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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7586-9]

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

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

**ACTION:** Immediate final rule.

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

**DATES:** This Final authorization will become effective on January 13, 2004 unless EPA receives adverse written comment by December 15, 2003. If EPA receives such comment, it will publish a timely withdrawal of this Immediate Final Rule in the **Federal Register** and inform the public that this authorization will not take effect.

**ADDRESSES:** Copies of the Colorado program revision applications and the materials which EPA used in evaluating the revisions are available for inspection and copying at the following locations: EPA Region 8, from 7 AM to 3 PM, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, contact: Kris Shurr, phone number: (303) 312-6139, e-mail: [shurr.kris@epa.gov](mailto:shurr.kris@epa.gov) or CDPHE, from 8 AM to 4 PM, 4300 Cherry Creek Drive South, Denver, Colorado 80222-1530, contact: Randy Perila, phone number (303) 692-3364. Send written comments to Kris Shurr, 8P-HW, U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, phone number:

(303) 312-6139 or electronically to [shurr.kris@epa.gov](mailto:shurr.kris@epa.gov).

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

#### SUPPLEMENTARY INFORMATION:

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

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

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

We conclude that Colorado's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Colorado Final authorization to operate its hazardous waste program with the changes described in the authorization applications. Colorado has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian Country, and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Colorado, including issuing permits, until Colorado is authorized to do so.

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

This decision means that a facility in Colorado 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. Colorado has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

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

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

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

EPA did not publish a proposal before today's rule because we view this as a routine program change. We are providing an opportunity for the public to comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

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

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

If we receive comments that oppose only the authorization of a particular change to the Colorado 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 Colorado Previously Been Authorized for?

Colorado initially received Final authorization on October 19, 1984,

effective November 2, 1984 (49 FR 41036) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on October 24, 1986, effective November 7, 1986 (51 FR 37729); May 15, 1989, effective July 14, 1989 (54 FR 20847); May 10, 1991, effective July 9, 1991 (56 FR 21601); and April 7, 1994, effective June 6, 1994 (59 FR 16568).

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

Colorado submitted a final complete program revision applications on December 31, 2002, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Colorado's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Colorado Final authorization for the following program changes (the Federal Citation followed by the analog from the Code of Colorado Regulations (6 CCR 7007-3), revised through *September 1, 2002*): Delisting [54 FR 27114, 6/27/89] (Checklist 17B.1)/260.22(b); Listing of Spent Pickle Liquor (K062) [52 FR 28697, 8/3/87] (Checklist 26.2)/261.32; Corrective Action for Injection Wells [52 FR 45788, 12/1/87] (Checklist 44C) 265.1(c)(2) and 100.21(b)(3)(i); Identification and Listing of Hazardous Waste; Technical Correction [53 FR 27162, 7/19/88] (Checklist 47)/261.5(e) and 261.5(f)(2); Farmer Exemptions; Technical Corrections [53 FR 27164, 7/19/88] (Checklist 48)/262.10(b), 262.10(d), 264.1(g)(4), 265.1(c)(8), and 100.10(a)(2); Identification and Listing of Hazardous Waste; Treatability Studies Sample Exemption [53 FR 27290, 7/19/88] (Checklist 49)/260.10 and 261.4(e) & (f); Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes Identification and Listing of Hazardous Waste [53 FR 43878, 10/31/88] (Checklist 56)/261.33(f) and Part 261, Appendix VIII; Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the List of Hazardous Wastes [53 FR 43881, 10/31/88] (Checklist 57)/261.33(e) and Part 261, Appendix VIII; Testing & Monitoring Activities [54 FR 40260, 9/29/89] (Checklist 67)/260.11(a) and Part 261, Appendix III; Reportable Quantity Adjustment Methyl Bromide Production Wastes [54 FR 41402, 10/6/89] (Checklist 68)/261.32 and Part 261, Appendices III & VII; Reportable Quantity Adjustment [54 FR 50968, 11/

11/89] (Checklist 69)/261.31 and Part 261, Appendices VII & VIII; Changes to Part 124 Not Accounted for by Present Checklists [48 FR 14146, 4/1/83; 48 FR 30113, 6/30/83; 53 FR 28118, 7/26/88; 53 FR 37396, 9/26/88; and 54 FR 00246, 1/4/89] (Checklist 70)/100.12(a) & (c), 100.500(a), 100.60(a), (c)(1) & (3), & (d), and 100.502(c); Modification of F019 Listing [55 FR 05340, 2/14/90] (Checklist 72)/261.31; Testing & Monitoring Activities; Technical Corrections [55 FR 08948, 3/9/90] (Checklist 73)/260.11(a) and Part 261, Appendix III/Tables 2 & 3; Listing of 1,1-Dimethylhydrazine Production Wastes [55 FR 18496, 5/2/90] (Checklist 75)/261.32 and Part 261, Appendices III & VII; Criteria for Listing Toxic Wastes; Technical Amendment [55 FR 18726, 5/4/90] (Checklist 76)/261.11(a)(3); HSWA Codification Rule, Double Liners; Correction [55 FR 19262, 5/9/90] (Checklist 77)/264.221(c) and 264.301(c); Organic Air Emission Standards for Process Vents & Equipment Leaks [55 FR 25454, 6/21/90] (Checklist 79)/260.11(a), 261.6(c) & (d), 264.13(b)(6), 264.15(b)(4), 264.73(b), 264.77(c) & (d), 264.1030-1079, 265.13(b)(6), 265.15(b)(4), 265.73(b)(3) & (6), 265.77(d) & (e), 265.1030-1079, and 100.41(a) & (b); Toxicity Characteristic; Hydrocarbon Recovery Operations [55 FR 40834, 10/5/90; 56 FR 03978, 2/1/91; and 56 FR 13406, 4/2/91] (Checklists 80, 80.1, and 80.2)/261.4(b)(11); Petroleum Refinery Primary & Secondary Oil/Water/Solids Separation Sludge Listings (F037 & F038) [55 FR 46354, 11/2/90 and 55 FR 51707, 12/17/90] (Checklists 81 & 81.1)/261.31(a) & (b) and Part 261, Appendix VII; Toxicity Characteristic: Chlorofluorocarbon Refrigerants [56 FR 05910, 2/13/91] (Checklist 84)/261.4(b)(12); Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment [56 FR 07567, 2/25/91] (Checklist 86)/261.33(e) and Part 261, Appendix VIII; Organic Air Emission Standards for Process Vents & Equipment Leaks; Technical Amendment [56 FR 19290, 4/26/91] (Checklist 87)/264.1030(a) & (b), 264.1033(f)(3), 264.1035(f)(3), 264.1035(b)(4)(ii), 264.1052(b)(1), 265.13(b)(6), 265.73(b)(3), 265.1030(b), 265.1034(c)(1)(vi), 265.1035(b)(4)(ii), 265.1035(c)(5), 265.1052(e)(3), 265.1064(c), 100.41(b)(11)(iv)(B), and 100.41(b)(12)(v)(B); Administrative Stay for K069 Listing [56 FR 19951, 5/1/91] (Checklist 88)/261.32; Revision to the Petroleum Refining Primary & Secondary Oil/Water/Solids Separation Sludge Listings (F037 & F038) [56 FR 21955, 5/13/91] (Checklist 89)/261.31(e); Exports of Hazardous Waste;

Technical Correction [56 FR 43704, 9/4/91] (Checklist 97)/262.53(b) and 262.56(b); Liners & Leak Detection Systems for Hazardous Waste Land Disposal Units [57 FR 03462, 1/29/92] (Checklist 100)/260.10, 264.15(b)(4), 264.19, 264.73(b)(6), 264.221(c), (d), (f) & (g)-(i), 264.222(a) & (b), 264.223(a)-(c), 264.226(d), 264.228(b), 264.251(c)-(k), 264.252(a) & (b), 264.253(a)-(c), 264.254(c), 264.301(c), (d), & (f)-(k), 264.302(a)-(c), 264.304(a)-(c), 264.310(b), 265.15(b)(4), 265.19(a)-(d), 265.73(b)(6), 265.221(a), (c), (f) & (g), 265.222(a)-(c), 265.224(a)-(c), 265.226(b), 265.228(b), 265.254, 265.255(a)-(c), 265.259(a)-(c), 265.260, 265.301(a), (c) & (f)-(i), 265.302(a)-(d), 265.303(a)-(c), 265.304(a)-(c), 265.310(b), 100.46(a), 100.41(b), and 100.63, Appendix I; Hazardous Debris Case-by-Case Capacity Variance [57 FR 20766, 5/15/92] (Checklist 103)/268.35(e); Used Oil Filter Exclusion [57 FR 21524, 5/20/92] (Checklist 104)/261.4(b)(13); Recycled Coke By-Product Exclusion [57 FR 27880, 6/22/92] (Checklist 105)/261.4(a)(11); Lead-bearing Hazardous Materials Case-by-Case Capacity Variance [57 FR 28628, 6/26/92] (Checklist 106)/268.35(c); Used Oil Filter Exclusion: Technical Corrections [57 FR 29220, 7/1/92] (Checklist 107)/261.4(b)(13); Toxicity Characteristics Revisions; Technical Corrections [57 FR 30657, 7/10/92] (Checklist 108)/261.4(b)(6)(ii), 261.4(b)(9), and 265.301(d)(1); Coke By-Products Listings [57 FR 37284, 8/18/92] (Checklist 110)/261.4(a)(11), 261.32, and Part 261, Appendix VII; Chlorinated Toluene Production Waste Listing [57 FR 47376, 10/15/92] (Checklist 115)/261.32 and Part 261, Appendix VII; Hazardous Soil Case-by-Case Capacity Variance [57 FR 47772, 10/20/92] (Checklist 116)/268.35(c)-(e); Toxicity Characteristic Amendment [57 FR 23062, 6/1/92] (Checklist 117B)/261.3(a)(2)(i); Liquids in Landfills II [57 FR 54452, 11/18/92] (Checklist 118)/264.13(c)(3), 264.314(a), 264.314(c)(1)(ii), 264.314(e), 264.316(b) & (c), 265.13(c)(3), 265.314(a), 265.314(b)(1)(ii), 265.314(f), and 265.316(b) & (c); Toxicity Characteristic Revision; TCLP Correction [57 FR 55114, 11/24/92 & 58 FR 06854, 2/2/93] (Checklists 119 & 119.1)/Part 261, Appendix II; Wood Preserving; Revisions to Listings & Technical Requirements [57 FR 61492, 12/24/92] (Checklist 120)/261.31(a)/table, 264.570(a) & (c), 264.571(a) & (b), 264.572 thru 264.572(b), 264.573(a), (b), & (i), 265.440(a) & (c), 265.441(a) & (b), 265.442 thru (b), and 265.443(a), (b), & (i); Land Disposal Restrictions: Renewal

of the Hazardous Waste Debris Case-by-Case Capacity Variance [58 FR 283506, 5/14/93] (Checklist 123)/268.35(e); Land Disposal Restrictions for Ignitable & Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated [58 FR 29860, 5/24/93] (Checklist 124)/264.1(g)(6), 265.1(c)(10), 268.1(e)(4) & (5), 268.2(i), 268.7(a) & (b), 268.9(a), 268.37(a) & (b), 268.40(b), 268.41(a)/table CCWE, 268.42(a)/table 2, 268.43(a)/table CCW, and 100.64, Appendix I; Testing & Monitoring Activities [58 FR 46040, 8/31/93 and 59 FR 47980, 9/19/94] (Checklists 126 and 126.1)/260.11(a), 260.22(d)(1)(i), 261.22(a), 261.24(a), Part 261, Appendices II, III, & X, 264.190(a), 264.314(d), 265.190(a), 265.314(d), 268.7(a), 268.40(a), 268.41(a), Part 268, Appendices I & IX, 100.47(a), 100.41(b)(5)(iii)(3) & (4), and 100.22(c)(2)(ii)(A)(3) & (4); Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection [59 FR 00458, 1/4/94] (Checklist 128)/260.11(a) and Part 261, Appendix VIII; Revision of Conditional Exemption for Small Scale Treatability Studies [59 FR 08362, 2/18/94] (Checklist 129)/261.4(e)(2) & (3), and 261.4(f)(3), (4), & (6); Recordkeeping Instructions: Technical Amendment [59 FR 13891, 3/24/94] (Checklist 131)/Part 264, Appendix I/tables 1 & 2 and Part 265, Appendix I/table 1 & 2; Wood Surface Protection; Correction [59 FR 28484, 6/2/94] (Checklist 132)/260.11(a); Letter of Credit Revision [59 FR 29958, 6/10/94] (Checklist 133)/266.18(e) & (l); Correction of Beryllium Powder (P015) Listing [59 FR 31551, 6/20/94] (Checklist 134)/261.33(e), Part 261, Appendix VIII, 268.42(a)/table 2, 261.3(c)(2)(ii)(B), 261.4(a)(13), 261.6(a)(3)(iii), (v) & (vi), and 267.30(b)(2); Recovered Oil Exclusion [59 FR 38536, 7/28/94] (Checklist 135)/261.3(c)(2)(ii)(B), 261.4(a)(13), 261.6(a)(3)(iv)–(vi), and 267.30(b)(2); Universal Treatment Standards & Treatment Standards for Organic Toxicity Characteristic Wastes & Newly Listed Wastes [59 FR 47982, 9/19/94 and 60 FR 00242, 3/3/95] (Checklists 137 & 137.1)/260.30 intro & (b), 260.31(a) & (b), 260.32 intro, 260.33 intro–(b), 261.2(e)(1)(iii), 264.1(g)(6), 265.1(c)(10), 267.23(a), 268.1(e)(4) & (6), 268.2(g) & (i), 268.7(a), 268.7(b)(4)(ii) & (5)(iv), 268.7(d) & (d)(1), 268.9(a), 268.9(d), 268.38(a)–(e), 268.40(a)–(f), 268.40/table, 268.41 & table CCWE, 268.42, 268.42(a), 268.42(a)/tables 1–3, 268.42(c)(2), 268.42(d), 268.43, 268.43/table CCW, 268.45(b)(2), 268.46, 268.48(a), 268.48/table UTS, and Part 268 Appendix IV, V, & X; Testing & Monitoring Activities Amendment I [60 FR 03089, 1/13/95] (Checklist 139)/260.11(a); Carbamate Production Identification & Listing of Hazardous Waste [60 FR 07824, 2/9/95; 60 FR 19165, 4/17/95; and 60 FR 25619, 5/12/95] (Checklists 140–140.2)/261.3(a)(2)(iv)(E)–(G), 261.3(c)(2)(ii)(D), 261.32, 261.33(e) & (f), and Part 261, Appendix VII & VIII; Testing & Monitoring Activities Amendment II [60 FR 17001, 4/4/95] (Checklist 141)/260.11(a); Universal Waste: General Provisions [60 FR 25492, 5/11/95] (Checklist 142A)/260.10, 261.5(c), (f) & (g), 261.9, 262.10(b)–(g), 262.11(d), 264.1(g)(11), 265.1(c)(14), 268.1(f), 100.10(a)(14), 273.1(a) & (b), 273.5(a) & (b), 273.6, 273.10–273.12, 273.15–273.20, 273.30–273.32, 273.34–273.40, 273.50–273.56, 273.60–273.62, and 273.70; Universal Waste Rules: Specific Provisions for Batteries [60 FR 25492, 5/11/95] (Checklist 142B)/260.10, 261.6(a)(3)(ii)–(vi), 261.9(a), 264.1(g)(11)(i), 265.1(c)(14)(i), 267.80(a) & (b), 268.1(f)(1), 100.10(a)(14)(i), 273.1(a), 273.6, 273.13 & 273.14, and 273.33 & 273.34; Universal Waste Rules: Specific Provisions for Pesticides [60 FR 25492, 5/11/95] (Checklist 142C)/260.10, 261.9(b), 264.1(g)(11)(ii), 265.1(c)(14)(ii), 268.1(f)(2), 100.10(a)(14)(ii), 273.1(a)(2), 273.2(b), 273.6, 273.13(b) & 273.14(b) & (c), 272.32(a)(1) & (3), 273.33(b), and 273.34(b) & (c); Universal Waste Rules: Specific Provisions for Thermostats [60 FR 25492, 5/11/95] (Checklist 142D)/260.10, 261.9(c), 264.1(g)(11)(iii), 265.1(c)(14)(iii), 268.1(f)(3), 100.10(a)(14)(iii), 273.1(a)(3), 273.2(c), 273.6, 273.13(c), 273.14(d), 273.33(c), and 273.34(d); Liquids in Landfills III [60 FR 35703, 7/11/95] (Checklist 145)/264.314(e)(2)(ii) & (iii) and 265.314(f)(2)(ii) & (iii); Amendments to the Definition of Solid Waste; Amendment II [61 FR 13103, 3/26/96] (Checklist 150)/261.4(a)(13); Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers [59 FR 62896, 12/6/94; 60 FR 26828, 5/19/95; 60 FR 50426, 9/29/95; 60 FR 56952, 11/13/95; 61 FR 04903, 2/9/96; 61 FR 28508, 6/5/96; 61 FR 59932, 11/25/96] (Checklists 154 thru 154.6)/260.11, 261.6(c)(1), 262.34(a)(1)(i) & (ii), 262.34(d)(2), 264.13(b), 264.15(b)(4), 264.73(b)(3) & (6), 264.77(c), 264.179, 264.200, 264.232, 264.601, 264.1030(b) & note, 264.1033(a)(2), 264.1033(f)(2)(vi)(B), 264.1033(k)–(o), 264.1034(b), 264.1035(c)(9) & (10), 264.1035(d), 264.1050(b), (f) & note, 264.1055(a)–(c), 264.1058(e), 264.1064(g)(6), 264.1080(a)–(d), 264.1081, 264.1082(a)–(d), 264.1083(a)–(g), 264.1084(a)–(l), 264.1085(a)–(g), 264.1086(a)–(h), 264.1087(a)–(c), 264.1088(a) & (b), 264.1089(a)–(i), 264.1090(a)–(d), 264.1091, 265.1(b), 265.13(b)(6) & (8), 265.15(b)(4), 265.73(b)(3) & (6), 265.77, 265.178, 265.202, 265.232, 265.1030(b) & note, 265.1033(a)(2), 265.1033(f)(2)(vi)(B), 264.1033(j)–(n), 265.1034(b), 264.1035(c)(3), (9) & (10), 265.1035(d), 265.1050(b), (e) & note, 265.1055(a)–(c), 265.1058(e), 265.1064(g)(6), 265.1080(a)–(d), 265.1081, 265.1082(a)–(c), 265.1083(a)–(d), 265.1084(a)–(d), 265.1085(a)–(l), 265.1086(a)–(g), 265.1087(a)–(h), 265.1088(a)–(c), 265.1089(a) & (b), 265.1090(a)–(j), 265.1091, Part 265, Appendix VI, 100.46(a)(2)–(4), 100.41(a)(5), 100.41(b)(1)(v), 100.41(b)(2)(xi), 100.41(b)(3)(x), and 100.41(b)(13)(i); Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance [62 FR 01992, 1/14/97] (Checklist 155)/268.39(c); 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, 5/12/97] (Checklist 157)/261.1(c)(9)–(12), 261.2(c)/table 1, 261.4(a)(14) & (15), 261.6(a)(3)(ii), 268.1(e) intro–(e)(4), 268.4(a)(2)(iv), 268.4(a)(4), 268.7(a)–(c), 268.9(d)(1)(ii), 268.30(a)–(e), 268.32–268.36, 268.40/table of treatment standards, 268.42/table 1, 268.44(o), and Part 268, Appendices I, II, III, VI, VII, VIII, & X; Testing & Monitoring Activities Amendment III [62 FR 32452, 6/13/97] (Checklist 158)/260.11(a), 264.1034(d)(1)(iii), 264.1034(f), 264.1063(d)(2), Part 264, Appendix IX, footnote 5, 265.1034(d)(1)(iii), 265.1034(f), and 265.1063(d)(2); Conformance with the Carbamate Vacatur [62 FR 32974, 6/17/97] (Checklist 159)/261.32/table, 261.33(f), Part 261, Appendices VII and VIII, 268.39(a) & (d), and 268.40/table; Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance, Amendment [62 FR 37694, 7/14/97] (Checklist 160)/268.39(c); Emergency Revision of the Carbamate Land Disposal Restrictions [62 FR 45568, 8/28/97] (Checklist 161)/268.40(g) and 268.48(a)/table; Consolidated Checklist for the Wood Preserving Listings as of June 30, 1992 [55 FR 50450, 12/6/90; 56 FR 27332, 6/13/91; 56 FR 30192, 7/1/91; 57 FR 05859, 2/18/92] (Checklists 82, 91, 92, and 101)/260.10, 261.4(a)(10), 261.31(a), 261.35(a)–(c), Part 261,

Appendix III/table 1, Part 261, Appendices VII & VIII, 262.34(a)(1) & (2), 264.190, 264.190(d), 264.570(a) & (b), 264.571(a)–(d), 264.572, 264.573(a)–(o), 264.574(a) & (b), 264.575(a)–(c), 265.190, 265.190(d), 265.440(a) & (b), 265.441(a)–(d), 265.442, 265.443(a)–(m) & (o), 265.444(a) & (b), 265.445(a)–(c), and 100.41(b)(9); Consolidated Checklist for the Recycled Used Oil Management Standards as of June 30, 1994 [57 FR 41566, 9/10/92; 58 FR 26420, 5/3/93; 58 FR 33341, 6/17/93; 59 FR 10550, 3/4/94] (Checklists 112, 122, 122.1, and 130)/260.10, 261.3(a)(2)(v)–(v)(B), 261.4(b)(13) & (14), 261.5(j), 261.6(a)(2)(iii) & (iv), 261.6(a)(3)(iii)–(iv), (vii) & (ix), 261.6(a)(4), 264.1(g)(2), 265.1(c)(6), Part 267, subpart E, 267.30(b)(1), and Chapter 279; Sharing of Information with the Agency for Toxic Substances and Disease Registry [Statutory Provision, 7/15/85] (Non-checklist SI)/C.R.S. 25–15–307, C.R.S. 25–1–122(4), C.R.S. 24–72–201, and 6 CCR 1007–3, Part 2.

We also grant Colorado Final authorization for the following program changes (the Federal Citation followed by the analog from the Code of Colorado Regulations (6 CCR 7007–3), revised through *September 30, 2003*): Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations [56 FR 66365, 12/23/91] (Checklist 99)/260.10 and 265.91(a); Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards & Exclusions [63 FR 28556, 5/26/98] (Checklist 167B)/268.2(k), 268.7(a), (b), & (e), 268.44(h)(3)–(5), and 268.49; Mineral Processing Secondary Materials Exclusion [63 FR 28556, 5/26/98] (Checklist 167D)/261.2(c)(3), 261.2(c)(4)/table, 261.2(e)(1)(iii), and 261.4(a)(17); Bevill Exclusion Revisions & Clarifications [63 FR 28556, 5/26/98] (Checklist 167E)/261.3(a)(2)(i) & (iii) and 261.4(b)(7) intro–(iii); Exclusion of Recycled Wood Preserving Wastewaters [63 FR 28556, 5/26/98] (Checklist 167F)/261.4(a)(10)(iii)–(iii)(E); Petroleum Refining Process Wastes [63 FR 42110, 8/6/98 & 63 FR 54356, 10/9/98] (Checklists 169 & 169.1)/261.3(a)(2)(iv)(C), 261.3(c)(2)(ii)(B) & (E), 261.4(a)(13)(i) & (ii), 261.4(a)(18) & (19), 261.6(a)(3)(iv)(C), 261.6(a)(3)(v), 261.31(a), 261.32, Part 261, Appendix VII, 268.35(a)–(c), and 268.40/table Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production [63 FR 47410, 09/04/98] (Checklist 171)/268.40(g), 268.40(j), 268.40/table, and 268.48(a)/table; Land Disposal

Restrictions—Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088)—Final Rule [63 FR 51254, 9/24/98] (Checklist 173)/268.39(c) and 268.40/table; Post-Closure Permit Requirement & Closure Process [63FR 56710, 10/22/98] (Checklist 174)/264.90(e) & (f)–(f)(2), 264.110(c), 264.112(b)(8), 264.112(c)(2)(iv), 264.118(b)(4), 264.118(d)(2)(iv) & (d)(2), 265.90(f), 265.110(c) & (d), 265.112(b)(8), 265.112(c)(1)(iv), 265.118(c)(4) & (5), 265.118(d)(1)(iii), 265.121(a) & (b), 100.10 intro & (d) [includes “state-initiated” changes that have been determined to be equivalent], and 100.41 intro & (b)(14); HWIR-Media [63 FR 65874, 11/30/98] (Checklist 175)/260.10 intro, “CAMU”, “facility”, “miscellaneous unit”, “remediation waste”, “remediation waste management site”, “staging pile”, 261.4(g), 264.1(j), 264.73(b)(17), 264.101(d), 264.552(a), 264.553(a), 264.554(c) intro–(m), 265.1(b), 268.2(c), 268.50(g), 260.10, 100.12(d)(1) & (2), 100.63, Appendix I, 100.20(c)(1), 100.27, 100.27(a)–(f); Universal Waste Rule—Technical Amendments [63 FR 71225, 12/24/98] (Checklist 176)/267.80(a) & table, 267.80(b), and 273.9 “small quantity handler of universal waste”; Petroleum Refining Process Wastes—Leachate Exemption [64 FR 06806, 2/11/99] (Checklist 178)/261.4(b)(15); Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards [64 FR 25408, 05/11/99] (Checklist 179)/261.2(c)(3), 261.2(c)(4)/table, 261.2(e)(1)(iii), 261.4(a)(16) (1st Paragraph), 261.4(a)(17) intro & (v), 261.4(b)(7)(iii) & (iii)(A), 262.34(d)(4), 268.2(h) & (k), 268.7(a)(4)/table, 268.7(b)(3)(iii)/table, 268.7(b)(4)(iv), 268.9(d)(2) intro, 268.9(d)(2)(i), 268.40(j), 268.40/table, 268.48(a)/table, 268.49(c)(3) intro–(ii); Test Procedures for the Analysis of Oil & Grease and Non-Polar Material [64 FR 26315, 05/14/99] (Checklist 180)/260.11(a)(11) & (16); Land Disposal Restrictions Phase IV—Technical Corrections [64 FR 56469, 10/20/99] (Checklist 183)/261.32, 262.34(a)(4), 268.7(a)(3)(iii), 268.40(j), and 268.40/table; Accumulation Time for Waste Water Treatment Sludges [65 FR 12378, 03/08/2000] (Checklist 184)/262.34(a)(4) and 262.34(h)–(j); Petroleum Refining Process Wastes—Clarification [64 FR 36365, 06/08/00] (Checklist 187)/261.31(a)/table and Part 268, Appendix VII; and Exceptions to the Burning and Blending of Hazardous Waste [Statutory Provision, 11/8/84] (Non-Checklist BB)/261.4(a)(13)(i) & (ii).

The following rules/checklists were previously approved, but were inadvertently omitted from the **Federal Register** publications as noted (the Federal Citation followed by the analog from the Code of Colorado Regulations (6 CCR 7007–3): Permit Rules; Settlement Agreement [48 FR 39611, 9/1/83] (Checklist 2)/100.12(c)(1) & (3), 100.12(d), and 100.42(d); Interim Status Standards; Applicability [48 FR 52718, 11/22/83] (Checklist 3)/265.1(b); National Uniform Manifest [49 FR 10490, 3/20/84] (Checklist 5)/260.10, 260.20(a), 260.21, 262.50(b)(3) & (4), 262.50(d) & (e), Part 262, Appendix; Permit Rules; Settlement Agreement [49 FR 17716, 4/24/84] (Checklist 6)/no State analog; Definition of Solid Waste Corrections 1 & 2 [50 FR 14216, 4/11/85 and 50 FR 33541, 8/20/85] (Checklist 13.1 & 13.2)/260.30(a), 261.2(c)(1) & (2), 261.3(c)(2), 261.4(a)(8), 261.5(c), 261.6(c), 267.30(b), and 267.80(a) & (b); Listing of Spent Solvents Correction 1 [51 FR 02702, 1/21/86] (Checklist 20.1)/261.31; and Listing of Spent Pickle Liquor (K062) Correction 1 [51 FR 33612, 9/22/86] (Checklist 26.1)/261.32 were omitted from 54 FR 20847, 5/15/89, *authorization effective July 14, 1989*. Amendments to Part B Information Requirements Land Disposal Facilities, Correction 1 [52 FR 33936, 9/9/87] (Checklist 38.1) was omitted from 56 FR 21601, 5/10/91, *authorization effective July 9, 1991*.

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

Colorado has requirements that are more stringent than the Federal rules at (references are to the Code of Colorado Regulations, except where there is no State analog. Then the reference is to the Federal citation): 100.27(d)(5)(ii), 100.27(f)(1)(iv)(C), 100.60(d); 261.4(f)(1), (5), (8)(i), (10)(viii), (13), & (14); 261.5(f)(3) intro–(iv); 261.5(g)(3) intro–(iv); 264.113(e)(5); 264.251(g)–(k); 264.301(g)–(k); 264.314(a); 264.552(a)(3); 264.573(a)(5), 264.573(b)(2)(iii); 264.573(m) & (m)(1); 265.77(e); 265.113(e)(5); 265.221(g); 265.314(a); 265.443(b)(2)(iii); 265.443(m) & (m)(1); 268.1(c)(3)(ii) & (iii) (no State analogs); 268.39(c), 270.70(b) (no State analog); and 273.32(a) & (a)(2) (no State analogs); Colorado is broader-in-scope than the Federal rules at: 261.32 (K140) and 268.40/table (K140 & U408).

Colorado is in the process of adopting the Federal regulations regarding Boilers & Industrial Furnaces (BIFs). Until the State is authorized for BIF regulations, some of the above approved rules do not include references to these type of facilities at this time.

In the State regulations entry for K088, at the 268.40 Table, the spelling for Acenaphthene is incorrect. The entry for the CAS Number for K111 should be "121-1-2". Colorado is aware of these errors and will correct both in its next rulemaking. We are authorizing the State for the correct spelling and CAS Number.

The entry in the sixth column for K156, Acetonitrile, in the Federal 268.40 Table should be "38 mg/kg" rather than "1.8 mg/kg". Colorado has made the correction in the State 268.40 Table.

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

Colorado will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization until Colorado has equivalent instruments in place. We will not issue any new permits or new portions of permits for the provisions listed in Item G after the effective date of this authorization. EPA previously suspended issuance of permits for other provisions on the effective date of Colorado's Final Authorization for the RCRA base program and each of the revisions listed in Item F. EPA will continue to implement and issue permits for HSWA requirements for which Colorado is not yet authorized.

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

Colorado is not authorized to carry out its RCRA program in "Indian country" as defined in 18 U.S.C. 1151. This includes: (1) Lands within the exterior boundaries of the following Indian reservations located within or abutting the State of Colorado, (a) Southern Ute Indian Reservation and (b) Ute Mountain Ute Indian Reservation; (2) any land held in trust by the United States for an Indian tribe, and (3) any other areas which are "Indian country" within the meaning of 18 U.S.C. 1151.

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

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart G for the

codification of Colorado's updated program until a later date.

#### **L. Administrative Requirements**

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the

requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective January 13, 2004.

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

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

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

Dated: November 5, 2003.

**Robert E. Roberts,**

*Regional Administrator, Region VIII.*

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