408 of the FFDCA if such use is in accordance with good agricultural or manufacturing practices.

(1) *Commonly-consumed food commodities.*''Commonly-consumed food commodities'' means foods that are commonly consumed for their nutrient properties. The term ''commonly-consumed food commodities'' shall only apply to food commodities, whether a raw agricultural commodity or a processed commodity, in the form the commodity is sold or distributed to the public for consumption.

(i) Included within the term ''commonly-consumed food commodities'' are:

(A) Sugars such as sucrose, lactose, dextrose and fructose, and invert sugar and syrup.

(B) Spices such as cinnamon, cloves, and red pepper.

(C) Herbs such as basil, anise, or fenugreek.

(ii) Excluded from the term ''commonly-consumed food commodities'' are:

(A) Any food commodity that is adulterated under 21 U.S.C. 342.

(B) Both the raw and processed forms of peanuts, tree nuts, milk, soybeans, eggs, fish, crustacea, and wheat.

(C) Alcoholic beverages.

(D) Dietary supplements.

(2) *Animal feed items.* ''Animal feed items'' means all items derived from field crops that are fed to livestock, and meat meal. Meat meal is an animal feed composed of dried animal fat and protein that has been sterilized. Other than meat meal, the term ''animal feed item'' does not extend to any item designed to be fed to animals that contains, to any extent, components of animals.

(i) Included within the term ''animal feed items'' are:

(A) The hulls and shells of the commodities specified in paragraph (g)(1)(ii)(B) of this section, and cocoa beans.

(B) Bird feed such as canary seed.

(C) Any feed component of a medicated feed meeting the definition of an animal feed item.

(ii) Excluded from the term animal feed item are both the raw and processed forms of peanuts, tree nuts, milk, soybeans, eggs, fish, crustacea, and wheat.

(3) *Edible fats and oils.* Edible fats and oils means all edible (food or feed) fats and oils, derived from either plants or animals, whether or not commonly consumed, including products derived from hydrogenating (food or feed) oils, or liquefying (food or feed) fats. Excluded from the term edible fats and oils are plant oils used in the pesticide chemical formulation for their characteristic smell and/or taste and oils derived from the commodities specified in paragraph (g)(1)(ii)(B) of this section except to the extent such oils are highly refined.

4. Section 180.1071 is revised to read as follows:

§ 180.1071 Egg solids (whole); exemption from the requirement of a tolerance.

A time-limited tolerance exemption expiring [*insert date 3 years from date of publication of the final rule in the* **Federal Register**] is established for residues of whole egg solids (of at least feed grade quality) when used as an animal repellent in or on almonds and applied to the growing crop in accordance with good agricultural practices.

§ 180.1164 [Removed]

5. Section 180.1164 is removed.

§ 180.1194 [Removed]

6. Section 180.1194 is removed.

[FR Doc. 02–699 Filed 1–14–02; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7127–6]

Washington: Proposed Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Washington has applied to EPA for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Washington's application and made the preliminary decision that these changes satisfy all requirements needed to qualify for final authorization, and is proposing to authorize the State's changes.

DATES: EPA will accept written comments on the Agency's preliminary decision to authorize changes to the State of Washington's hazardous waste management program which are received at the address below on or before February 14, 2002.

ADDRESSES: Send written comments to Nina Kocourek, U.S. EPA, Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM–122, Seattle, WA 98101, phone, (206) 553–6502. You can examine copies of the materials submitted by Washington during normal business hours at the following locations: EPA Region 10 Library, 1200 Sixth Avenue, Seattle WA 98101, phone, (206) 553–1289; and at the Washington Department of Ecology, 300 Desmond Drive, WA 98503; Ecology contact is Patricia Hervieux at (360) 407–6756.

FOR FURTHER INFORMATION CONTACT: Nina Kocourek, U.S. EPA Region 10, Office of Waste and Chemicals Management, 1200 Sixth Avenue, Mail Stop WCM–122, Seattle, WA, 98101; (206) 553–6502. For general information available on the authorization process, see EPA's website at: *http://www.epa.gov/epaoswer/hazwaste/state/rcra.*

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 and consistent with the Federal program. States are required to have enforcement authority which is adequate to enforce compliance with the requirements of the hazardous waste program. Under RCRA section 3009, States are not allowed to impose any requirements which are 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 Title 40 of the 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 preliminary determination that Washington's program, as revised, meets the statutory and regulatory requirements established by RCRA. Therefore, we are proposing to grant Washington final authorization to operate its hazardous waste program with the changes described in the authorization application and as described in this proposed rule. Regulatory revisions which are less stringent than Federal program requirements and those regulatory revisions which are broader in scope than Federal program requirements will not be authorized.

Washington's authorized program will be responsible 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) and the limitation of this authorization. Washington's authorized program does not extend to Indian country, except that Washington does have jurisdiction over non-trust lands within the 1873 Survey Area of the Puyallup Reservation as defined in the Settlement Agreement between the Puyallup Tribe, Federal, State and local governments dated August 27, 1988. EPA retains jurisdiction and authority to implement RCRA over Indian country and over trust lands, Indians and Indian activities within the 1873 Survey Area.

New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA are implementable by EPA and take effect in States with authorized programs before such programs are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions in Washington, including issuing permits, until the State is granted authorization to do so.

C. What Will Be the Effect if Washington Is Authorized for These Changes?

If Washington is authorized for these changes, a facility in Washington subject to RCRA will have to comply with the authorized State program requirements and with the federal HSWA provisions for which the State is not authorized in order to comply with RCRA. Washington has enforcement responsibilities under its State hazardous waste program for violations of its currently authorized program and will have enforcement responsibilities for the revisions which are the subject of this proposed rule once a final rulemaking becomes effective. EPA continues to have independent enforcement authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements, including State program requirements 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 will not impose additional requirements on the regulated community because the regulations for which Washington's program will be authorized are already effective under State law.

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

If the EPA receives significant written comments on 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. What Has Washington Previously Been Authorized for?

Washington initially received final authorization on January 30, 1986, effective January 31, 1986 (51 FR 3782), to implement the State's dangerous waste management program. EPA granted authorization for changes to Washington's program on September 22, 1987, effective on November 23, 1987 (52 FR 35556); August 17, 1990, effective October 16, 1990 (55 FR 33695); November 4, 1994, effective November 4, 1994 (59 FR 55322); February 29, 1996, effective April 29, 1996 (61 FR 7736); September 22, 1998, effective October 22, 1998 (63 FR 50531) and on October 12, 1999 effective January 11, 2000 (64 FR 55142).

F. What Changes Are We Proposing to Washington's Authorized Program?

EPA is proposing to authorize revisions to Washington's authorized program described in Washington's official program revision application, submitted to EPA on August 2, 2001, and deemed complete by EPA on September 19, 2001. We have made a preliminary determination that Washington's hazardous waste program revisions, as described in this proposed rule, satisfy the requirements necessary to qualify for final authorization. Regulatory revisions which are less stringent than Federal program requirements and those regulatory revisions which are broader in scope than Federal program requirements will not be authorized.

The following table, Table 1, identifies equivalent and more stringent analogues to the Federal regulations for those regulatory revisions Washington is seeking authorization for. All of the referenced analogous state authorities were legally adopted and effective as of June 10, 2000.

TABLE 1.—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL REGULATIONS [1]

Checklist	Federal requirements	Federal Register	Analogous State authority (WAC 173–303–* * *)
17P [2]	Interim Status	50 FR 28702, 7/15/85	803(1), 803(2); 806(2)(a) 806(2)(b); 806(8); 803(2)(a), 803(2)(b); 810(11)(c), 810(11)(e); 805(1)(b), 805(1)(c), 805(8)(f)(i), 805(8)(f)(ii), 805(8)(g), 805(8)(h), 805(8)(i), 805(8)(j).
144	Removal of Legally Obsolete Rules.	60 FR 33912, 06/29/95	803(2)(b), 803(4)(b), 803(5)(a)(i), 803(5)(a)(i)(A), 803(5)(a)(i)(B), 803(5)(a)(i)(C).
148 [2]	RCRA Expanded Public Participation.	60 FR 63417, 12/11/95	281(4) and 281(4)(a), 281(4)(b), 281(4)(c), 281(4)(d), 281(4)(d)(i), 281(4)(d)(i)(A), 281(4)(d)(i)(B), 281(4)(d)(i)(C), 281(4)(d)(i)(D), 281(4)(d)(ii), 281(4)(d)(ii)(A), 281(4)(d)(ii)(B), 281(4)(d)(ii)(C), 281(4)(d)(ii)(D), 281(4)(d)(ii)(E); 281(5), 281(5)(a), 281(5)(b), 281(5)(b)(i), 281(5)(b)(ii), 281(5)(b)(ii)(A), 281(5)(b)(ii)(B), 281(5)(b)(ii)(C), 281(5)(b)(ii)(D), 281(5)(b)(ii)(E), 281(5)(b)(ii)(F), 281(5)(b)(iii), 281(6) and 281(6)(a), 281(6)(b), 281(6)(c), 281(6)(d), 281(6)(e), 281(6)(f); 040; 806(4)(a)(xxv); 810(16); 804(6)(a); 807(6), 807(6)(a), 807(6)(b), 807(6)(b)(i), 807(6)(b)(ii), 807(6)(b)(iii), 807(6)(b)(iv), 807(7), 807(8)-(11), 807 (14).

TABLE 1.—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL REGULATIONS [1]—Continued

Checklist	Federal requirements	Federal Register	Analogous State authority (WAC 173–303–* * *)
151	Land Disposal Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners.	61 FR 15566, 04/08/96; 61 FR 15660,04/08/96; 61 FR 19117, 04/30/96; 61 FR 33680, 06/28/96; 61 FR 36421, 07/10/96; 61 FR 43924, 08/26/96; 62 FR 7502, 02/19/97.	140 (2)(a).
153	Conditionally Exempt Small Quantity Generator Disposal Options Under Subtitle D.	61 FR 34252, 07/01/96	070(8)(b), 070(8)(b)(iii), 070(8)(b)(iii)(A), 070(8)(b)(iii)(B), 070(8)(b)(iii)(E), 070(8)(b)(iii)(F), 070(8)(b)(iii)(D), 070(8)(b)(iii)(H).
154 [2]	Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers: (Includes CC and the 300 hour BB exemption).	59 FR 62896, 12/06/94; 60 FR 26828, 05/19/95; 60 FR 50426, 09/29/95; 60 FR 56952, 11/13/95; 61 FR 4903, 02/09/96; 61 FR 28508, 06/05/96; 61 FR 59932, 11/25/96.	692(3); 110(3)(g)(ix),110(3)(g)(x); 120(4)(d), 120(4)(e); 200(1)(b)(i), 200(1)(b)(ii); 201(e); 300(5)(f), 300(5)(i), 300(5)(i)(A), 300(5)(i)(B); 320(2)(c); 380(1)(c), 380(1)(f), 390(3)(d); 630(11); 640(11); 650(12); 680(2); 690(1)(b), 690(1)(b)(i), 690(1)(b)(ii), 690(1)(b)(iii), 690(1)(c), 690(2); 691(1)(b), 691(1)(b)(i), 691(1)(b)(ii), 691(1)(b)(iii), 691(1)(f), 691/note at end of (1), 691(2); 692(1)(a), 692(1)(b), 692(1)(b)(i), 692(1)(b)(ii), 692(1)(b)(iii), 692(1)(b)(iv), 692(1)(b)(v), 692(1)(b)(vi), 692(1)(b)(vii), 692(1)(b)(viii), 692(1)(c), 692(1)(d), 692(1)(d)(i), 692(1)(d)(ii), 692(1)(d)(iii); 692(2); 400(2)(a); 300(5)(f), 300(5)(i), 300(5)(i)A), 300(5)(i)(B); 320(2)(c); 380(1)(c), 380(1)(f); 390(3)(d); 400(3)(a); 810(8)(a)(ii), 810(8)(a)(iii), 810(8)(a)(iv); 806(4)(a)(v), 806(4)(b)(vi), 806(4)(c)(xiii), 806(4)(d)(xi), 806(4)(m).
156 [2]	Military Munitions Rule Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties.	62 FR 6622, 02/12/97	040; 016(3)(b)(iii), 016(3)(b)(iv); 170(5); 180(6); 240 (10); 600(3)(p), 600(3)(p)(i)(D), 600(3)(p)(iv), 600(3)(q); 693(l), 693(2)(a), 693(2)(a)(i), 693(2)(a)(ii), 693(2)(a)(iii), 693(2)(a)(iv), 693(2)(a)(v), 693(2)(b), 693(2)(b)(i), 693(2)(b)(i)(A), 693(2)(b)(i)(B), 693(2)(b)(i)(B)(I)-(III), 693(2)(b)(i)(C), 693(2)(b)(ii), 693(2)(b)(iii), 693(2)(c), 693(2)(d), 693(2)(e), 693(2)(f); 693(3)(a , 693(3)(b); 400(2)(c)(xiii)(A)(IV), 400(2)(c)(xiii)(D), 400(2)(c))(xii), 400(3)(b); 400(3)(c)(xii); 578(1)(a), 578(1)(b), 578(2)(a), 578(2)(a)(i), 578(2)(a)(i)(A), 578(2)(a)(i)(B), 578(2)(a)(i)(C), 578(2)(a)(ii), 578(2)(b), 578(2)(b)(i), 578(2)(b)(ii), 578(2)(b)(iii), 578(2)(b)(iv), 578(2)(c), 578(2)(c)(i), 578(2)(c)(ii), 578(2)(d), 578(3), 578(4)(a), 578(4)(a)(i), 578(4)(a)(i)(A), 578(4)(a)(i)(B), 578(4)(a)(i)(C), 578(4)(a)(i)(D), 578(4)(a)(i)(E), 578(4)(a)(i)(F), 578(4)(a)(i)(G), 578(4)(a)(ii), 578(4)(a)(iii), 578(4)(b), 578(4)(c); 578(5); 800(7)(c)(i)(D), 800(7)(c)(i)(E); 830(4)(h), 830(4)(h)(i), 830(4)(h)(ii), 830(4)(h)(iii), 830(4)(i).
157	Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions.	62 FR 25998, 05/12/97	040; 016(2)(l), 016(2)(m), 016(2)(n), 016(2)(o); 016(5) Table 1; 071(3)(ff), 071(3)(gg), 071(3)(gg)(i), 071(3)(gg)(ii); 120(2)(a)(iv); 140(2)(a).
158	Testing Monitoring Activities Amendment III.	62 FR 32452, 06/13/97	110(1); 110(3)(h)(v), 110(3)(h)(vi), 110(3)(g)(i), 110(3)(g) (ii), 110(3)(g)(iii), 110(3)(g)(iv), 110(3)(g)(v), 110(3)(g)(vi), 110(3)(g)(viii), 110(3)(h)(i), 110(3)(a), 110(3)(h)(ii), 110(3)(h)(iii), 110(3)(h)(vii), 110(3)(g)(x); 690(2); 691(2); 645(4)(a); 400(3)(a).
162	Clarification of Standards for Hazardous Waste LDR Treatment Variances.	62 FR 64504, 12/05/97	140 (2)(a).

TABLE 1.—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL REGULATIONS [1]—Continued

Checklist	Federal requirements	Federal Register	Analogous State authority (WAC 173–303–* * *)
163	Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment: (AA, BB, CC).	62 FR 64636, 12/08/97	320(2)(c); 380(1)(f); 690(1)(b)(iii), 690(1)(c), 690(1)(d); 690(2); 691(1)(b)(iii), 691(1)(c), 691(1)(f), 691(2); 692(1)(b)(i), 692(1)(c), 692(2); 320(2)(c); 400(3)(a); 806(4)(a)(v).
164	Kraft Mill Steam Stripper Condensate Exclusion.	62 FR 18504, 04/15/98	071(3)(mm).
167A	Land Disposal Restriction Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes.	63 FR 28556, 05/26/98	140(2)(a).
167B	Land Disposal Restriction Phase IV—Hazardous Soils Treatment Standards and Exclusions.	63 FR 28556, 05/28/98	140(2)(a).
167C	Land Disposal Restrictions Phase IV—Corrections.	63 FR 28556, 05/26/98	140(2)(a).
167F	Exclusion of Recycled Wood Preserving Wastewater.	63 FR 28556, 05/26/98	071(3)(w)(iii), 071(3)(w)(iii)(A), 071(3)(w)(iii)(B), 071(3)(w)(iii)(C), 071(3)(w)(iii)(D), 071(3)(w)(iii)(E).
169 [2]	Petroleum Refining Process Wastes.	63 FR 42110, 08/06/98	071(3)(p), 071(3)(jj); 071(3)(cc)(i), 071(3)(cc)(ii), 071(3)(hh), 071(3)(hh)(i), 071(3)(hh)(ii), 071(3)(ii); 016(5)(d)(ii); 120 (2)(a)(viii)(c); 9904; 082(4); 140(2)(a).
170	Land Disposal Restrictions Phase IV—Zinc Micro nutrient Fertilizers, Amendment.	63 FR 46332, 08/31/98	140(2)(a).
171	Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from carbamate Production.	63 FR 47410, 09/04/98	140(2)(a).
172	Land Disposal Restriction Phase IV—Extension of Compliance Date for Characteristic Slags.	63 FR 48124, 09/09/98	140(2)(a).
173	Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction Rule (K088); Final Rule.	63 FR 51254, 09/24/98	140(2)(a).
174 [3]	Post Closure Permit Requirement and Closure Process: Requirements for alternative groundwater monitoring requirements for regulated units colocated with SWMU's where both types of units have released to the environment..	63 FR 56710, 10/22/98	645(1)(e), 645(1)(e)(i), 645(1)(e)(ii); 610(1)(d), 610(1)(d)(i), 610(1)(d)(ii); 610(3)(a)(ix), 610(3)(b)(ii)(D); 610(8)(b)(iv), 610(8)(d)(ii)(D); 620(1)(d), 620(1)(d)(i), 620(1)(d)(ii); 400(3)(a).
175 [2]	HWIR-Media	63 FR 65874, 11/30/98	040; 071(3)(11) first line, 071(3)(11)(i) through (iii); 280(5); 280(6), 280(6)(a), 280(6)(b), 280(6)(c), 280(6)(d), 280(6)(e), 280(6)(f), 280(6)(g), 280(6)(h), 280(6)(i), 280(6)(j), 280(6)(k); 646(1)(c); 646(4)(a), 646(7)(a), 646(8); 400(2)(a); 140(2)(a); 810(13)(a); 830 Appendix 1, D.3.g.; 830, Appendix 1, N.3.
176	Universal Waste Rule—Technical Amendments.	63 FR 71225, 12/24/98	520(1), 520(2), 520(2)(a), 520(2)(b), 520(2)(c); 040.
177	Organic Air Emission Standards Clarification and Technical Amendments: (AA, BB, CC).	64 FR 3382, 01/21/99	200(1)(b)(i), 200(1)(b)(ii); 690(2); 692(1)(v), 692(2); 400(3), 400(3)(a).

TABLE 1.—EQUIVALENT AND MORE STRINGENT ANALOGUES TO THE FEDERAL REGULATIONS [1]—Continued

Checklist	Federal requirements	Federal Register	Analogous State authority (WAC 173–303–* * *)
178	Petroleum Refining Process Wastes—Leachate Exemption.	64 FR 6806, 02/11/99	071(3)(kk), 071(3)(kk)(i), 071(3)(kk)(ii), 071(3)(kk)(iii), 071(3)(kk)(vi), 071(3)(kk)(v).
179 [2]	Land Disposal Phase IV—Technical Corrections and Clarifications to Treatment Standards.	64 FR 25408, 05/11/99	016(5)(c); 016 Table 1; 017(2)(a)(iii); 201(2); 140(2)(a).
180	Test Procedures for Analysis of Oil and Grease and Non-Polar Material.	64 FR 26315, 05/14/99	110(3)(a), 110(3)(h)(iv).
181 [2]	Universal Waste Rule Specific Provisions for Hazardous Waste Lamps.	64 FR 36466, 07/09/99	040; 077(2), 077(3); 600(3)(o)(ii), 600(3)(o)(iii); 400(2)(c)(xi)(B), 400(2)(c)(xi)(C); 140(2)(a); 800(7)(c)(iii)(B), 800(7)(c)(iii)(C); 573(1)(a)(ii), 573(1)(a)(iii), 573(2)(a)(i), 573(2)(b)(ii), 573(2)(b)(iii), 573(3)(a); 573(5)(a), 573(5)(b), 573(5)(b)(i), 573(5)(b)(ii), 573(5)(c), 573(5)(c)(i), 573(5)(c)(ii), 573(4)(a), 573(4)(a)(i), 573(4)(a)(ii), 573(4)(b), 573(6), 573(9)(c), 573(9)(c)(i), 573(9)(c)(ii), 573(9)(c)(iii), 573(10)(c), 573(17), 573(19)(b)(iv), 573(19)(b)(v), 573(20)(c), 573(20)(c)(i), 573(20)(c)(ii), 573(20)(c)(iii), 573(21)c), 573(28), 573(35)(a), 573(40)(a).
112, 122, 130, 166 (Special Consolidated Checklist [2]).	Recycled Used Oil Management Standards as of June 30, 1999.	57 FR 41566, 09/10/92; 58 FR 26420, 05/03/93; 58 FR 33341, 06/17/93; 59 FR 10550, 03/04/94; 63 FR 24963, 05/06/98; 63 FR 37780, 07/14/98.	040; 515(4); 071(3)(z), 071(3)(kk); 120(3); 120(3)(g), 120(3)(f); 120(2)(v), 120(2)(a)(viii)(A), 120(2)(a)(viii)(B), 120(2)(a)(viii)(C), 120(5); 600(5); 510(1)(b)(i); 515(2), 515(3), 515(4), 515(5), 515(6), 515(6)(c), 515(7), 515(8), 515(9), 515(9)(a), 515(9)(b), 515(10), 515(11), 515(12).

[1] For further discussion on where the revised state rules differ from the Federal rules refer to Section G. below, the authorization revision application, and the administrative record for this proposed rule.

[2] State rule contains some more stringent provisions. For identification of more stringent state provisions refer to the authorization revision application and the administrative record for this decision.

[3] State does not seek authorization for enforceable mechanisms in lieu of post-closure permits.

G. Where Are the Revised State Rules Different From the Federal Rules?

This section discusses some of the differences between the revisions Washington proposed to its authorized program and the Federal regulations. Not all program differences are discussed in this section because Washington writes its own version of the federal hazardous waste rules. This section discusses certain rules where EPA is making a finding that the state program is more stringent and will be authorized, rules where the state program is broader in scope and will not be authorized, and rules where the state program is less stringent than the federal requirements. The state will not be authorized for the less stringent rules. Less stringent state rules do not supplant federal regulations. Persons must consult the table referenced above for the specific state regulations which EPA proposes to authorize.

Certain portions of the federal program are not delegable to the states because of the Federal government's special role in foreign policy matters and because of national concerns that arise with certain decisions. EPA does not delegate import/export functions. Under the RCRA regulations found in 40 CFR part 262 EPA will continue to implement requirements for import/export functions. EPA does not delegate sections of 40 CFR part 268 because of the national concerns that must be examined when decisions are made under the following Federal Land Disposal Restriction requirements: 40 CFR 268.5—Procedures for case-by-case effective date extensions; 40 CFR 268.6—''No migration'' petitions; 40 CFR 268.42(b)—applications for alternate treatment methods; and 40 CFR 268.44(a)-(g)—general treatment standard variances. Washington's program has excluded these requirements from its state regulations and EPA will continue to implement these requirements. EPA will continue to implement these requirements under EPA's HSWA authority. The State is seeking authorization for 40 CFR 268.44(h) through (m), which are provisions for which states may receive authorization.

States are allowed to seek authorization for state requirements that are more stringent than federal requirements. EPA has authority to authorize and enforce those parts of a state's program EPA finds to be more stringent than the federal program. This section does not discuss each more stringent finding made by EPA, but persons can locate such sections by consulting the Table, referenced above, as well as by reviewing the docket for this rule.

The State program does not provide generators with an exemption from the manifest requirements as found in the federal regulations at 40 CFR 262.20(f) or transporters as found at 40 CFR 263.10(f). Generators and transporters in Washington will have to comply with the more stringent state paperwork requirements. The State program is more stringent than the federal program because the State regulations do not allow Remedial Action Plans as found in the federal requirements at 40 CFR part 270, subpart H. The State's program is more stringent than the federal program at 40 CFR 261.5(j) because the State has not adopted this provision. Conditionally exempt small quantity generator hazardous waste mixed with used oil is subject to full regulation as a hazardous waste mixture. The State program is also more stringent than the federal requirements at 40 CFR 273.9 because the State's definition of universal waste does not allow

pesticides to be managed as universal waste.

The State program is more stringent in certain places than the federal military munitions rule. The State did not adopt the alternative requirements for transportation of waste military munitions between military installations as is found in the federal program at 40 CFR 266.203(a)-(c) and is therefore more stringent than the federal program. With respect to chemical agents and chemical munitions slated for destruction pursuant to international treaties or agreements, the State identifies such chemical agents and chemical munitions as characteristic and/or listed hazardous waste. In the Military Munitions Rule, at 62 FR 6633, EPA said that states could be more stringent than the federal program for chemical munitions. EPA finds the State program to be more stringent than the federal program in this area because the State rules do not contain a provision that differentiates between wastes that must be designated and waste chemical munitions or chemical munitions that are not considered wastes because they are scheduled for destruction pursuant to treaty or agreement. The State's regulations at WAC 173–303–693(3)(a) are found to be more stringent than the federal regulation at 40 CFR 264.1202(a) and WAC 173–303–400(3)(b), (c)(xii) is found to be more stringent than the federal regulation at 40 CFR 265.1202(a). EPA also said, at 62 FR 6649 in the Military Munitions Rule, that states did not have to include a conditional exemption for waste munitions storage in their programs. EPA also finds that the State's lack of a conditional exemption for waste munition storage, which is found in the federal regulations at 40 CFR 266.205(d), (d)(2), is more stringent than the federal program. Neither the federal regulations, nor the State program conditionally exempt chemical munitions and chemical agents from storage requirements.

The State is not seeking authorization for the Standards for the Management of Waste Fuel and Used Oil for the Burning of these Materials in Boilers and Industrial Furnaces, 40 CFR 266.102 through 40 CFR 266.111. The State did not adopt these federal provisions as state law. EPA is implementing these BIF requirements in Washington State under EPA's HSWA authority.

States are not allowed to seek authorization for state requirements that are broader in scope than federal requirements. EPA does not have authority to authorize and enforce those parts of a state's program EPA finds to be broader in scope than the federal program. Because the State has not adopted an analog to 40 CFR 261.4(b)(7)—exclusions for solid waste from the extraction, beneficiation, and processing of ores and minerals, the State's lack of an analog for the federal exclusion of mixtures of solid waste and hazardous waste which are hazardous based solely on a hazardous characteristic imparted to the waste as a result of a Bevill characteristic, 40 CFR 261.3(a)(2)(iii), is broader in scope than the federal program. EPA also finds the State's regulation at WAC 173–303–578(2)(e) to be broader in scope than the federal regulation at 40 CFR 266.202(a) because the State added a requirement for when munitions at closed and transferred ranges are considered solid wastes. EPA's final Military Munitions Rule did not include this requirement. This requirement in the State program is found to be broader in scope than the federal program.

Although State programs can be authorized where they are more stringent than the federal program, state programs cannot be authorized where they are less stringent. EPA finds the State's additional regulation at WAC 173–303–515(6) for generators of used oil who self-transport greater than 55 gallons per vehicle trip to a used oil collection center, without also designating as a used oil transporter, are less stringent than the federal provisions which limit generator self-transport of used oil to less than or equal to 55 gallons of used oil per vehicle trip. EPA also finds the State's additional regulation at WAC 171–303–515(7) for used oil collection centers to be less stringent because the regulation allows used oil collection centers to accept greater than 55 gallons of used oil from a generator who self-transports used oil to a used oil collection center. The direct impact of EPA's finding to generators and used oil collection centers in Washington is that generators and used oil collection centers will not be exempted from the State's federally authorized requirements which limit self-transport by generators to less than or equal to 55 gallons and used oil collection from a self-transporting generator to less than or equal to 55 gallons.

States sometimes make changes to their previously authorized programs for which they need to seek reauthorization. In Washington, the Permit by Rule provision at WAC 173–303–802(5) is broader in scope than the federal permit by rule regulations where it applies to state-only wastes. However, the state program is more stringent where the rule applies to federally regulated hazardous wastes generated on-site. The federal regulations at 40 CFR 270.1(c)(2)(iv) and (v) exempt owners and operators of totally enclosed treatment facilities, elementary neutralization units or wastewater treatment units, as defined at 40 CFR 260.10, from RCRA permitting requirements. The State is seeking reauthorization for these changes and will be authorized for the more stringent portion of the rule. The State will not be authorized for the broader in scope provision.

The State is not seeking authorization for the entire Post-Closure rule. While the state will be authorized for the portions of the rule that concern alternative requirements for colocated regulated units and solid waste management units which have commingled releases, the State is not seeking, and will not be authorized for the portions of the rule that allow for the use of alternate authorities in lieu of post closure permits. Although the state did incorporate 40 CFR 265.118(c)(4) by reference into its regulations, the state is not seeking authorization for this provision.

H. Who Handles Permits After This Authorization Takes Effect?

Washington will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits issued by EPA Region 10 prior to final authorization of this revision will continue to be administered by EPA Region 10 until the issuance or re-issuance after modification of a State RCRA permit and until EPA takes action on its permit. HSWA provisions for which the State is not authorized will continue in effect under the EPA-issued permit. EPA will continue to issue permits for HSWA requirements for which Washington is not yet authorized.

I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Washington?

EPA's decision to authorize the Washington hazardous waste program does not include any land that is, or becomes after the date of this authorization, ''Indian Country,'' as defined in 18 U.S.C. 1151, with the exception of the non-trust lands within the exterior boundaries of the Puyallup Indian Reservation (also referred to as the ''1873 Survey Area'' or ''Survey Area'') located in Tacoma, Washington. EPA retains jurisdiction over ''Indian Country'' as defined in 18 U.S.C. 1151.

J. 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 (Public Law 104–4). For the same reason, this action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationships between the Federal government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. 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 28344, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. The proposed rule does not include environmental justice issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

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) 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 proposed 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.*).

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: January 2, 2002.

L. John Iani,

Regional Administrator, Region 10.

[FR Doc. 02–626 Filed 1–14–02; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50640; FRL–6745–7]

RIN 2070–AB27

Proposed Significant New Uses of Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing this significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the following six chemical substances: C.I. Pigment Orange 20 (CAS No. 12656–57–4); Chromic Acid, Lead(2+) Salt (1:1) (CAS No. 7758–97–6); Chromium Lead Molybdenum Oxide (CAS No. 12709–98–7); Lead Molybdenum Oxide (CAS No. 10190–55–3); Sulfuric Acid, Lead(2+) Salt (1:1) (CAS No. 7446–14–2); and C.I. Pigment Red 104 (CAS No. 12656–85–8). This action proposes to require persons who intend to manufacture, import, or process any of these chemical substances for use in aerosol spray paint for non-industrial, indoor spray application to notify EPA at least 90 days before commencing such activities. The required notification would provide EPA with the opportunity to evaluate the intended use, and if necessary, prohibit or limit that activity before it occurs.

DATES: Comments, identified by the docket control number OPPTS–50640, must be received by EPA on or before March 18, 2002.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–50640 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Joe B. Boyd, Chemical Control Division, (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–3563 or (540) 778–4609; e-mail address: boyd.joe@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action, if finalized, if you manufacture, import, or process the chemical substances addressed in this proposed rule. In addition, these are