 13, 1993; October 14, 1994 (59 FR 52084), effective December 13, 1994; May 20, 1997 (62 FR 27501), effective July 21, 1997; January 13, 1999 (64 FR 02144), effective March 15, 1999; October 16, 2000 (65 FR 61109), effective January 16, 2001, and May 7, 2002 (67 FR 30599), effective July 7, 2002.

#### G. What Changes Are We Authorizing With Today's Action?

On February 12, 2003, Utah submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Utah's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Utah Final authorization for the following program changes (the Federal Citation followed by the analog from the Utah Administrative Code (R315), revised August 15, 2002): Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production [63 FR 47409, 09/04/98](Checklist 171)/R315-13-1 (Utah rules for checklist revised 09/20/2001); HWIR Media [63 FR 65874, 11/30/98](Checklist 175)/R315-1-1(b), R315-2-4(g) through R315-2-4(g)(2)(iii), R315-8-1(g) through R315-8-1(g)(13), R315-8-5.3, and R315-8-6.12(d); Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards [64 FR 25408, 05/11/99](Checklist 179)/R315-2-2(c), R315-2-2(c)(3), R315-2-2(e)(1)(iii), R315-2-4(a)(16), R315-2-4(a)(17) and R315-2-4(a)(17)(v), R315-2-4(b)(7)(iii) and R315-2-4(b)(7)(iii)(A), R315-5-3.34, and R315-13-1; Test Procedures for the Analysis of Oil and Grease and Non-Polar Material [64 FR 26315, 05/14/99](Checklist 180)/R315-1-2(a);

Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps [64 FR 36466, 07/06/99](Checklist 181)/R315-1-1(b), R315-2-25(b)-(d), R315-8-1(e)(10)(ii)-(iv), R315-7-8.1(c)(11)(ii)-(iv), R315-13-1, R315-3-1(e)(2)(viii)(B)-(D), R315-16-1.1(a)(2)-(4), R315-16-1.2(a)(1), R315-16-1.2(b)(2) & (3), R315-16-1.3(a), R315-16-1.4(a), R315-16-1.5(a), R315-16-1.5(b) through R315-16-1.5(b)(2), R315-16-1.5(c) through R315-16-1.5(c)(2), R315-16-1.8(a) through R315-16-1.8(a)(2), R315-16-1.8(b), R315-16-1.9(e), R315-16-1.9(f), R315-16-1.9(i), R315-16-1.9(k), R315-16-2.1, R315-16-2.4(d) through R315-16-2.4(d)(2), R315-16-2.5(e), R315-16-3.1, R315-16-3.3(b)(4) & (5), R315-16-3.4(d) through R315-16-3.4(d)(2), R315-16-3.5(e), R315-16-4.1, R315-16-5.1(a), and R315-16-7.1(a); Hazardous Air Pollutant Standards for Combustors [64 FR 52828, 09/30/99](Checklist 182)/R315-1-1(b), R315-2-26, R315-8-15.1(b) through R315-8-15.1(b)(2), R315-8-15.1(c)-(e), R315-8-16, R315-7-22.1(b) through R315-7-22.1(b)(2), R315-7-22.1(c); R315-14-7, R315-50-16, R315-3-2.10, R315-3-2.10(e), R315-3-2.13, R315-3-4.3, R315-3-6.3, and R315-3-6.6; Land Disposal Restrictions Phase IV—Technical Corrections [64 FR 56469, 10/20/99](Checklist 183)/R315-2-10(f), R315-5-3.34(a), and R315-13-1; Accumulation Time for Waste Water Treatment Sludges [65 FR 12378, 03/08/2000](Checklist 184)/R315-5-3.34(a); Organobromine Production Wastes Vacatur [65 FR 14472, 03/17/2000](Checklist 185)/R315-2-10(f), R315-2-11(f), R315-50-9, R315-50-10, and R315-13-1; Petroleum Refining Process Wastes—Clarification [65 FR 36365, 06/08/2000](Checklist 187)/R315-2-10(e) and R315-13-1.

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

Utah did not make any changes that are more stringent or broader-in-scope than the Federal rules in this rulemaking. Utah did not change any previously more stringent or broader-in-scope provisions to be equivalent to the Federal rules.

#### I. Who Handles Permits After the Authorization Takes Effect?

Utah will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization until Utah has equivalent instruments in place. We will not issue

any new permits or new portions of permits for the provisions listed in Item G after the effective date of this authorization. EPA previously suspended issuance of permits for other provisions on the effective date of Utah's Final Authorization for the RCRA base program and each of the revisions listed in Item F. EPA will continue to implement and issue permits for HSWA requirements for which Utah is not yet authorized.

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

This program revision does not extend to "Indian Country" as defined in 18 U.S.C. 1151. Indian Country includes lands within the exterior boundaries of the following Indian reservations located within or abutting the State of Utah:

1. Goshute Indian Reservation
2. Navajo Indian Reservation
3. Northwestern Band of Shoshoni Nation of Utah (Washakie) Indian Reservation
4. Paiute Indian Tribe of Utah Indian Reservation
5. Skull Valley Band of Goshute Indians of Utah Indian Reservation
6. Uintah and Ouray Indian Reservation (see below)
7. Ute Mountain Indian Reservation

With respect to the Uintah and Ouray Indian Reservation, Federal courts have determined that certain lands within the exterior boundaries of the Reservation do not constitute Indian Country. This State program revision approval will extend to those lands which the courts have determined are not Indian Country.

In excluding Indian Country from the scope of this program revision, EPA is not making a determination that Utah either has adequate jurisdiction or lacks jurisdiction over sources in Indian Country. Should the Utah choose to seek program authorization within Indian Country, it may do so without prejudice. Before EPA would approve the State's program for any portion of Indian Country, EPA would have to 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.

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

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. Utah's rules, up to and including those revised 2/15/96, have previously been codified through the incorporation-by-reference effective 3/15/99 (66 FR 58964, 11/26/2001). We reserve the amendment of 40 CFR part 272, subpart TT for the codification of Utah's updated program until a later date.

### L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211,

"Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective June 9, 2003.

### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by Reference, Indian lands,

Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

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

Dated: March 25, 2003.

**Robert E. Roberts,**

*Regional Administrator, Region VIII.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

#### 42 CFR Parts 70 and 71

**RIN 0920-AA03**

#### Control of Communicable Diseases

**AGENCY:** Centers for Disease Control and Prevention (CDC), Public Health Service (PHS), Department of Health and Human Services (HHS).

**ACTION:** Interim final rule with comment period.

**SUMMARY:** The Public Health Service Act authorizes the Secretary, in consultation with the Surgeon General, to make and enforce regulations as are necessary to prevent the introduction, transmission or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. The existing regulations are outdated and do not address communicable diseases that currently pose a substantial public health threat.

As of April 2, 2003, the World Health Organization (WHO) has reported 2236 cases and 78 deaths related to outbreaks of a severe form of pneumonia of unknown origin in Hong Kong SAR, Vietnam, Guangdong province in southern China, Canada, Singapore, and Thailand, which appears to have spread rapidly. For this reason, the Director General of the World Health Organization (WHO) issued a global alert about cases of atypical pneumonia and recommended that travelers with atypical pneumonia who may be related to these outbreaks be placed into isolation and assessed by quarantine officials. The Centers for Disease Control and Prevention (CDC) is currently investigating 85 suspected cases of the disease in the United States. This is being issued as an interim final rule because this newly-detected disease is likely spread in person-to-person fashion and may have an adverse public