

(a) All references to "Sec. 2-7-104" are corrected to "Sec. 2-2-104";

(b) Specific to Checklist 151 (Item 4), the second reference to "2-7-106" is corrected to "2-7-107A(10)" the corresponding effective date of "July 1, 1994" is corrected to "July 1, 1993".

2. March 29, 2000 (65 FR 16258) authorization notice:

(a) Specific to Checklist 154 (item 2) and Checklist 159 (item 7), the references to "2-2104" are corrected to "Sec. 2-2-104";

3. January 2, 2001 (66 FR 28) authorization notice:

(a) Specific to Checklist 166 (Item 1), the reference to "2-2-106" is corrected to "2-7-106".

## II. Incorporation By Reference

### A. What Is Codification?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste management program into the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize state hazardous waste management programs to operate in lieu of the federal hazardous waste management regulatory program. EPA codifies its authorization of the state programs in 40 CFR part 272 and incorporates by reference state statutes and regulations that EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of state authorized programs in the Code of Federal Regulations should substantially enhance the public's ability to discern the current status of the authorized state program and state requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each state.

### B. What Is the History of the Authorization and Codification of Oklahoma's Hazardous Waste Management Program?

Oklahoma received final authorization to implement its Base Hazardous Waste Management program, effective January 10, 1985, (49 FR 50362). Subsequently, the EPA approved additional program revision applications effective on June 18, 1990 (55 FR 14280), November 27, 1990 (55 FR 39274), June 3, 1991 (56 FR 13411), November 19, 1991 (56 FR 47675), November 29, 1993 (58 FR 50854), December 21, 1994 (59 FR 51116), April 27, 1995 (60 FR 2699), March 14, 1997 (62 FR 12100), July 14, 1998 (63 FR

23673) and November 23, 1998 (63 FR 50528). The EPA incorporated by reference Oklahoma's then authorized hazardous waste program effective December 13, 1993 (58 FR 52679), July 14, 1998 (63 FR 23673) and October 25, 1999 (64 FR 46567). Effective February 8, 1999 (63 FR 67800), May 30, 2000 (65 FR 16528), July 10, 2000 (65 FR 29981), and March 5, 2001 (66 FR 28), EPA granted authorization to Oklahoma for additional program revisions. In this document, EPA is approving a change to the Oklahoma regulations at OKLA. ADMIN. CODE section 252:205-7-4, which makes it clear that transporters are prohibited from mixing or combining incompatible hazardous waste within a common container.

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

The purpose of today's **Federal Register** document is to codify Oklahoma's base hazardous waste management program and its revisions to that program. EPA provided notices and opportunity for comments on the agency's decisions to authorize the Oklahoma program. EPA is not now reopening the decisions, nor requesting comments, on the Oklahoma authorizations as published in the **Federal Register** notices specified in Section B of this document.

This document incorporates by reference Oklahoma's hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and federally enforceable program. By codifying Oklahoma's authorized program and by amending the Code of Federal Regulations, the public will be more easily able to discern the status of federally approved requirements of the Oklahoma hazardous waste management program.

The EPA is incorporating by reference the Oklahoma authorized hazardous waste program in subpart LL of 40 CFR part 272. 40 CFR 272.1851 incorporates by reference Oklahoma's authorized hazardous waste statutes and regulations. Section 272.1851 also references the statutory provisions (including procedural and enforcement provisions) which provide the legal basis for the state's implementation of the hazardous waste management program, the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are approved as part of the hazardous waste management program under Subtitle C of RCRA.

### D. What Is the Effect of Oklahoma's Codification on Enforcement?

The EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in all authorized states. On occasion when EPA might need to undertake these actions, it will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than any authorized state analogues to these provisions. Therefore, the EPA is not incorporating by reference any such approved Oklahoma procedural and enforcement authorities. 40 CFR 272.1851(b)(2) lists the statutory provisions which provide the legal basis for the state's implementation of the hazardous waste management program, as well as those procedural and enforcement authorities that are part of the state's approved program, but these are not incorporated by reference.

### E. What State Provisions Are Not Part of the Codification?

The public needs to be aware that some provisions of Oklahoma's hazardous waste management program are not part of the federally authorized state program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which Oklahoma is not authorized, but which have been incorporated into the state regulations because of the way the state adopted Federal regulations by reference.

State provisions that are "broader in scope" than the Federal program are not part of the RCRA authorized program and EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.1851(b)(3) lists the Oklahoma regulatory provisions which are "broader in scope" than the Federal program and which are not part of the authorized program being incorporated by reference. "Broader in scope" provisions cannot be enforced by EPA; the state, however, may enforce such provisions under state law.

Oklahoma has adopted but is not authorized for the Federal rule regarding exclusion of a waste from the list of hazardous waste, 40 CFR 260.20 *et seq.*, ("delisting") published on July 15, 1985 (50 FR 28702) and amended on June 27,