

Agency Region 10, Office of Waste and Chemicals (WCM-122), 1200 Sixth Ave, Seattle, Washington 98101, phone number: (206) 553-0256.

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 Preliminary 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 federally-issued 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 such 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 That Oppose This Action?

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

E. 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 their 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), and July 1, 2001, effective July 1, 2001 (67 FR 44069).

F. What Changes Are We Proposing?

On June 6, 2003, Idaho submitted a complete program revision application, seeking authorization for all delegable federal hazardous waste regulations codified as of July 1, 2001, as incorporated by reference in IDAPA 58.01.05.(002)-(016) and 58.01.05.997, except specific portions of the post closure rule noted in the paragraphs below ¹. We have preliminarily

determined that Idaho's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization, and EPA is proposing to authorize the state's changes.

In this program revision application, Idaho is seeking partial authorization of the Post Closure Rule promulgated on October 22, 1998 (63 FR 56710). Idaho is not seeking authorization for 40 CFR 270.1(c)(7), Enforceable documents for post-closure care, 40 CFR 265.121 Post-closure requirements for facilities that obtain enforceable documents in lieu of post-closure permits, 40 CFR 265.110(c), and 40 CFR 265.118(c)(4). These provisions are described in the rule preamble at 63 FR 56712 section a. Post-closure care under alternatives to permits. Idaho is seeking authorization for 40 CFR 264.90(f), 264.110(c), 264.140(d), 265.90(f), 265.110(d), and 265.140(d), as described in the rule preamble at 63 FR 56713, b. Remediation requirements for land-based units with releases to the environment. Idaho is also seeking authorization of 40 CFR 270.28, as described in the rule preamble at 63 FR 56713, c. Post-closure permit information submission requirements.

Idaho is seeking authorization for 40 CFR 264.90(e), 264.90(f), 264.110(c), 264.112(b)(8), 264.112(c)(2)(iv), 264.118(b)(4), 264.118(d)(2)(iv), 264.140(d), 265.90(f), 265.110(d), 265.112(b)(8), 265.118(c)(5), 265.140(d), 270.1(c) introduction, and 270.28, except where those sections reference the use of enforceable documents. Idaho does not seek authorization for language in those sections which states as follows: “* * * or in an enforceable document (as defined in 270.1(c)(7).”

G. Who Handles Permits After the Authorization Takes Effect?

Idaho will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits issued by EPA prior to EPA authorizing Idaho for these revisions will continue in force until the effective date of the State's issuance or denial of a State RCRA permit, or until the permit otherwise expires or is revoked. However, EPA will administer any RCRA hazardous waste permits or portions of permits which EPA issued prior to the effective date of this authorization and until such time as Idaho's is effective and EPA's has expired. EPA will not issue any more

¹ Sections are 40 CFR part 262, subparts, E, F, & H; 40 CFR 268.5; 40 CFR 268.42(b); 40 CFR 268.44(a)-(g); and 40 CFR 268.6. Authority for implementing the provisions contained in these sections remains with EPA.

¹ Sections of the Federal hazardous waste program are not delegable to the states. These