

planned. For further information, please see the direct final action.

Dated: October 12, 2006.

Alexis Strauss,

Acting Regional Administrator, Region IX.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-8237-8]

#### Idaho: Proposed Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Proposed rule.

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

**DATES:** Comments on this proposed rule must be received by December 11, 2006.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-RCRA-2006-0830 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- E-mail: [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov).

- Mail: Jeff Hunt, U.S. Environmental Protection Agency Region 10, Office of Air, Waste & Toxics (AWT-122) 1200 Sixth Avenue, Seattle, WA 98101.

**Instructions:** Direct your comments to Docket ID No. EPA-R10-RCRA-2006-0830. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail

comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If 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:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy during normal business hours at the U.S. Environmental Protection Agency Region 10, Office of Air, Waste & Toxics, 1200 Sixth Ave, Seattle, Washington, contact: Jeff Hunt, phone number: (206) 553-0256; or Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho, contact: John Brueck, phone number: (208) 373-0458.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt, U.S. Environmental Protection Agency Region 10, Office of Air, Waste & Toxics (AWT-122), 1200 Sixth Ave, Seattle, Washington 98101, phone number: (206) 553-0256, e-mail: [hunt.jeff@epa.gov](mailto:hunt.jeff@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?

EPA has preliminarily determined that Idaho's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are proposing to grant Idaho final authorization to operate its hazardous waste program with the changes described in the authorization application. Idaho will have 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 Idaho, including issuing permits, until the State is granted authorization to do so.

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

If Idaho is authorized for these changes, a facility in Idaho subject to RCRA will have to comply with the authorized State requirements in lieu of the corresponding Federal requirements in order to comply with RCRA. Additionally, such persons will have to comply with any applicable Federal requirements, such as, for example, HSWA regulations issued by EPA for which the State has not received authorization, and RCRA requirements that are not supplanted by authorized State-issued requirements. Idaho continues to have enforcement responsibilities under its State hazardous waste management program for violations of this program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, the authority to:

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

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

#### **D. What Happens If EPA Receives Comments on This Action?**

If EPA receives comments on this action, 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 Idaho Previously Been Authorized for?**

Idaho initially received final authorization on March 26, 1990, effective April 9, 1990 (55 FR 11015) to implement the RCRA hazardous waste management program. EPA granted authorization for changes to Idaho's authorized program on April 6, 1992, effective June 5, 1992 (57 FR 11580); June 11, 1992, effective August 10, 1992 (57 FR 24757); April 12, 1995, effective June 11, 1995 (60 FR 18549); October 21, 1998, effective January 19, 1999 (63 FR 56086); July 1, 2001, effective July 1, 2001 (67 FR 44069); March 10, 2004, effective March 10, 2004 (69 FR 11322); and July 22, 2005, effective July 22, 2005 (70 FR 42273).

#### **F. What Changes Are We Proposing?**

On June 16, 2006, Idaho submitted a program revision application seeking authorization for all delegable Federal hazardous waste regulations codified as of July 1, 2005, incorporated by reference in IDAPA 58.01.05.(002)–(016). With the exception of the non-delegable provisions described below, we have preliminarily determined that Idaho's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization.

In reviewing the authorization package, EPA discovered that Idaho inadvertently incorporated by reference sections of the Federal rule "Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System; Final Rule" (March 4, 2005, 70 FR 10776) related to the national registry for printing and distribution of hazardous waste manifest forms as described in 40 CFR 262.21 and associated references in 40 CFR 262.54(e), 262.60, 264.71(a)(3), and 265.71(a)(3). In an Addendum to the Revised Attorney General's Statement dated September 29, 2006, Idaho clarified that it is not seeking

authorization for these non-delegable provisions and intends to amend its regulations to remove these provisions. EPA will retain direct authority for implementation of all non-delegable provisions, and Idaho has agreed to refer all applicants seeking approval of manifest forms to the EPA Office of Solid Waste as described in the rule.

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

Idaho will continue to issue permits for all the provisions for which it is authorized and administer the permits it issues. If EPA issued permits prior to authorizing Idaho for these revisions, these permits would continue in force until the effective date of the State's issuance or denial of a State hazardous waste permit, at which time EPA would modify the existing EPA permit to expire at an earlier date, terminate the existing EPA permit for cause, or allow the existing EPA permit to otherwise expire by its terms, except for those facilities located in Indian Country. EPA will not issue new permits or new portions of permits for provisions for which Idaho is authorized after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Idaho is not yet authorized.

#### **H. What Is Codification and Is EPA Codifying Idaho'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. This is done by referencing the authorized State rules in 40 CFR Part 272. Through codification actions dated December 6, 1990 (55 FR 50327); June 11, 1992 (57 FR 24757); June 25, 1999 (64 FR 34180); March 8, 2005 (70 FR 11132); and April 20, 2006 (71 FR 20341), EPA codified at 40 CFR Part 272, Subpart N all previous authorization actions for the State of Idaho program. EPA is reserving the amendment of 40 CFR Part 272, Subpart N for codification of this current revision to Idaho's program to a later date.

#### **I. How Would Authorizing Idaho for These Revisions Affect Indian Country (18 U.S.C. 1151) in Idaho?**

Idaho is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. Indian country includes:

1. All lands within the exterior boundaries of Indian reservations within or abutting the State of Idaho;

2. Any land held in trust by the U.S. for an Indian tribe; and

3. Any other land, whether on or off an Indian reservation, that qualifies as Indian country.

Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program on these lands.

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

This proposed rule seeks to revise the State of Idaho's authorized hazardous waste program pursuant to section 3006 of RCRA and imposes no requirements other than those currently imposed by State law. This rule complies with applicable executive orders and statutory provisions as follows:

##### *1. Executive Order 12866*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant," and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. It has been determined that this proposed rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

##### *2. Paperwork Reduction Act*

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this proposed rule does not establish or modify any information or recordkeeping requirements for the regulated community and only seeks to authorize the pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law.

Burden means the total time, effort, or financial resources expended by persons

to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing, and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR Part 9.

### 3. Regulatory Flexibility

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business defined by the Small Business Administration's size regulations at 13 CFR Part 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. EPA has determined that this action will not have a significant economic impact on small entities because the proposed rule will only have the effect of authorizing pre-existing requirements under State law and imposes no additional requirements beyond those imposed by State law. After considering the economic impacts of today's rule, I certify that this action will not have a significant economic impact on a substantial number of small entities.

### 4. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104-4) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the rule an explanation why the alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. It imposes no new enforceable duty on any State, local, or tribal governments or the private sector. Similarly, EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small government entities. Thus, today's rule is not subject to the requirements of sections 202 and 203 of the UMRA.

### 5. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure

"meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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 various levels of government." This rule does not have federalism implications. It 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 various levels of government, as specified in Executive Order 13132. This rule seeks authorization of pre-existing State rules. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (59 FR 22951, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This rule does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045 applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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

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" as defined under Executive Order 12866.

**9. National Technology Transfer and Advancement Act**

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub. L. 104-113, 12(d) (15 U.S.C. 272), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not involve "technical standards" as defined by the NTTAA. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. Because this rule proposes authorization of pre-existing State rules and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

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

Environmental protection, Administrative practice and procedure, Confidential business information,

Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This proposed 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: October 18, 2006.

**Ronald A. Kreizenbeck,**

Acting Regional Administrator, EPA Region 10.

[FR Doc. E6-18486 Filed 11-8-06; 8:45 am]

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**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Part 235**

**RIN 0750-AF45**

**Defense Federal Acquisition Regulation Supplement; Contracting Methods and Contract Type (DFARS Case 2006-D018)**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to add an exception to the requirement for a written determination before using a fixed-price type contract for a development program effort. The exception would apply to contracts for systems integration of commercial off-the-shelf information technology products under the DoD Enterprise Software Initiative.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before January 8, 2007, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2006-D018, using any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2006-D018 in the subject line of the message.
- Fax: (703) 602-0350.
- Mail: Defense Acquisition Regulations System, Attn: Mr. Mark Gomersall, OUSD (AT&L) DPAP (DARS), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062.

- Hand Delivery/Courier: Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Mr. Mark Gomersall, (703) 602-0302.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

This proposed rule amends DFARS 235.006 to add an exception to the requirement for a written determination before using a fixed-price type contract for a development program effort. The exception would apply to contracts for systems integration of commercial off-the-shelf information technology products under the DoD Enterprise Software Initiative. The Enterprise Software Initiative, addressed in DFARS Subpart 208.74, promotes the use of enterprise software agreements with contractors that allow DoD to obtain favorable terms and pricing for commercial software and related services.

**B. Regulatory Flexibility Act**

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule relates to requirements for a written determination that is prepared and executed by the Government. The rule makes no significant change to DoD policy regarding the use of fixed-price contracts for development effort. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2006-D018.

**C. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply, because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*