

Departments, the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components").

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4. Section 285.3 is amended by revising paragraph (a) to read as follows:

§ 285.3 Policy.

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(a) Promote transparency and accountability by adopting a presumption in favor of disclosure in all decisions involving the FOIA and responding promptly to requests in a spirit of cooperation.

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5. Section 285.4 is amended by:

a. Revising paragraph (a)(1), the first sentence of paragraph (a)(3), paragraph (a)(4), and paragraph (e)(7).

b. Adding a sentence to the end of paragraph (e)(5).

The revisions and amendments read as follows:

§ 285.4 Responsibilities.

(a) * * *

(1) Serve as the DoD Chief FOIA Officer in accordance with Section 552 of title 5, United States Code.

* * * * *

(3) Designate the FOIA Public Liaisons for the Department of Defense in accordance with Section 552 of title 5, United States Code. * * *

(4) Prepare and submit to the Attorney General the DoD Annual Freedom of Information Act Report as required by 5 U.S.C., and other reports as required by E.O. 13392 and Attorney General Memorandum, "The Freedom of Information Act (FOIA)," March 19, 2009.

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(e) * * *

(5) * * * Additionally, DoD Component FOIA offices will provide DFOIPO with information copies of significant FOIA requests and responses.

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(7) Submit to the DA&M, through DFOIPO, DoD Component inputs to the DoD FOIA Annual Report prescribed in 32 CFR part 286 and E.O. 13392 and other reports or data requested by the DA&M. All such submissions will be made by the FOIA Public Liaisons.

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Dated: September 24, 2010.

Patricia L. Toppings,

*OSD Federal Register Liaison Officer,
Department of Defense.*

[FR Doc. 2010-24537 Filed 9-29-10; 8:45 am]

BILLING CODE 5001-06-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R09-RCRA-2010-0598; FRL-9205-1]

California: Proposed Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: California has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed California's application and made the tentative decision that these changes satisfy all requirements needed to qualify for final authorization, and is proposing to authorize the State's changes. EPA is also proposing that the State's requirements regulating facilities that are conditionally exempt from the federal rules as Conditionally Exempt Small Quantity Generators ("CESQGs") be treated as more stringent than federal requirements, thereby making these provisions federally enforceable.

DATES: EPA must receive written comments on California's application for authorization for changes to its hazardous waste management program by November 1, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-RCRA-2010-0598 by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* smith.rebecca@epa.gov.
- *Fax:* (415) 947-3533 (prior to faxing, please notify Rebecca Smith at 415-972-3313)
- *Mail:* Send written comments to: Rebecca Smith, WST-2, EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.
- *Hand Delivery or Courier:* Rebecca Smith, EPA Region 9 (WST-2), 75 Hawthorne Street, San Francisco, CA 94105. Such deliveries are only accepted during the office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: We must receive your comments by November 1, 2010. Direct your comments to Docket ID No. EPA-R09-RCRA-2010-0598. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov> including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute, or you make special arrangements with the EPA contact. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If you do so, this information will become a part of the public record, unless you have made arrangements with EPA prior to the submittal of your comments. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>).

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy.

You may view and copy California's application at the following addresses: California Environmental Protection Agency, Environmental Services Center, 1001 I Street, 22nd Floor, Sacramento,

CA 95814, Phone: (916) 324-0912, from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Thursday (appointment preferred but not required); and U.S. EPA Region 9 Library-Information Center, 75 Hawthorne Street, San Francisco, CA 94105, Phone: (415) 947-4406, from 9 a.m. to 12 p.m. and 1 p.m. to 4 p.m. Monday through Thursday. Copy services are not available in Sacramento, but should be arranged by the viewer.

FOR FURTHER INFORMATION CONTACT: Rebecca Smith, EPA Region 9 (WST-2), 75 Hawthorne Street, San Francisco, CA 94105, Phone: (415) 972-3313. E-mail: smith.rebecca@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 revise their programs and ask EPA to authorize the revisions. Revisions 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?

EPA has made the tentative determination that California's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are proposing to grant California final authorization to operate its hazardous waste program with the changes described in this authorization application. California will have responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders (except in Indian country) and for carrying out all authorized aspects of the RCRA program described in its revised program application, subject to the limitations of RCRA's Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by HSWA regulations take effect as a matter of Federal law in authorized states before those states are authorized for such requirements. Thus, EPA will implement those requirements and

prohibitions in California, including issuing permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

If California is authorized for these changes, a facility in California subject to RCRA will have to comply with the authorized State requirements instead of the corresponding Federal requirements in order to comply with RCRA. Additionally, facilities must comply with certain Federal requirements, *i.e.*, HSWA regulations issued by EPA for which California has not received authorization, and RCRA requirements that are not supplanted by authorized State-issued requirements such as requirements for the exportation of hazardous waste. California continues to have enforcement responsibilities under its State law to pursue violations of its hazardous waste management program. EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, the authority to:

- Do inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements (including State-issued statutes and regulations that are authorized by EPA and any applicable Federally-issued statutes and regulations) and suspend or revoke permits; and
- Take enforcement actions regardless of whether the State has taken its own actions.

The action to approve these revisions would not impose additional requirements on the regulated community because the regulations for which California will be authorized are already effective under State law and are not changed by the act of authorization.

D. What happens if EPA receives comments that oppose this action?

If EPA receives comments that oppose this authorization, we will address those comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

E. For what has California previously been authorized?

California initially received final authorization for the base RCRA program on July 23, 1992, effective August 1, 1992 (57 FR 32726). EPA granted authorization for changes to California's program on September 26, 2001, effective September 26, 2001 (66 FR 49118).

F. What changes are we proposing with this action?

On August 2, 2004 and August 17, 2004 California submitted final complete program revision applications, seeking authorization of those changes in accordance with 40 CFR 271.21. We have made a tentative determination that California's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization.

California has applied for only the Federal changes relating to the corrective action management units, the Bevill exclusion and the land disposal restrictions. There are several changes to the Federal program for which California has not yet applied for authorization. The major areas of changes for which California has not yet applied for authorization are: The used oil regulations; consolidated liability requirements; military munitions; universal waste; modification to the hazardous waste manifest system; standardized permit requirements; burden reduction regulations; and the NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (MACT Rule).

California submits packages to EPA relating to its efforts to seek authorization for updates to its program based on revisions to the Federal program. EPA publishes a series of checklists to aid California and the other states in such efforts (*see* EPA's RCRA State Authorization Web page at <http://www.epa.gov/epaoswer/hazwaste/state/revision/program.htm>). Each checklist generally reflects changes made to the Federal regulations pursuant to a particular **Federal Register** notice. California's submittals have been grouped into general categories (*e.g.*, Corrective Action Management Units, Land Disposal Restrictions, etc.). Each submittal may have reflected changes based on one or more **Federal Register** notices and would have thus referenced one or more corresponding checklists.

What follows is a summary, for each general category identified by California in its submittals, of the specific subjects of changes to the Federal program for that category. Although the changes to the Federal program are identified in the summary, California did not necessarily make revisions to its program as a result of each Federal revision noted. For example, certain revisions to the Federal program may have resulted in less stringent regulation than that which previously existed. Since states may maintain programs which are more stringent than the Federal program,

states have the option whether or not to adopt such revisions.

1. Changes California Identified as Relating to Corrective Action Management Units

We are proposing to grant California final authorization for all revisions to its program due to certain changes to the Federal Corrective Action Management Unit program.

2. Changes California Identified as Relating to Land Disposal Restrictions Phases 3 and 4

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following areas: (1) Land Disposal Restrictions Phase III—Decharacterized Wastewaters; (2) Emergency Extension of the K088 Capacity Variance; (3) Land Disposal Restrictions Phase IV—Treatment Standards for Wood

Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; (4) Emergency Revision of the Carbamate Land Disposal Restrictions; (5) Clarification of Standards for Hazardous Waste LDR Treatment Variances; (6) Treatment Standards for Metal Wastes and Mineral Processing Wastes; (7) Hazardous Soils Treatment Standards and Exclusions; (8) Administrative Stay for Zinc Micronutrient Fertilizers; (9) Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production; (10) Extension of Compliance Date for Characteristic Slags; (11) Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); (12) Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes; (13) Deferral for PCBs in Soil; and (14) Certain Land Disposal Restrictions

Technical Corrections and Clarifications. Note that California has not yet adopted the provisions addressed by the following Federal final rules which are also part of Phase IV of the land disposal restrictions requirements: LDR Revision Checklist 195 (66 FR 58258, November 20, 2001, as amended by 67 FR 17119, April 9, 2002); non-LDR Revision Checklist 200 (67 FR 28393, July 24, 2002); and LDR Revision Checklist 201 (67 FR 62618, October 7, 2002).

3. Changes California Identified as Relating to the Bevill Exclusion

We are proposing to grant California final authorization for all revisions to its program due to certain changes to the Federal program in the Bevill Exclusion requirements.

The following table shows the Federal and analogous State provisions involved in this tentative decision and the relevant corresponding checklists:

Description of Federal requirement (checklist #)	Federal Register page and date	Analogous State authority
40 Code of Federal Regulations (40 CFR), 260.10 Corrective Action Management Units (CAMU), checklist 196.	(196) 67 FR 2962, Jan. 22, 2002	(196) Title 22, California code of Regulations (22 CCR) 66260.10, amended July 19, 2004.
40 CFR 261.1 Land Disposal Restrictions (LDR), checklist 157.	(157) 62 FR 25998, May 12, 1997	(157) California did not adopt these exclusions.
40 CFR 261.2 LDR, checklists 157, 179	(179) 64 FR 2548, May 11, 1999	(157, 179) California did not adopt these regulations.
40 CFR 261.3, Bevill Exclusion, checklist 167E	(167E) 63 FR 28556, May 26, 1998	(167E) 66261.3, amended March 15, 2003.
40 CFR 261.4, Bevill Exclusion, checklist 167E	.....	(167E) 66261.4, amended November 12, 1998.
40 CFR 262.34 LDR, checklists 179, 183	(183) 64 FR 56469, October 20, 1999	(179, 183) 22 CCR 66262.34, amended Sept. 11, 2000.
40 CFR 264.550 through 264.552 CAMU, checklist 196.	.....	(196) 22 CCR 66264.550 through 66264.552, amended July 19, 2004.
40 CFR 264.554 and 264.555 CAMU, checklist 196.	.....	(196) California did not adopt these regulations.
40 CFR 268.1 LDR, checklists 151, 157	(151) 61 FR 15566 April 8, 1996; [amended 61 FR 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; and 62 FR 7502 February 19, 1997].	(151, 157) 22 CCR 66268.1, amended June 4, 1999
40 CFR 268.2 LDR, checklists 151, 167A, 167B, 179.	(167A, 167B) 63 FR 28556, May 26, 1998 [amended 63 FR 31266 June 8, 1998].	(151, 167A, 167B, 179) 22 CCR 66260.10, amended Feb. 26, 2004.
40 CFR 268.3(b) LDR checklist 151 .....	.....	(151) California Health and Safety Code (HSC) Division 20, 25179.2(e) enacted 1995. California did not adopt the dilution exception.
40 CFR 268.3(c) and (d) LDR checklists 151, 167A.	.....	(151, 167A) 22 CCR 66268.3(b) and (c) amended June 4, 1999
40 CFR 268.4 LDR checklist 167C	(167C) 63 FR 28556, May 26, 1998 [amended 63 FR 31266, June 8, 1998].	(167C) HSC, Division 20, 25179.11 amended 1996. 22 CCR 66268.1 amended June 4, 1999.
40 CFR 268.7 LDR, checklists 151, 157, 167B, 167C, 179, 183.	.....	(151, 157, 167B, 167C, 179, 183) 22 CCR 66268.7 amended Feb. 26, 2004; (157) California did not adopt the Federal exemption at 40 CFR 268.7(b)(6).
40 CFR 268.9 LDR checklists 151, 157, 179 ....	.....	(151, 157, 179) 22 CCR 66268.9 amended Feb. 26, 2004.
40 CFR 268.30 LDR checklist 157 .....	.....	(157) 22 CCR 66268.30 amended June 4, 1999.
40 CFR 268.32 LDR checklists 157, 190	(190) 65 FR 81373 December 26, 2000	(157, 190) 22 CCR 66268.31.5 amended July 3, 2002.
40 CFR 268.33 LDR checklist 189	(189) 65 FR 67068, November 8, 2000	(189) 22 CCR 66268.33 amended July 3, 2002.

Description of Federal requirement (checklist #)	Federal Register page and date	Analogous State authority
40 CFR 268.34 LDR checklists 167A, 172	(167A, 172) 63 FR 48124, September 9, 1998	(167A, 172) 22 CCR 66268.34 amended Sept. 11, 2000.
40 CFR 268.39 LDR checklists 151, 155, 159, 160, 173.	(155) 62 FR 1992, January 14, 1997; (160) 62 FR 37694, July 14, 1997; (173) 63 FR 51254, September 24, 1998.	(151, 155, 159, 160, 173) 22 CCR 66268.39 amended Sept. 11, 2000.
40 CFR 268.40 LDR checklists 151, 161, 167A, 167C, 171, 179, 183.	(161) 62 FR 45568, August 28, 1997; (170) 63 FR 46332 August 31, 1998; (171) 63 FR 47410, September 4, 1998.	(151, 161, 167A, 167C, 171, 179, 183) 22 CCR 66268.40 amended July 3, 2002.
40 CFR 268.40/Table checklists 151, 157, 167A, 167C, 171, 173 179, 183, 189.	.....	(151, 157, 167A, 167C, 171, 173 179, 183, 189) 22 CCR 66268.40/Table amended July 3, 2002.
40 CFR 268.42 LDR checklists 151, 157, 167C	.....	(151, 157, 167C) 22 CCR 66268.42 amended Feb. 26, 2004.
40 CFR 268.44(a) LDR checklist 162	(162) 62 FR 64504, December 5, 1997	(162) California is not seeking to have this provision delegated.
40 CFR 268.44(h), (m) LDR checklists 162, 167B.	.....	(162, 167B) 22 CCR 66268.44 amended June 4, 1999.
40 CFR 268.45 LDR checklist 167C .....	.....	(167C) 22 CCR 66268.45 amended June 4, 1999.
40 CFR 268.48(a)/Table UTS LDR checklists 151, 161, 167A, 167C, 171, 179, 189, 190.	.....	(151, 161, 167A, 167C, 171, 179, 189, 190) 22 CCR 66268.48(a)/Table UTS amended July 3, 2002.
40 CFR 268.49 LDR checklists 167B, 183, 179, 190.	.....	(167B, 183, 179, 190) 22 CCR 66268.49 amended July 3, 2002.
40 CFR 268, Appendices I, II, X LDR checklist 157.	.....	(157) 22 CCR, Chapter 18, Appendices I, II, X [reserved] amended June 4, 1999.
40 CFR 268, Appendix III LDR checklists 157, 190.	.....	(157, 190) 22 CCR Chapter 18, Appendices III amended July 3, 2002.
40 CFR 268, Appendix VI LDR checklist 157 ....	.....	(157) 22 CCR Chapter 18, Appendices VI amended June 4, 1999.
40 CFR 268, Appendix VII/Table 1 LDR checklists 157, 167C, 192B.	(192B) 66 FR 27266, May 16, 2001	(157, 167C, 192B) 22 CCR Chapter 18, Appendix VII/Table 1 amended July 3, 2002.
40 CFR 268, Appendix VII/Table 2 and Appendix VIII LDR checklists 157, 167C.	.....	(157, 167C) 22 CCR Chapter 18, Appendix VII/Table 2 amended June 4, 1999.
40 CFR 268, Appendix XI LDR checklist 151 ....	.....	(151) 22 CCR Chapter 18, Appendix XI amended June 4, 1999.

G. Where are the revised state rules different from the federal rules?

State requirements that go beyond the scope of the Federal program are not part of the authorized program and EPA cannot enforce them. Although you must comply with these requirements in accordance with California law, they are not RCRA requirements. We consider that the following State requirements, which pertain to the revisions involved in this tentative decision, go beyond the scope of the Federal program.

1. The definition of “remediation waste” at 22 CCR. 66260.10 is broader in scope than the Federal definition at 40 CFR 260.10 only to the extent California’s definition includes hazardous substances which are neither “hazardous wastes” nor “solid wastes.”

2. California regulation subjects CAMUs for non-RCRA hazardous waste to state-specific requirements under 22 CCR 66264.552.5. The state requirement at 22 CCR 66264.552.5 is broader in scope because the federal program does not consider these wastes to be hazardous. In addition, 22 CCR 66264.550(a) is also considered broader in scope to the extent that it subjects

non-RCRA wastes to the state-only CAMU requirements.

3. California did not adopt the Federal definitions at 40 CFR 261.1(c)(9)–(12), 261.4(a)(13)–(14), and 261.6(a)(3)(ii) addressing scrap metals or the related Federal changes to 40 CFR 261.2(c)(4)/Table. California is broader in scope to the extent that its statutory provisions at HS&C § 25143.2(a) and (e), do not exclude these scrap metals from regulation.

4. The California provisions at 22 CCR 66268.7(a)–(c) are broader in scope than the Federal land disposal treatment provisions at 40 CFR 268.7(a)–(c) to the extent that the State’s provisions also apply to non-RCRA wastes. Similarly, California’s variance petition provisions at 22 CCR 66268.44(c) and 66268.44(h) are also broader in scope to the extent that they apply to non-RCRA wastes.

H. What is EPA’s position on California’s regulation of conditionally exempt small quantity generators?

When California initially received final authorization for the base RCRA program on July 23, 1992, effective August 1, 1992 (57 FR 32726), EPA Pacific Southwest Region (Region IX) identified California’s failure to adopt

the federal exclusion for conditionally exempt small quantity generators (“CESQGs”) (found, generally, at 40 CFR 261.5) as “broader in scope” than the federal program. (See also 40 CFR 270.1(c)(2)(iii).) However, EPA’s position regarding the absence of the conditional exclusion for CESQGs in a state program has changed and EPA now clearly regards the absence of any such exclusion as more stringent than the federal program, making state regulation of CESQGs federally enforceable when authorized. See *United States v. Southern Union Co.*, 643 F. Supp. 2d 201 (D.R.I. 2009). In order to harmonize our authorization of California’s program with EPA’s position with respect to CESQGs, EPA is hereby proposing to redesignate California’s regulation of CESQGs as more stringent than the federal program. EPA is also seeking public comment on this proposed change to California’s authorization. If EPA makes a final determination that California’s regulation of CESQGs is more stringent than the federal program, then the State’s regulation of such federally exempt CESQGs will be part of the authorized state program and will be

federally enforceable within the State of California. Specifically, this change will allow federal enforcement of State requirements applicable to CESQGs who are conditionally exempt under the federal provisions found at 40 CFR 261.5, 266.100(b)(3) and 270.1(c)(2)(iii). This change will not result in any new requirements on CESQGs, but will only mean that the more stringent State requirements for CESQGs will be federally enforceable.

I. Who handles permits after the authorization takes effect?

California will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits issued by EPA prior to California being authorized for these revisions, if any, will continue in force until the effective date of the State's issuance or denial of a State RCRA permit, or the permit otherwise expires or is revoked. California will administer any RCRA hazardous waste permits or portions of permits which EPA issued prior to the effective date of this authorization until such time as California has issued a corresponding State permit. EPA will not issue any more new permits or new portions of permits for provisions for which California is authorized after the effective date of this authorization. EPA will retain responsibility to issue permits needed for HSWA requirements for which California is not yet authorized.

J. How would authorizing California for these revisions affect Indian country (18 U.S.C. Section 1151) in California?

California is not authorized to carry out its hazardous waste program in Indian country within the State. Indian country includes all lands within the exterior boundaries of an Indian reservation, any land held in trust by the United States for an Indian tribe whether or not formally designated as an Indian reservation, and any other land, whether within or outside of an Indian reservation, that qualifies as Indian country under 18 U.S.C. 1151. A list of Indian Tribes in California can be found on the Web at <http://www.doi.gov/bureau-indian-affairs.html> under Tribal Leaders Directory. Therefore, this proposed action would have no effect on the Indian country within the State's borders. EPA will continue to implement and administer the RCRA program in Indian country within the State.

K. What is codification and is EPA codifying California's hazardous waste management program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste management program 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 F for this authorization of California's program changes until a later date.

L. Statutory and Executive Order Reviews

This proposed rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by State law. Therefore, this rule complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 12866: Regulatory Planning Review

The Office of Management and Budget has exempted this proposed rule from its review under Executive Order (EO) 12866, (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB.

2. Paperwork Reduction Act

This proposed rule does not impose an information collection burden under the Paperwork Reduction Act.

3. Regulatory Flexibility Act

After considering the economic impacts of this proposed rule on small entities under the Regulatory Flexibility Act, I certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

4. Unfunded Mandates Reform Act

Because this proposed rule approves preexisting 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.

5. Executive Order 13132: Federalism

EO 13132 does not apply to this proposed rule because it will not have federalism implications (*i.e.*, substantial direct effects on the State, 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 described in EO 13132.

6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

EO13175 does not apply to this proposed rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes). As stated previously, this proposed action would have no effect on the Indian country within the State's borders and EPA will continue to implement and administer the RCRA program in Indian country within the State.

7. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

This proposed rule is not subject to EO 13045 because it is not economically significant and it is not based on health or safety risks.

8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to EO 13211 because it is not a significant regulatory action as defined in EO 12866.

9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, Section 12(d) of the National Technology Transfer and Advance Act does not apply to this proposed rule.

10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Because this rule addresses authorizing pre-existing State rules and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

11. Executive Order 12988

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7,

1996), in issuing this proposed 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.

12. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings

implications of the proposed 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.

List of Subjects in 40 CFR Part 271

Environmental protection,
Administrative practice and procedure,
Confidential business information,
Hazardous materials transportation,
Hazardous waste, Indians—lands,

Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This notice 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 13, 2010.

Jared Blumenfeld,

Regional Administrator, Region 9.

[FR Doc. 2010-24001 Filed 9-29-10; 8:45 am]

BILLING CODE 6560-50-P