

EPA APPROVED NEW MEXICO REGULATIONS

State citation	Title/subject	State approval/ effective date	EPA approval date	Comments
<b>New Mexico Administrative Code (NMAC) Title 20—Environment Protection Chapter 2—Air Quality</b>				
Part 72	Construction Permits.	9/6/2006	3/11/2013 [Insert <i>FR</i> page number where document begins].	The SIP includes NMED's letter dated 11/7/2012, which commits the NMED Air Quality Bureau to providing notification on the NMED's website of all second 30-day public comment periods provided for under paragraph B of 20.2.72.206. NOT in SIP: the definitions of "Accelerated review", "Affiliate", "Conflict of interest", "Interested party" and "Qualified outside firm" in 20.2.72.7; subsection (B)(15) of 20.2.72.203; subsection (H) of 20.2.72.208; 20.2.72.221; 20.2.72.400–20.2.72.499; and 20.2.72.502. References to 20.2.77, 20.2.78, and 20.2.82 are approved for Part 72 only; underlying and related regulations for referred Parts NOT in SIP.

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EPA APPROVED NONREGULATORY AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
Letter of commitment for the New Mexico SIP for Minor NSR Public Notice.	Statewide (except Bernalillo County).	11/7/2012	3/11/2013 [Insert <i>FR</i> page number where document begins].	Letter dated 11/7/2012 from NMED to EPA that commits the NMED Air Quality Bureau to providing notification on the NMED's website of all second 30-day public comment periods provided for under paragraph B of 20.2.72.206.

[FR Doc. 2013-05484 Filed 3-8-13; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[EPA-R02-RCRA-2013-0144; FRL-9693-2]

**New York: Final Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Direct final rule.

**SUMMARY:** New York State has applied to EPA for final authorization of changes to its hazardous waste program under the Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes, with limited exceptions, satisfy all requirements needed to qualify for final authorization, and is authorizing the

State's changes through this direct final action.

**DATES:** This final authorization will become effective on May 10, 2013 unless EPA receives adverse written comment by April 10, 2013. If EPA receives such comment, it will publish a timely withdrawal of this direct final rule or those paragraphs or sections of this rule which are the subject of the comments opposing the authorization in the **Federal Register** and inform the public that only the portion of the rule that is not withdrawn will take effect. (See Section E of **SUPPLEMENTARY INFORMATION** for further details).

**ADDRESSES:** Submit your comments, identified by EPA-R02-RCRA-2013-0144, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *Email:* [infurna.michael@epa.gov](mailto:infurna.michael@epa.gov).
- *Fax:* (212) 637-4437, to the attention of Michael Infurna.
- *Mail:* Send written comments to Michael Infurna, EPA, Region 2, 290

Broadway, 22nd Floor, New York, NY 10007.

• *Hand Delivery or Courier:* Deliver your comments to Michael Infurna, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007. Such deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify the business hours. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R02-RCRA-2013-0144. EPA's policy is that all comments received will be included in the public docket without change and may be made available on line 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 whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>.

[www.regulations.gov](http://www.regulations.gov), or email. The Federal <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 email comment directly to EPA without going through <http://www.regulations.gov>, your email 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 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 or 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:* EPA has established a docket for this action under Docket ID No. EPA-R02-RCRA-2013-0144. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although it may be listed in the index, some information might not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and 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 can view and copy New York’s application during business hours at the following addresses: EPA Region 2 Library, 290 Broadway, 16th Floor, New York, NY 10007, Phone number: (212) 637-3185; or New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials, 625 Broadway, Albany, NY 12233-7250, Phone number: (518) 402-8730. The public is advised to call in advance to verify the business hours of the above locations.

**FOR FURTHER INFORMATION CONTACT:** Michael Infurna, EPA Region 2, 290 Broadway, 22nd floor, New York, NY 10007; telephone number (212) 637-4177; fax number: (212) 637-4437; email address: [infurna.michael@epa.gov](mailto:infurna.michael@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 268, 270, 273 and 279.

**B. What decisions have we made in this rule?**

We conclude that New York’s application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant New York final authorization to operate its hazardous waste program with the changes described in the authorization application. New York 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 the States are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in New York, including issuing permits if necessary, until the State is granted authorization to do so.

**C. What is the effect of this authorization decision?**

The effect of this decision is that a facility in New York 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. New York has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013, and 7003. These sections include, but may not be limited to, the authority to:

- Do inspections, and require monitoring, tests, analyses, reports or other actions
- 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 State regulations for which New York is being authorized by this action are already effective, and are not changed by this action.

**D. Why wasn’t there a proposed rule before this rule?**

EPA did not publish a proposal before this direct final rule because we view this as a routine program change and do not expect adverse comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of this **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. If you want to comment on this authorization, you must do so at this time.

If we receive adverse comments that oppose only the authorization of a particular change to the State 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 New York previously been authorized for?**

New York initially received final authorization effective on May 29, 1986 (51 FR 17737) to implement its base hazardous waste management program. We granted authorization for changes to its program effective July 3, 1989 (54 FR 19184), May 7, 1990 (55 FR 7896), October 29, 1991 (56 FR 42944), May 22,

1992 (57 FR 9978), August 28, 1995 (60 FR 33753), October 14, 1997 (62 FR 43111), January 15, 2002 (66 FR 57679), March 14, 2005 (70 FR 1825, as corrected on April 4, 2005 at 70 FR 17286), August 31, 2009 (74 FR 31380) and January 12, 2010 (75 FR 1617).

**G. What changes are we authorizing with this action?**

On December 18, 2008, New York submitted a program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. Subsequently, on May 22, 2012 the State submitted signed Attorney General Certifications for the application. New York's revision application includes changes to the Federal Hazardous Waste program as

addressed by the federal used oil management regulations that were published on September 10, 1992 (57 FR 41566) and amended May 3, 1993 (58 FR 26420), June 17, 1993 (58 FR 33341), March 4, 1994 (59 FR 10550), May 6, 1998 (63 FR 24963), and July 14, 1998 (63 FR 37780).

We now make a direct final decision, subject to receipt of written comments that oppose this action that, except as noted in Section H, New York's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant New York final authorization for the following program revisions listed in the following table. (The New York provisions are set forth in the Title 6,

New York Codes, Rules and Regulations (6 NYCRR), Volume A-2A, Hazardous Waste Management System, amended effective May 12, 2006 and may be found in the "Official Compilation of Codes Rules and Regulations of the State of New York", published by the Department of State, printed by West Group, as of the March 15, 2006 supplement.) The State's statutory provisions which provide the legal basis for the State's implementation of its used oil program include Environmental Conservation Law sections 3-0301; 23-2305; 23-2307; 27-0703; and 27-0900 et.seq., and 71-2705. EPA is not authorizing any new New York State civil or criminal statute in this program revision authorization.

Description of federal requirement (Revision Checklists <sup>1</sup> )	Analogous state regulatory authority <sup>2</sup>
Recycled Used Oil Management Standards (9/10/92, 57 FR 41566; 5/3/93, 58 FR 26420; 6/17/93, 58 FR 33341; 5/4/94, 59 FR 10550; 5/6/98, 63 FR 24963; 7/14/98, 63 FR 37780; Revision Checklists 112, 122, 130, 166).	Title 6 New York Codes, Rules and Regulations (6 NYCRR) 370.2(b)(213), 370.2(b)(216), 6 NYCRR 371.1(d)(1)(ii)(e) <sup>3</sup> , 371.1(e)(2)(xi), 371.1(f)(10), 371.1(g)(1)(ii)(d), 371.1(g)(1)(ii)(e), 371.1(g)(1)(iii)(b)—(d), 371.1(g)(1)(iii)(e)[removed], 371.1(g)(1)(iv), 6 NYCRR 373-2.1(a)(6), 373-3.1(a)(6), 6 NYCRR 374-1.8(a)(2)(i), 374-2.1(a) introductory paragraph, 374-2.1(a)(1), 374-2.1(a)(3), 374-2.1(a)(5) through 374-2.1(a)(9), 374-2.1(a)(11) through 374-2.1(a)(13), 374-2.1(a)(17), 374-2.1(a)(20) through 374-2.1(a)(26), 374-2.1(a)(28), 374-2.1(a)(29), 374-2.2, 374-2.3 (except 374-2.3(c)(3)-(6) and 374-2.3(f)), 374-2.4, 360-14.1(b)(7) 360-14.1(b)(8) 374-2.5(a)(1), 374-2.5(a)(3), 374-2.5(a)(4), 374-2.5(a)(5) introductory paragraph, 374-2.5(a)(5)(i), 374-2.5(a)(5)(ii), 374-2.5(a)(5)(iii) through (v), 374-2.5(b), 374-2.5(c), 374-2.5(d)(1), 374-2.5(d)(2), 374-2.5(d)(3), 374-2.5(e)(1) through 374-2.5(e)(3), 374-2.5(e)(5), 374-2.5(f), 374-2.5(g), 374-2.5(h), 374-2.6(a)(1), 374-2.6(a)(3), 374-2.6(b), 374-2.6(c), 374-2.6(d) (except 374-2.6(d)(4)), 374-2.6(e), 374-2.6(f), 374-2.6(g), 374-2.6(h), 374-2.6(i), 374-2.6(j), previous 374-2.7 and 374-2.8 [removed], 374-2.7(a), 374-2.7(b), 374-2.7(c), 374-2.7(d)(except 374-2.7(d)(4)), 374-2.7(e) (except 374-2.7(e)(5) and (6)), 374-2.7(f), 374-2.7(g), 374-2.7(h), 374-2.8, 374-2.9(a), 374-2.9(b), 374-2.9(c)

<sup>1</sup> A Revision Checklist is a document that addresses the specific changes made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal Regulations. For more information see EPA's RCRA State Authorization Web page at <http://www.epa.gov/osw/laws-regs/state/index.htm>

<sup>2</sup> The New York provisions are set forth in the Title 6 of the New York Codes, Rules and Regulations (6 NYCRR), as amended effective through May 12, 2006, unless otherwise specified.

<sup>3</sup> Note that at 6 NYCRR 371.1(d)(1)(ii)(e), New York references old contact information for the Government Printing Office. The correct contact information, as found at 40 CFR 260.11(c) is: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800.

**H. Where are the revised State rules different from the Federal rules?**

*More Stringent State Rules*

New York used oil regulations are more stringent than the corresponding Federal regulations in a number of different areas. The more stringent provisions are being recognized as a part of the Federally-authorized program and are Federally enforceable. The specific more stringent provisions are discussed in detail in the revised Program Description New York submitted with the used oil authorization application, and include, but are not limited to, the following:

1. New York requires that laboratory tests or sample analyses, including rebuttable presumption analyses, be performed by a State-certified laboratory. The Federal

program does not contain a lab certification program: 374-2.2(a)(2)(i)(b)(1), 374-2.2(b)(1)(i), 374-2.5(e)(3)(i), 374-2.6(d)(2)(i), 374-2.7(d)(3)(i).

2. New York does not have analogs to 40 CFR 279.55(a)(1), (a)(2) introductory paragraph and (a)(3) because the State does not accept reliance upon generator knowledge of the halogen content.

3. Used oil collection centers are subject to the more stringent transfer facility standards: 374-2.1(a)(23), 374-2.4(b)(2)(i), 374-2.6(c)(1) introductory paragraph.

4. Used oil transfer facilities are subject to a number of additional requirements including the general facility standards for processing and re-refining facilities, additional testing, reporting and emergency procedures, and closure requirements: 374-2.5(a)(5) introductory paragraph, 374-2.5(d)(1)(i)(a'), 374.2.5(e)(2), 374-2.5(f)(8), 374-2.6(c)(1)(ii)(c'), 374-2.6(c)(1)(iv)(b'), 374-2.6(c)(2) introductory paragraph, 374-

2.6(c)(2)(i)(b'), 374-2.6(c)(2)(ii)(a'), 374-2.6(c)(2)(ii)(f'), 374-2.6(c)(2)(vi)(d)(2'), 374-2.6(c)(2)(vi)(i').

5. Aboveground and underground used oil tanks must also be in compliance with more stringent installation, closure, inspection and repair standards, and registration requirements in New York's Petroleum Bulk Storage (PBS) rules, 6 NYCRR Parts 612, 613, and 614, including: 374-2.2(a) introductory paragraph, 374-2.3(c)(2), 374-2.5(f)(3)(i), (ii), and (iii), 374-2.6(e)(2) introductory paragraph, 374-2.6(e)(2)(i), (ii) and (iii), and 374-2.6(e)(7)(iii), 374-2.6(e)(7)(i)(a'), 374-2.7(e)(2)(i), (ii) and (iii).

6. Unlike the federal government, the state subjects used oil burners to the more stringent management standards in the state Air Quality regulations of 6 NYCRR Part 225: 374-2.2(a)(5)(ii), 374-2.5(d)(1)(iii), 374-2.7(a)(2) introductory paragraph, 374-2.9(a)(1).

7. New York prohibits the use of used oil as a dust suppressant: 374–2.2(c)(2), 374–2.3(a)(2)(v), 374–2.5(a)(5)(v), 374–2.6(a)(3)(v), 374–2.7(a)(2)(v), 374–2.9(c).

8. Storage of used oil must also be in compliance with local and state fire and building codes, including NFPA–30: 374–2.3(c)(1)(i) and (ii), 374–2.5(f)(2), 374–2.6(e)(1), 374–2.7(e)(1)(i) and (ii).

9. Spills are subject to requirements in Article 12 of the Navigation Law, its implementing regulations, and related provisions in the Environmental Conservation Law and the PBS regulations, in addition to the federal standards: 374–2.3(c)(9)(i); 374–2.5(d)(3) introductory paragraph, 374–2.5(d)(3)(v), 374–2.5(f)(7)(i), 374–2.6(e)(6)(i), 374–2.7(e)(8)(i)

10. New York requires additional labeling of units associated with used oil storage: 374–2.3(c)(8)(i), 374–2.3(c)(8)(ii), 374–2.5(f)(6)(i), 374–2.5(f)(6)(ii), 374–2.6(e)(5)(i), 374–2.6(e)(5)(ii), 374–2.7(e)(7)(i), 374–2.7(e)(7)(ii).

11. New York requires additional notification, recordkeeping and increased periods of record retention for several aspects of used oil management: 374–2.5(e)(5), 374–2.5(g)(1) and (g)(2) introductory paragraphs, 374–2.5(g)(1)(vi) and (g)(2)(vi), 374–2.5(g)(4)(i), 374–2.6(g)(1) introductory paragraph, 374–2.6(g)(1)(vi) and (g)(2)(vi), 374–2.6(g)(3), 374–2.6(h)(1)(‘a’) and (‘b’), 374–2.7(d)(5), 374–2.7(f)(2), 374–2.7(g)(1)(i), 374–2.7(g)(2), 374–2.8(c)(2), 374–2.8(e)(3), 374–2.8(f)(1)(i) and 374–2.8(f)(2).

12. New York prohibits the storage of used oil in pits, ponds and lagoons. Storage in surface impoundments, including those subject to regulation under 40 CFR Parts 264 and 265, is also prohibited: 374–2.2(c)(1).

13. New York requires that processors/re-refiners must submit to the department’s Central Office and Regional Office, an annual report instead of a biennial letter, as required in the federal regulations: 374–2.6(h)(2).

14. The New York used oil regulations have several more stringent provisions which include, but are not limited to:

a. New York prohibits the disposal of recyclable used oil by means of absorbents, except to clean up spills: 374–2.2(c)(4).

b. If a facility owner or operator does not rebut the presumption, the owner or operator must reject the load and notify the department Regional Solid and Hazardous Materials engineer: 374–2.6(d)(3).

c. Owners and operators of used oil transfer facilities must test all incoming loads of used oil for total halogen content, in accordance with a written quality control plan: 374–2.5(e)(2).

#### *Broader in Scope Requirements*

We consider the following State requirements to be beyond the scope of the Federal program, and therefore, EPA is not authorizing these requirements. The specific broader in scope provisions are discussed in detail in the revised Program Description New York submitted with the used oil authorization application, and include, but are not limited to, the following:

1. New York regulates used oil containing greater than 50 ppm of PCB wastes as hazardous waste, unless the PCBs were derived solely from small capacitors; however, these wastes are not considered hazardous wastes under the Federal RCRA program. PCB wastes are regulated under the Federal Toxic Substances Control Act (TSCA) at 40 CFR part 761. The following New York used oil provisions are broader in scope because they include requirements associated with the regulation of PCB waste as a state-only hazardous waste: 374–2.2(a)(9), 374–2.2(b)(1)/Table 1, 374–2.5(e)(4), 374–2.6(d)(4).

2. New York has not adopted the Federal exclusion at 40 CFR 261.4(b)(14) which exempts from the hazardous waste regulations used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products. Such used oil re-refining bottoms are subject to regulation in New York.

3. Subdivision 374–2.3(f) details requirements for accepting used oil from do-it-yourselfers (DIYs) at service and retail establishments. These requirements regulate entities not subject to the Federal used oil regulations.

Broader-in-scope requirements are not part of the authorized program and EPA cannot enforce them. Although entities must comply with these requirements in accordance with State law, they are not RCRA requirements.

#### **I. Who handles permits after the authorization takes effect?**

New York 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 still in effect which we issued prior to the effective date of this authorization, and also to process permit modification requests for facilities with existing permits. EPA will not issue any more new permits or new portions of permits for the provisions listed in the Table in section G above after the effective date of this authorization. Pursuant to § 3006(g)(1) of RCRA, EPA may continue to issue or deny permits to facilities within the State to implement those regulations promulgated under the authority of HSWA for which New York is not authorized.

#### **J. How does today’s action affect Indian country (18 U.S.C. 115) in New York?**

The State of New York’s Hazardous Waste Program is not authorized to operate in Indian country within the State. Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

#### **K. What is codification and is EPA codifying New York’s hazardous waste 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 program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. If this rule takes effect, or we finalize the companion proposal to authorize the State’s changes to its hazardous waste program, we may, at a later date, amend 40 CFR part 272, subpart HH to codify New York’s authorized program.

#### **L. Statutory and Executive Order Reviews**

This rule only authorizes hazardous waste requirements pursuant to RCRA section 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 and Review and Executive Order 13563: Improving Regulation and Regulatory Review*—The Office of Management and Budget (OMB) has exempted this rule from its review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

2. *Paperwork Reduction Act*—This rule does not impose an information collection burden under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

3. *Regulatory Flexibility Act*—After considering the economic impacts of this rule on small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. *Unfunded Mandates Reform Act*—Because this rule approves 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 (Pub. L. 104B4).

5. *Executive Order 13132: Federalism*—Executive Order 13132 (64 FR 19885, April 23, 1997) does not apply to this rule because it will not have federalism implications (i.e., 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).

6. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*—Executive Order 13175 (65 FR 67240, November 6, 2000) does not apply to this 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).

7. *Executive Order 13045: Protection of Children from Environmental Health & Safety Risks*—This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) 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 rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action as defined in Executive Order 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 Advancement Act (15 U.S.C. 272 Note) does not apply to this rule.

10. *Congressional Review Act*—EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 et seq.) 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 on May 10, 2013.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, 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: December 19, 2012.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

[FR Doc. 2013–05481 Filed 3–8–13; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**49 CFR Parts 105, 171, 172, 173, 177, 178, and 180**

**[Docket No. PHMSA–2011–0138 (HM–218G)]**

**RIN 2137–AE78**

### Hazardous Materials; Miscellaneous Amendments (RRR)

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Final rule.

**SUMMARY:** PHMSA is amending the Hazardous Materials Regulations (HMR) to make miscellaneous amendments to update and clarify certain regulatory requirements. These amendments promote safer transportation practices, eliminate unnecessary regulatory requirements, address a petition for rulemaking, incorporate a special permit into the HMR, facilitate international commerce, and simplify the regulations. These amendments also update various entries in the Hazardous Materials Table (HMT) and corresponding special provisions, clarify the lab pack requirements for temperature-controlled materials, and require hazmat employers to make hazmat employee training records available upon request to an authorized official of the Department of Transportation (DOT) or an entity explicitly granted authority to enforce the HMR.

**DATES:** *Effective Date:* This rule is effective May 10, 2013.

*Voluntary Compliance Date:* Voluntary compliance with all amendments is authorized March 11, 2013.

**FOR FURTHER INFORMATION CONTACT:** Rob Benedict, Standards and Rulemaking Division, (202) 366–8553, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

#### SUPPLEMENTARY INFORMATION:

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#### I. Background

##### A. Notice of Proposed Rulemaking (NPRM)

On April 26, 2012, PHMSA published a NPRM under Docket PHMSA 2011–0138 [77 FR 24885] (HM–218G) that proposed amendments to update and clarify existing requirements of the HMR. The NPRM and this Final Rule are part of the Department of Transportation’s Retrospective Regulatory Review (RRR) designed to identify ways to improve the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). The NPRM proposed amendments to update and clarify existing requirements by incorporating changes into the HMR based on PHMSA’s own initiatives. The proposed amendments were identified through an extensive review of the HMR and previously issued letters of interpretation to the regulated hazardous materials transportation community. In addition, the NPRM proposed to incorporate a special permit with a longstanding history of safety into the HMR and respond to a petition for rulemaking. The changes proposed in the April 26, 2012 NPRM are summarized below:

- Permit designated agents for non-residents to submit designation requests by electronic mail in addition to traditional mail.

- Add the Sulphur Institute’s (TSI) “Molten Sulphur Rail Tank Car Guidance” document to the list of informational materials not requiring incorporation by reference in § 171.7 (Responds to petition for rulemaking P–1581).