

15% plan to a full approval must be filed in the United States Court of Appeals for the appropriate circuit by October 4, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone.

Dated: July 23, 1999.

**W. Michael McCabe,**

*Regional Administrator, Region III.*

Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401–7671q.

#### Subpart J—District of Columbia

2. Section 52.476 is added to read as follows:

##### § 52.476 Control strategy: ozone.

EPA approves as a revision to the District of Columbia State Implementation Plan the 15 Percent Rate of Progress Plan for the District of Columbia's portion of the Metropolitan Washington, D.C. ozone nonattainment area, submitted by the Director of the District of Columbia Department of Health on April 16, 1998.

##### § 52.473 [Removed]

3. Section 52.473 is removed and reserved.

[FR Doc. 99–19903 Filed 8–4–99; 8:45 am]

BILLING CODE 6560–50–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 271

[FRL–6410–1]

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

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

**ACTION:** Immediate final rule.

**SUMMARY:** Wisconsin has applied for final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The scope of this revision package includes partial completion of SPA's 8, 9, 13, 14 and 15, with the following clusters: RCRA Cluster I, including HSWA and non-HSWA Rules; RCRA Cluster II, including HSWA and non-HSWA provisions; RCRA Cluster III, including HSWA and non-HSWA provisions; RCRA Cluster IV, including HSWA and non-HSWA provisions; HSWA Cluster I; HSWA Cluster II; non-HSWA Cluster III; non-HSWA Cluster V; and non-HSWA Cluster VI. The major rules in the application include Land Disposal Restrictions, Recycled Used Oil Management, Wood Preserving Listings, and Organic Air Emission Standards for Process Vents and Equipment Leaks. The EPA has reviewed Wisconsin's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period, EPA's decision to authorize Wisconsin's hazardous waste program revision will take effect as provided below.

**DATES:** This rule will become effective on October 4, 1999, without further notice, unless EPA receives relevant adverse comments by September 7, 1999. Should EPA receive such comments EPA will publish a timely document withdrawing this rule.

**ADDRESSES:** Send written comments referring to Docket Number ARA 6, to Mr. Daniel F. Chachakis, U.S. EPA Region 5, Waste Pesticides and Toxics Division, Program Management Branch (DM–7J), 77 W. Jackson Blvd., Chicago, IL 60604, Phone (312) 886–2022. Copies of the Wisconsin program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 9 a.m. to 4 p.m. at the following addresses: Mr. Tom Eggert, Wisconsin Department of Natural Resources, 101 South Webster Street, Madison, WI 53707–7921 and EPA Region 5, Office of RCRA, 77 West Jackson Blvd., Seventh Floor, Chicago, IL 60604.

**FOR FURTHER INFORMATION CONTACT:** Mr. Daniel F. Chachakis, Environmental Protection Specialist, Wisconsin Regulatory Specialist, U.S. EPA Region 5 Waste, Pesticides and Toxics Division, Program Management Branch (DM–7J), 77 West Jackson Blvd., Chicago, IL 60604; (312) 886–2022.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

States with final authorization under section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise 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. Wisconsin

Wisconsin initially received Final Authorization on January 30, 1986, effective January 31, 1986 (51 FR 3783) to implement its base hazardous waste management program. Wisconsin received authorization for revisions to its program on May 23, 1989, effective June 6, 1989 (54 FR 22278), on November 22, 1989, effective January 22, 1990 (54 FR 48243), on April 24, 1992 effective April 24, 1992 (57 FR 15029), on June 2, 1993 effective August 2, 1993 (58 FR 31344) and on August 5, 1994, effective October 4, 1994 (59 FR 39971).

The authorized Wisconsin RCRA program was incorporated by reference into the CFR effective April 24, 1989 (54 FR 7422), May 29, 1990 (55 FR 11910), and November 22, 1993 (58 FR 49199).

On May 7, 1999, Wisconsin submitted a final complete program revision application, seeking authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Wisconsin's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Wisconsin's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Wisconsin Final Authorization for the program modifications contained in the revision.

The public may submit written comments on EPA's immediate final decision until September 7, 1999. Copies of Wisconsin's application for program revision are available for inspection and copying at the locations indicated in the ADDRESSES section of this document.

If EPA does not receive adverse written comment pertaining to

Wisconsin's program revision by the end of the comment period, the authorization of Wisconsin's revision will become effective October 4, 1999. If the Agency does receive adverse written comment, it will publish a document withdrawing this immediate final rule before its effective date. EPA will then

address the comments in a later final rule based on the companion document appearing in the Proposed Rules section of today's **Federal Register**. EPA may not provide additional opportunity for comment. Any parties interested in commenting should do so at this time.

On October 4, 1999, (unless EPA publishes a prior FR action withdrawing this immediate final rule), Wisconsin will be authorized to carry out, in lieu of the Federal program, those provisions of the State's program which are analogous to the following provisions of the Federal program:

Description of Federal requirement [include checklist #, if relevant]	Federal Register date and page [and/or RCRA statutory authority]	Analogous State authority <sup>1</sup>
<b>CONSOLIDATED CHECKLIST FOR THE LAND DISPOSAL RESTRICTIONS AS OF JUNE 30, 1994</b>		
Revision Checklist 34 ....	51 <i>FR</i> 40572, November 7, 1986 as amended. 52 <i>FR</i> 21010, June 4, 1987.	Statute: 227.12(1) Code: 600.01–600.03; 600.06 (1)–(4); 605.02; 605.05(2), (5), (7)(a); 605.04–605.06; 605.08(1)(b); 605.09(1)(c); 610.05(4); 610.07(1), (2); 610.09; 615.06(6); 620.14; 625.04(4); 630.02; 630.12(1); 630.13(1)(f), (h); 630.31(1)(d); 630.31(1)(k)–(o); 675.01–675.02; 675.03(3), (6); 675.04–675.05; 675.06(1); 675.07(1)(a)–(e), (g), (2), (3); 675.11(1), (3); 675.12(1), (2); 675.20(1); 675.21(1), Table CCWE, (2); 675.22(1); 675.22(2)(a); 675.23(1); 675.24(1)(a), (2); 675.30(1)–(5); 675 Appendix I; 680.22(5), (6), (15), (32); 680.42 (intro), (1), (19).
Revision Checklist 39 ....	52 <i>FR</i> 25760, July 8, 1987 as amended. 52 <i>FR</i> 41259, October 27, 1987.	Code: 600.03(96), (126), (177); 600.10(2); 610.04(2), (3); 615.04(2); 630.13(1)(h)3; 675.03(2), (6) 675.04(1)(b), (2); 675.05(1), (2); 675.06(1); 675.07(1)(a)–(d), (2), (3); 675.13(1)–(5); 675.20(1), (2); 675.22(1)(a), (b), (2)(a); 675.30(1), (6); 675 Appendix II; 680.07(4); 680.22(6); 680.23.
Revision Checklist 50 ....	53 <i>FR</i> 31138, August 17, 1988 as amended. 54 <i>FR</i> 8264, February 27, 1989.	Code: 600.04(1); 625.05(1); 630.13(1)(h)3; 630.31(1)(k)–(o); 675.04(1)(b); 675.05(1), (2); 675.07(1)(a)–(g), (i), (j), (2), (3); 675.11; 675.12; 675.13(1)(e), (2), (3); 675.14(1), (2), (3), (4)(a)–(c), (5); 675.20(1), (3); 675.21(1), Table CCWE; 675.22(1)(b); 675.23(1), Table CCW, (2); 675.24(1)(a), (c)1, (2); 675.30(4); 680.22(6), (15).
Revision Checklist 62 ....	54 <i>FR</i> 18836, May 2, 1989.	Code: 675.23(1) Table CCW.
Revision Checklist 63 ....	54 <i>FR</i> 26594, June 23, 1989.	Code: 600.04(1); 675.15; 675.21(1), Table CCWE; 675.22(1)(c); 675.23(1), Table CCW, (2).
Revision Checklist 66 ....	54 <i>FR</i> 36967, September 6, 1989 as amended. 55 <i>FR</i> 23935, June 13, 1990.	Code: 600.04(1); 625.05(1); 675.05; 675.07(1)(f), (j); 675.14(1), (5); 675.24(1)(a); 675.30(4).
Revision Checklist 78 ....	55 <i>FR</i> 22520, June 1, 1990.	Code: 600.04(1), (2); 600.03(2), (100), (126), (177); 605.08(1)(b), (2)(b), (3)(b), (4)(b), (5)(b); 605.09(2)(a), (3)(a)3, 605 Appendix III; 610.05(3); 615.05(4)(a)6; 615.06(3); 625.05(1); 630.02(intro); 655.09; 660.18(3), (9)(c)3, 6; 675.03(intro), (1), (2), (3), (6), (7), (8); 675.06(1), (2); 675.07(1)(d)1b, 2, (e)1b, (f), (j), (k), (L), (2)(d)1b, (e)3, 4, (3); 675.09; 675.16(1)–(4), (5)(a), (6), (7); 675.20(1), (3); 675.21(1), Table CCWE; 675.22(1)(intro), (b), Table 1, Table 2, Table 3, (c), (2)(a), (4), (5), 675.23(1), Table CCW, (3); 675 Appendix III, IV, V, VI, VII; 680.22(5), (25), (32); 680 Appendix I, I.6.
Revision Checklist 83 ....	56 <i>FR</i> 3864, January 31, 1991.	Code: 605.04(1)(b)7, Note; 605.08(1)(b); 605.09(2)(a); 610.05(3); 610.08(1)(k)1, (o)9, (q); 615.06(3); 675.03(1), (7), (8)(a), (b); 675.07(1)(b), (c)1b, (d)1b, (e)1b, (g), (h), (i), (k), (L), (2)(d)1d; 675.09(1); 675.14(2); 675.16(1), (3), (4), (5)(a); 675.20(1); 675.21(1), Table CCWE; 675.22(1)(b), Table 1, Table 2, Table 3, (c); 675.23(1), Table CCW, (3); 675 Appendix III, IV, VI, VII; 680 Appendix I, I.6.
Revision Checklist 95 ....	56 <i>FR</i> 41164, August 19, 1991.	Code: 605.04(1)(b)6a, b, 8; 675.21(1), Table CCWE, (2); 675.22(1)(b).
Revision Checklist 102 ..	57 <i>FR</i> 8086, March 6, 1992.	Code: 630.12(1); 675.06(2); 675.21(1); 675.22(1)(b), Table 2; 680.22(5).
Revision Checklist 103 ..	57 <i>FR</i> 20766, May 15, 1992.	Code: 675.16(5)(a).
Revision Checklist 106 ..	57 <i>FR</i> 28628, June 26, 1992.	Code: 675.16(3), (8).
Revision Checklist 109 ..	57 <i>FR</i> 37194, August 18, 1992.	Code: 600.03(45), (150), (172); 605.04(1)(b)6, 7, (4); 615.05(4); 655.02(intro); 655.05(2); 655.06(1); 655.07(1), (2), (4)(b), (6), (7); 655.11(2)(a), (b); 660.02; 660.16(1); 660.18(11), (28); 675.03(1), (4); 675.05(1); 675.07(1)(c)1c–e, (d), (f), (j), (2)(d)1, (e), (3)(a), (5); 675.09(4), (5); 675.20(2); 675.21(1), Table CCWE, (3); 675.22(1)(b), Table 2, (2)(a), (5); 675.23(1), Table CCW; 675.25; 675.26; 675.30(1); 675 Appendix I; 680.04(1); 680.06(3)(b), (m); 680.07(4); 680.21(1)(a); 680.22(25); 680.23, 680 Appendix I, I.6., M.; 685.02; 685.05(1)(b), (c), (e), (2)(h), (4)(a); 685.06(1)(a)–(c); 685.07(3)(a).
Revision Checklist 116 ..	57 <i>FR</i> 47772, October 20, 1992.	Code: 675.16(3), (4), (5).
Revision Checklist 123 ..	58 <i>FR</i> 28506, May 14, 1993.	Code: 675.03(1), (5); 675.16(5).

Description of Federal requirement [include checklist #, if relevant]	Federal Register date and page [and/or RCRA statutory authority]	Analogous State authority <sup>1</sup>
<b>BURNING OF WASTE FUEL AND USED OIL FUEL IN BOILERS AND INDUSTRIAL FURNACES</b>		
Revision Checklist 19 (HWA Cluster I).	50 FR 49164–49211, November 29, 1985 as amended. 51 FR 41900–41904, November 19, 1986. 52 FR 11819–11822 April 13, 1987.	Code: 605.05(1)(q), (t); 610.07(1), (4); 625.07(1), (2)(a), (3)–(7); 655.02.
<b>USED OIL FILTER EXCLUSION</b>		
Revision Checklist 104 (RCRA Cluster II, HWA Provisions).	57 FR 21524–21534, May 20, 1992.	Code: 605.05(1)(v)1–4.
<b>USED OIL FILTER EXCLUSION; TECHNICAL CORRECTIONS</b>		
Revision Checklist 107 (RCRA Cluster III, HWA Provisions).	57 FR 29220, July 1, 1992.	Code: 605.05(1)(v).
<b>CONSOLIDATED CHECKLIST FOR THE RECYCLED USED OIL MANAGEMENT STANDARDS AS OF JUNE 30, 1994</b>		
Revision Checklist 112 ..	57 FR 41566, September 10, 1992.	Code: 590.02(1), (4)(a), (b), (5)–(7); 590.03(1), (2), (8), (8) Note, (9), (16), (26), (35), (40), (44), (47), (49), (50), (51), (53)–(55); 590.04(1)(a)–(e), (f), (2); 590.05(1), (2), (4), (7); 590.06(1)(c), (2); 590.07(1)–(4); 590.08; 590.09(1), (2), Table 1; 590.10(1)–(4); 590.11(1)–(5); 590.12(1), (2); 590.13(1), (2), (4), (5); 590.14(1), (2); 590.15; 590.20(1); 590.21(2); 590.30 (intro), (1)–(4); 590.31; 590.32; 590.33; 590.34(1), (2); 590.35(1)–(3); 590.36(1)–(7); 590.37(1)–(4); 590.38; 590.50; 590.51; 590.52(1), (2); 590.53(1), (2), (4)–(8); 590.54; 590.55(1)–(3); 590.56(1), (2); 590.57; 590.58; 590.70; 590.71; 590.72; 590.73; 590.74(1); 590.75(1), (2); 590.76; 590.80; 590.81; 590.82; 590.83; 590.84(1), (2); 590.85(1)–(3); 590.86(1), (2); 605.04(1)(b)9; 605.05(1) (q), (t), (x), (2)(a); 610.07(4); 625.12; 708.05.
Revision Checklist 122 ..	58 FR 26420, May 3, 1993 as amended. 58 FR 33341, June 17, 1993.	Code: 590.02(4)(a), (5); 590.04(1)(b)1, (2)(c)–(e); 590.05(2); 590.07(1)–(3); 590.09(2), Table 1, note; 590.10(1), (3), (5); 590.14(1); 590.33(4); 590.35(2); 590.36(4)(a)1, 2; 590.52(2)(f)10; 590.53, 590.71(1); 590.80; 590.85(1); 605.05(1)(v), (w); 610.07(4); 630.04(6).
Revision Checklist 130 ..	59 FR 10550, March 4, 1994.	Code: 590.02(6); 590.03(47); 590.04(1)(c); 590.10(3)(c); 590.11(1); 590.12(2)(b); 590.37(1)(d), (2)(e); 590.50(3)(a); 590.53(3).
<b>CONSOLIDATED CHECKLIST FOR THE WOOD PRESERVING LISTINGS AS OF DECEMBER 31, 1992</b>		
Revision Checklist 82 ....	55 FR 50450, December 6, 1990.	Code: 605.05(1)(e), (6); 605.09(2)(a), Table II; 605 Appendix II, III, IV; 615.05(4) (a) 4, 5; 645.02(5); 656.02; 656.03(1)–(4); 656.06; 656.07(1)(b), (2)(a)–(d), (3), (4)(a)–(o), (5)(a), (b); 656.08(1)(a)–(c); 680.22(33).
Revision Checklist 91 ....	56 FR 27332, June 13, 1991.	Code: 605.09(2)(a), Table II.
Revision Checklist 92 ....	56 FR 30192, July 1, 1991.	Code: 605.05(1)(e), (s), (6)(a), (b), (c), (d); 615.05(4)(a); 656.02; 656.06(3); 656.07(1)(b), (2)(a)–(d), (3), (4)(a)–(o), (5)(a), (b); 656.08(1)(a)–(c); 680.22(33).
Revision Checklist 120 ..	57 FR 61492, December 24, 1992.	Code: 605.09(2)(a), Table II; 656.02; 656.04(3); 656.07(1)(b), (2)(a), (b), (3), (4)(a), (b), (i); 680.22(33).
<b>CORRECTIVE ACTION MANAGEMENT UNITS AND TEMPORARY UNITS</b>		
Revision Checklist 121 (RCRA Cluster III, HWA Provisions) (SPA 14).	58 FR 8658–8685, February 16, 1993.	Code: 600.03(49), (62), (78), (126), (129), (150); 630.04(8); 635.17(2); 636.40; 636.41; 675.03(6).
<b>STATICAL METHODS FOR EVALUATING GROUND WATER MONITORING DATA FROM HAZARDOUS WASTE FACILITIES</b>		
Revision Checklist 55 (Non-HWA Cluster V).	53 FR 39720–39731, October 11, 1988.	Code: 635.07; 635.12(1)(a), (5), (13), (15)(c), (16); 635.13(3), (7)–(10); 635.14(3)(c), (4), (7)–(10).
<b>AMENDMENTS TO INTERIM STANDARDS FOR DOWN-GRADIENT GROUND-WATER MONITORING WELL LOCATIONS</b>		
Revision Checklist 99 (RCRA Cluster II, Non-HWA).	56 FR 66365–66369, December 23, 1991.	Code: 635.12(1)(c).

Description of Federal requirement [include checklist #, if relevant]	Federal Register date and page [and/or RCRA statutory authority]	Analogous State authority <sup>1</sup>
<b>ORGANIC AIR EMISSION STANDARDS FOR PROCESS VENTS AND EQUIPMENT LEAKS</b>		
Revision Checklist 79 (HSWA Cluster II).	55 FR 25454–25519, June 21, 1990.	Code: 600.03(30), (47), (63), (66), (84), (86), (90), (112), (113), (179), (209), (214), (222), (230); 600.10(2)(a)45–51, (b)3; 625.04(4), (7); 630.13(1)(f); 630.15(2)(d); 630.31(1)(d), (h); 630.40(3)(c); 631.02; 631.03; 631.06(1), (2)(a)1, 2, 3, (b)–(L); 631.07; 631.08, (1)–(3)(d)1, 3–9, (e)–(h), (4)–(6); 631.09; 632.02; 632.03; 632.06; 632.07; 632.08; 632.09; 632.10; 632.11(2), (3); 680.06(3)(e), (f)4, 5; 680.22(6), (15), (16), (34), (35).
<b>ORGANIC AIR EMISSION STANDARDS FOR PROCESS VENTS AND EQUIPMENT LEAKS; TECHNICAL AMENDMENT</b>		
Revision Checklist 87 (RCRA Cluster I, HSWA Rule).	56 FR 19290, April 26, 1991.	Code: 630.13(1)(f); 630.31(1)(d); 631.02(1), (2); 631.06(2)(f)3; 631.07(3)(a)6; 631.08(2)(d)2, (3)(e); 632.06(1)(b)1, (e)3; 632.09(3); 632.11(2)(d)2, (3)(e)2; 680.22(6), (15), (34), (35).
<b>HSWA CODIFICATION RULE DOUBLE LINERS, CORRECTION</b>		
Revision Checklist 77 (HSWA Cluster II).	55 FR 19262–19264, May 9, 1990.	Code: 660.18(11)(b), (d).
<b>LINERS AND LEAK DETECTION SYSTEMS FOR HAZARDOUS WASTE LAND DISPOSAL UNITS</b>		
Revision Checklist 100 (RCRA Cluster II, Both HSWA and Non-HSWA Provisions).	57 FR 3462–3497, January 29, 1992.	Statute: Ch 289 (old 144.44); Code: 600.03(192), (220); 630.15(2)(d); 630.31(1)(h); 655.05(2); 655.06(1); 655.07; 655.08(3); 660.13; 660.16; 660.18(11), (12), (16), (18), (28), (30), (31)(b), (c), (38), (39); 660.22(2)(b)–(g), (25); 680.04; 680.06(5)(a); 680.22(25); 680.42(2).
<b>LIQUIDS IN LANDFILLS II</b>		
Revision Checklist 118 (RCRA Cluster III, HSWA Provisions).	57 FR 54452–54461, November 18, 1992.	Code: 630.13(1)(g)3; 660.18(8), (9)(b)1, (c)2, 3, (d); 680.22(6), (25).
<b>IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; AND DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION</b>		
Revision Checklist 53 (AMENDED) (Non-HSWA Cluster V).	53 FR 35412–35421, September 13, 1988.	Code: 605.05(1)(k); 605.09(2)(b); 605 Appendix III.
<b>IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; REMOVAL OF IRON DEXTRAN FROM THE LIST OF HAZARDOUS WASTES</b>		
Revision Checklist 56 (Non-HSWA Cluster V).	53 FR 43878–43881, October 31, 1988.	Code: 605.09 (3)(c); 605 Appendix IV.
<b>IDENTIFICATION AND LISTING OF HAZARDOUS WASTE; REMOVAL OF STRONTIUM SULFIDE FROM THE LIST OF HAZARDOUS WASTES</b>		
Revision Checklist 57 (Non HSWA Cluster V).	53 FR 43881–43884, October 31, 1988.	Code: 605.09 (3)(b); 605 Appendix IV.
<b>MINING WASTE EXCLUSION I</b>		
Revision Checklist 65 (Non HSWA Cluster VI).	54 FR 36592–36642, September 1, 1989.	Code: 605.04(1)(b)3, 7; 605.05(1)(k).
<b>TESTING AND MONITORING ACTIVITIES</b>		
Revision Checklist 67 (Non-HSWA Cluster VI).	54 FR 40260–40269, September 29, 1989.	Code: 600.10(2)(c); 605 Appendix II.
<b>REPORTABLE QUANTITY ADJUSTMENT METHYL BROMIDE PRODUCTION WASTES</b>		
Revision Checklist 68 (HSWA Cluster II).	54 FR 41402–41408, October 6, 1989.	Code: 605.09(2)(b); 605 Appendix II, III.

Description of Federal requirement [include checklist #, if relevant]	Federal Register date and page [and/or RCRA statutory authority]	Analogous State authority <sup>1</sup>
<b>REPORTABLE QUANTITY ADJUSTMENT</b>		
Revision Checklist 69 (HSWA Cluster II).	54 FR 50968-50979, December 11, 1989.	Code: 605.09(2)(a); 605 Appendix III, IV.
<b>MINING WASTE EXCLUSION II</b>		
Revision Checklist 71 (Non-HSWA Cluster VI).	55 FR 2322-2354, January 23, 1990.	Code: 600.03(56); 605.05(1)(k); 610.08(d); 615.08(15).
<b>MODIFICATION OF F019 LISTING</b>		
Revision Checklist 72 (Non-HSWA Cluster VI).	55 FR 5340-5342, February 14, 1990.	Code: 605.09(2)(b).
<b>TESTING AND MONITORING ACTIVITIES; TECHNICAL CORRECTIONS</b>		
Revision Checklist 73 (Non-HSWA Cluster VI).	55 FR 8948-8950, March 9, 1990.	Code: 600.10(2)(c); 605 Appendix II.
<b>LISTING OF 1,1-DIMETHYLHYDRAZINE PRODUCTION WASTES</b>		
Revision Checklist 75 (HSWA Cluster II).	55 FR 18496-18506, May 2, 1990.	Code: 605.09(2)(b); 605 Appendix II, III.
<b>CRITERIA FOR LISTING TOXIC WASTES; TECHNICAL AMENDMENT</b>		
Revision Checklist 76 (Non-HSWA Cluster VI).	55 FR 18726, May 4, 1990.	Code: 605.07(2)(a)3.
<b>TOXICITY CHARACTERISTIC; HYDROCARBON RECOVERY OPERATIONS</b>		
Revision Checklist 80 (RCRA Cluster I, HSWA Rule).	55 FR 40834-40837, October 5, 1990 as amended. 56 FR 3978, February 1, 1991. 56 FR 13406-13411, April 2, 1991.	Code: 600.04(1).
<b>PETROLEUM REFINERY PRIMARY AND SECONDARY OIL/WATER/SOLIDS SEPARATION SLUDGE LISTINGS (F037 AND F038)</b>		
Revision Checklist 81 (RCRA Cluster I, HSWA).	55 FR 46354-46397, November 2, 1990 as amended. 55 FR 51707, December 17, 1990.	Code: 605.09(2)(a); 605.14, 605 Appendix III.
<b>TOXICITY CHARACTERISTIC; CHLOROFLUOROCARBON REFRIGERANTS</b>		
Revision Checklist 84 (RCRA Cluster I, HSWA Rule).	56 FR 5910-5915, February 13, 1991.	Code: 605.05(1)(r).
<b>REMOVAL OF STRONTIUM SULFIDE FROM THE LIST OF HAZARDOUS WASTES; TECHNICAL AMENDMENT</b>		
Revision Checklist 86 (RCRA Cluster I, Non-HSWA Rule).	56 FR 7567-7568, February 25, 1991.	Code: 605.09(3)(a)1 removed; 605 Appendix IV.
<b>ADMINISTRATIVE STAY FOR K069 LISTING</b>		
Revision Checklist 88 (RCRA Cluster I, Non-HSWA).	56 FR 19951, May 1, 1991.	Code: 605.09(2)(b).

Description of Federal requirement [include checklist #, if relevant]	Federal Register date and page [and/or RCRA statutory authority]	Analogous State authority <sup>1</sup>
<b>REVISION TO THE PETROLEUM REFINING PRIMARY AND SECONDARY OIL/WATER/SOLIDS SEPARATION SLUDGE LISTINGS (F037 AND F038)</b>		
Revision Checklist 89 (RCRA Cluster I, HSWA Rule).	56 <i>FR</i> 21955–21960, May 13, 1991.	Code: 605.09(2)(a).
<b>MINING WASTE EXCLUSION III</b>		
Revision Checklist 90 (RCRA Cluster I).	56 <i>FR</i> 27300–27330, June 13, 1991.	Code: 605.05(1)(k).
<b>RECYCLED COKE BY-PRODUCT EXCLUSION</b>		
Revision Checklist 105 (RCRA Cluster II, HSWA Provisions).	57 <i>FR</i> 27880–27888, June 22, 1992.	Code: 605.05(1)(t).
<b>TOXICITY CHARACTERISTICS REVISIONS: TECHNICAL CORRECTIONS</b>		
Revision Checklist 108 (RCRA Cluster III, HSWA Provisions).	57 <i>FR</i> 30657–30658, July 10, 1992.	Code: 605.05(1)(e), (i).
<b>COKE BY-PRODUCTS LISTINGS</b>		
Revision Checklist 110 (RCRA Cluster III, HSWA Provisions).	57 <i>FR</i> 37284–37306, August 18, 1992.	Code: 605.05(1)(t); 605.09(2)(b); 605 Appendix III.
<b>CHLORINATED TOLUENE PRODUCTION WASTE LISTING</b>		
Revision Checklist 115 (RCRA Cluster III, HSWA Provisions).	57 <i>FR</i> 47376–47386, October 15, 1992.	Code: 605.09(2)(b); 605 Appendix III.
<b>TOXICITY CHARACTERISTIC AMENDMENT</b>		
Revision Checklist 117B (RCRA Cluster III, HSWA Provision).	57 <i>FR</i> 23062–23063, June 1, 1992.	Code: 605.04(1)(b)3.
<b>TOXICITY CHARACTERISTIC REVISION; TCLP CORRECTION</b>		
Revision Checklist 119 (RCRA Cluster III, HSWA Provision).	57 <i>FR</i> 55114–55117, November 24, 1992 as amended. 58 <i>FR</i> 6854, February 2, 1993	Code: 605.08(5); 675.07(1)(a); 675.20(1).
<b>TESTING AND MONITORING ACTIVITIES</b>		
Revision Checklist 126 (RCRA Cluster IV, HSWA/Non-HSWA Provisions).	58 <i>FR</i> 46040–46051, August 31, 1993 as amended. 59 <i>FR</i> 47980–47982, September 19, 1994	Code: 600.10(2)(b)1; 605.08(3)(a)1, 2, (5); 605.10(1)(a), (d); 605 Appendix II; 645.09(1); 660.18(7); 665.06(1)(d)1d, 2, (e)1c, d; 675.07(1)(a), (b), (g); 675.20(1); 675.21(1); 680.18(7); 680.22(22), (25).
<b>STANDARDS FOR GENERATORS OF HAZARDOUS WASTE</b>		
Revision Checklist 58 (Non-HSWA Cluster V).	53 <i>FR</i> 45089–45093, November 8, 1988.	Code: 615.08.
<b>LIABILITY COVERAGE—CORPORATE GUARANTEE</b>		
Revision Checklist 27 (Non-HSWA Cluster III).	51 <i>FR</i> 25350–25356, July 11, 1986.	Code: 685.08(1).

Description of Federal requirement [include checklist #, if relevant]	Federal Register date and page [and/or RCRA statutory authority]	Analogous State authority <sup>1</sup>
<b>CONSOLIDATED LIABILITY REQUIREMENTS</b>		
Revision Checklist 113 (RCRA Cluster III, Non-HSWA Provisions).	53 <i>FR</i> 33938–33960, September 1, 1988 as amended. 56 <i>FR</i> 30200, July 1, 1991 57 <i>FR</i> 42832–42844, September 16, 1992	Statutes: 289.41 (old 144.443); Code: 600.03 (218); 685.07(1), (5)(f), (i); 685.08(1)-(3), (7)-(12).
<b>PERMIT MODIFICATIONS FOR HAZARDOUS WASTE MANAGEMENT FACILITIES</b>		
Revision Checklist 54 (Non-HSWA Cluster V).	53 <i>FR</i> 37912–37942, September 28, 1988 as amended. 53 <i>FR</i> 41649, October 24, 1988	Statutes: 227.52; 227.53; 289.23 (old 144.44(2)); 289.30 (old 144.44(3)); 291.25(2) (old 144.64(2)(am)1). Code: 600.04(2); 630.22(1)(c)5; 665.07(1)(a), (2)(f); 680.07; 680.40(2); 680.42(5); 680.44; 680 Appendix I; 685.05(3), (4)(a); 685.06(6).
<b>HAZARDOUS WASTE MISCELLANEOUS UNITS; STANDARDS APPLICABLE TO OWNERS AND OPERATORS</b>		
Revision Checklist 59 (Non-HSWA Cluster V).	54 <i>FR</i> 615–617, January 9, 1989.	Code: 680.06(3)(e); 680.21(1)(b), (c); 685.05(2); 685.06(5).
<b>AMENDMENT TO REQUIREMENTS FOR HAZARDOUS WASTE INCINERATOR PERMITS</b>		
Revision Checklist 60 (Non-HSWA Cluster V).	54 <i>FR</i> 4286–4288, January 30, 1989.	Code: 655.06(4).
<b>CHANGES TO INTERIM STATUS FACILITIES FOR HAZARDOUS WASTE MANAGEMENT PERMITS; PROCEDURES FOR POST-CLOSURE PERMITTING</b>		
Revision Checklist 61 (Non-HSWA Cluster V).	54 <i>FR</i> 9596–9609, March 7, 1989.	Statutes: 227.52; 227.53; Ch 289 (old 144.44); 291.23, 291.25, 291.27, 291.29, 291.31 (old 144.64); Code: 665.07; 680.07(4); 680.32; 680.43; 680.44(1); 680 Appendix I.
<b>DELAY OF CLOSURE PERIOD FOR HAZARDOUS WASTE MANAGEMENT FACILITIES</b>		
Revision Checklist 64 (Non-HSWA Cluster VI).	54 <i>FR</i> 33376–33398, August 14, 1989.	Code: 630.12(1), (3)(a); 630.13(1)(a); 680 Appendix I; 685.05(3)(a), (4)(a), (6), (7); 685.07(3)(a)3, 4; 685.22(5), (17), (19).

<sup>1</sup> The Wisconsin provisions are from the Wisconsin Statutes and Annotations 1995–96, and the Wisconsin Administrative Code, Register, May, 1995, No. 473.

EPA shall administer any RCRA hazardous waste permits, or portions of permits, that contain conditions based upon the federal program provisions for which the State is applying for authorization, and which were issued by EPA prior to the effective date of this authorization. EPA has previously suspended issuance of permits for the other provisions on January 31, 1986, June 6, 1986, January 22, 1990, April 24, 1992, August 2, 1993, and October 4, 1994, the effective dates of Wisconsin's final authorization for the RCRA program revisions.

Wisconsin is not authorized to operate the Federal program in Indian country. This authority remains with EPA unless provided otherwise in a future statute or regulation.

**C. Decision**

I conclude that Wisconsin's application for program revision authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants Wisconsin Final Authorization to operate its hazardous waste program as revised. Wisconsin now has responsibility for permitting treatment, storage, and disposal facilities 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 HSWA. Wisconsin also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

**D. Codification in Part 272**

The EPA uses 40 CFR part 272 for codification of the decision to authorize Wisconsin's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA reserves amendment of 40 CFR part 272, subpart YY until a later date.

**Unfunded Mandates Reform Act**

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for

proposed and final rules with Federal mandates, as defined by the UMRA, 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.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Wisconsin program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

#### *Certification Under the Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

#### *Submission to Congress and the Comptroller General*

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. The EPA will submit a report containing this rule 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 of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *Compliance With Executive Order 12866*

The Office of Management and Budget has exempted this rule from the requirements of Executive Order 12866.

#### *Compliance With Executive Order 12875*

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If

the mandate is unfunded, EPA must provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

#### *Compliance With Executive Order 13045*

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) the Office of Management and Budget determines is "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 E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

#### *Compliance With Executive Order 13084*

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA provides to the Office of Management and Budget a description of the prior consultation and communications the agency has had



with representatives of tribal governments and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Wisconsin is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State.

#### *Paperwork Reduction Act*

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

#### *National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Pub. L. 104-113, section 12(d) (15 U.S.C. 272 note) 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, and business practices) that are developed or adopted by voluntary consensus standards 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 action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### **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, Water pollution control, Water supply.

**Authority:** This document 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).

**David A. Ullrich,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 99-19734 Filed 8-4-99; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Part 413

[HCFA-1883-F]

RIN 0938-A180

#### Medicare Program; Revision of the Procedures for Requesting Exceptions to Cost Limits for Skilled Nursing Facilities and Elimination of Reclassifications

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the procedures for granting exceptions to the cost limits for skilled nursing facilities (SNFs) and retains the current procedures for exceptions to the cost limits for home health agencies (HHAs). It also removes the provision allowing reclassification for all providers.

**EFFECTIVE DATE:** This final rule is effective September 7, 1999.

**FOR FURTHER INFORMATION CONTACT:** Steve Raitzyk, (410) 786-4599.

**SUPPLEMENTARY INFORMATION:**

#### **I. Background**

Section 223 of the Social Security Amendments of 1972 (Pub. L. 92-603) amended section 1861(v)(1)(A) of the Social Security Act (the Act) to authorize the Secretary to establish " \* \* \* limits on the direct and indirect overall incurred costs or incurred costs of specific items or services or groups of items or services \* \* \*" as a presumptive estimate of reasonable costs. Under section 1861(v)(1)(A), if a provider's cost exceeds its Medicare cost limit, it is deemed to be unreasonable for the efficient delivery of needed health care services. The Congress, however, in the House Committee report "H.R. Rep. No. 92-231, 92nd Congress, 1st Session 5071 (1971)," stated that providers could obtain relief from the effect of the cost limits based on evidence of the need for an exception.

We published a final rule on June 1, 1979 (44 FR 31802) to implement the

legislation. The provisions are presently in 42 CFR 413.30 and concern principles of reasonable cost reimbursement.

Section 413.30 describes the general principles and procedures for establishing cost limits and the process by which providers may appeal the applicability of these cost limits. Under § 413.30(c), a provider may seek relief from the effects of applying cost limits, either by requesting an exemption from its limit as a new provider of inpatient services, by requesting a reclassification of its provider status, or by requesting an exception to the cost limit.

On August 11, 1998, we published a proposed rule concerning procedures for requesting exceptions to cost limits in the **Federal Register** (63 FR 42797). We proposed to revise the approval process for granting exceptions to the cost limits for skilled nursing facilities (SNFs) and to remove the provision for obtaining a reclassification for all providers. In that proposed rule, we traced the development of cost limits since 1972.

In the proposed rule, we stated that we may find it inappropriate to apply particular limits to a class of providers because of provider class characteristics, the data on which the limits are based, or the method by which the limits are determined (63 FR 42800). We further stated that we may explain our reasoning for exclusion in a notice setting forth the limits for the appropriate cost reporting periods. We explained that estimates of the costs necessary for efficient delivery of health services may be based on cost reports or other data providing indicators of current costs. Current and past period data would be adjusted to arrive at estimated costs for the prospective periods to which limits are being applied.

We described the process of establishing cost limits and the basis on which they were calculated. We also explained that the servicing intermediary would have to notify each SNF or HHA of its cost limit at least 30 days before the applicable cost reporting period. Each intermediary cost limit notification would have to contain the following:

- The provider's classification and calculation of the applicable limit.
- A statement that, if the provider believes it has been incorrectly classified, it is the provider's responsibility to furnish to the intermediary evidence that demonstrates the classification is incorrect.
- A statement that the provider may be entitled to an exemption from, or an