

Inert ingredients	Limits	Uses
* * *	* * * *	
Acrylic polymers composed of one or more of the following monomers: Acrylic acid, methyl acrylate, ethyl acrylate, butyl acrylate, hydroxyethyl acrylate, hydroxypropyl acrylate, hydroxybutyl acrylate, carboxyethyl acrylate, methacrylic acid, methyl methacrylate, ethyl methacrylate, butyl methacrylate, isobutyl methacrylate, hydroxyethyl methacrylate, hydroxypropyl methacrylate, hydroxybutyl methacrylate, lauryl methacrylate, and stearyl methacrylate; with none and/or one or more of the following monomers: Acrylamide, N-methyl acrylamide, N-octylacrylamide, maleic anhydride, maleic acid, monoethyl maleate, diethyl maleate, monoethyl maleate, dioctyl maleate; and their corresponding sodium, potassium, ammonium, isopropylamine, triethylamine, monoethanolamine, and/or triethanolamine salts; the resulting polymer having a minimum number average molecular weight (in amu) 1,200.	.....	Components of films, binders, carriers, adhesives, or related adjuvants
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 BILLING CODE 6560-50-S

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 272**

[FRL-7014-9]

**Indiana: Incorporation by Reference of Approved State Hazardous Waste Management Program**

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

**ACTION:** Immediate final rule.

**SUMMARY:** Under the Resource Conservation and Recovery Act of 1976, as amended (RCRA), the EPA may grant States Final Authorization to operate their hazardous waste management programs in lieu of the Federal program. EPA uses part 272 of Title 40 Code of Federal Regulations (CFR) to provide

notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that are part of the authorized State program. The purpose of this action is to codify Indiana's authorized hazardous waste program in 40 CFR part 272. This rule incorporates by reference provisions of Indiana's hazardous waste statutes and regulations and clarifies which of these provisions are authorized and federally enforceable. Unless adverse written comments are received during the comment period, the EPA's decision to incorporate by reference Indiana's authorized hazardous waste program will take effect as provided.

**DATES:** This document will become effective December 24, 2001 without further notice, if EPA receives no adverse comment on this rule by November 23, 2001. Should the Agency receive such comments, it will withdraw this rule before its effective

date by publishing a withdrawal in the **Federal Register**. The Director of the Federal Register approved the incorporation by reference of the Indiana statutes and regulations contained in this rule as of December 24, 2001.

**ADDRESSES:** Send written comments to Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM-7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7450.

**FOR FURTHER INFORMATION CONTACT:** Gary Westefer, Indiana Regulatory Specialist, U.S. EPA Region 5, DM-7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7450.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Section 3006 of RCRA, 42 U.S.C. 6926 *et seq.*, allows the EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. EPA

provides notice of its authorization of State programs in 40 CFR part 272 and incorporates by reference therein the State statutes and regulations that are a part of the authorized State program under RCRA. This effort provides clearer notice to the public of the scope of the authorized programs. The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority.

Effective August 23, 1989 (54 FR 34988), EPA incorporated by reference Indiana's then authorized hazardous waste program. The purpose of today's **Federal Register** document is to incorporate by reference EPA's authorization of Indiana's subsequent nine revisions to that program. This rule incorporates by reference provisions of State hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program.

#### **B. Indiana Authorized Hazardous Waste Program**

Indiana received Final Authorization for its RCRA hazardous waste base program on January 31, 1986, effective January 31, 1986 (51 FR 3955). EPA incorporated by reference the then authorized hazardous waste program in subpart P of 40 CFR part 272. The State statutes and regulations are incorporated by reference at 40 CFR 272.751, and the Memorandum of Agreement, the Attorney General's Statement and the Program Description are referenced at Sec. 272.751(b)(5), (b)(6), and (b)(7), respectively.

Since the initial codification, Indiana has received authorization for revisions to its program on July 13, 1989, effective September 11, 1989 (54 FR 29557); July 23, 1991, effective September 23, 1991 (56 FR 33717); July 24, 1991, effective September 23, 1991 (56 FR 33866) (this was a renumbering of Indiana's regulations from 320 IAC 4.1 to 329 IAC 3); July 29, 1991, effective September 27, 1991 (56 FR 35831); July 30, 1991, effective September 30, 1991 (56 FR 36010); August 20, 1996, effective October 21, 1996 (61 FR 43008) (this was a renumbering of Indiana's regulations from 329 IAC 3 to 329 IAC 3.1); August 20, 1996, effective October 21, 1996 (61 FR 43018); September 1, 1999, effective November 30, 1999 (64 FR 47692); and on January 4, 2001, effective January 4, 2001 (66 FR 733). In this document EPA is revising the

incorporation by reference of Indiana's authorized hazardous waste program in subpart P of 40 CFR part 272, to include these revisions.

The Agency retains the authority under sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedure Act rather than the authorized State analogues to these requirements. Therefore, the Agency does not intend to incorporate by reference for purposes of enforcement such particular, authorized Indiana enforcement authorities. Section 272.751(b)(2) of 40 CFR lists those enforcement authorities that are part of the authorized program but are not incorporated by reference.

The public also needs to be aware that some provisions of a State's hazardous waste management program are not part of the Federally authorized State program. These nonauthorized 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 provisions which the State incorporated into its regulations when the State adopted Federal regulations by reference, but for which the State is not authorized;

At this time, Indiana has adopted but is not authorized for the Corrective Action for Injection Wells portion of HSWA Codification Rule 2 published in the FR on December 1, 1987 (52 FR 45788); and the Federal rules published in the FR on February 21, 1991 (56 FR 7134); July 17, 1991 (56 FR 32688); August 27, 1991 (56 FR 42504); September 5, 1991 (56 FR 43754); February 18, 1992 (57 FR 5859); August 25, 1992 (57 FR 38558); September 30, 1992 (57 FR 44999); July 20, 1993 (58 FR 38816); November 9, 1993 (58 FR 59598); May 12, 1997 (61 FR 25998); June 13, 1997 (62 FR 32452); June 17, 1997 (62 FR 32974); July 14, 1997 (62 FR 37694) August 28, 1997 (62 FR 45568); December 8, 1997 (62 FR 64636); April 15, 1998 (63 FR 18504); May 6, 1998 (63 FR 24963); May 26, 1998 (63 FR 28556); June 8, 1998 (63 FR 31266); June 19, 1998 (63 FR 33782); July 14, 1998 (63 FR 37780); August 6, 1998 (63 FR 42110); August 31, 1998 (63 FR 46332); September 4, 1998 (63 FR 47409); September 9, 1998 (63 FR 48124); September 24, 1998 (63 FR 51254); October 9, 1998 (63 FR 54356); October 22, 1998 (63 FR 56710); November 30, 1998 (63 FR 65874);

December 24, 1998 (63 FR 71225); January 21, 1999 (64 FR 3381) and February 11, 1999 (64 FR 6806). Therefore these Federal amendments included in Indiana's adoption by reference at 329 IAC 3.1 are not part of the State's authorized program and are not part of the incorporation by reference addressed by today's FR document.

Since EPA cannot enforce a State's requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to clarify any limitations on the scope of a State's authorized hazardous waste program. Thus, in those instances where a State's method of adopting Federal law by reference has the effect of including unauthorized requirements, or where a State has made unauthorized amendments to previously authorized sections of State code, EPA will provide this clarification by: (1) Incorporating by reference the relevant State legal authorities according to the requirements of the Office of Federal Register; and (2) subsequently identifying in 40 CFR 272.751(b)(4), any requirements which while adopted and incorporated by reference, are not authorized by EPA, and therefore are not Federally enforceable. Thus, notwithstanding the language in the Indiana hazardous waste regulations incorporated by reference at 40 CFR 272.751(b)(1), EPA will only enforce the State provisions that are actually authorized by EPA. For the convenience of the regulated community, the actual State regulatory text authorized by EPA for the citations listed at 40 CFR 272.751(b)(1) is compiled as a separate document, *Addendum to the EPA-Approved Indiana Regulatory and Statutory Requirements Applicable to the Hazardous Waste Management Program, March 2001*. This document is available from U.S. EPA Region 5, DM-7J, 77 West Jackson Boulevard, Chicago, Illinois 60604, attention Gary Westefer. With respect to HSWA requirements for which the State has not yet been authorized, EPA will continue to enforce the Federal HSWA standards until the State receives specific HSWA authorization from EPA.

#### **C. HSWA Provisions**

The Agency is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are implemented by EPA. Section 3006(g) of RCRA provides that any HSWA requirement or prohibition (including implementing regulations) take effect in authorized and not authorized States at the same time. A HSWA requirement or

prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985). EPA has the authority to implement HSWA requirements in all States, including authorized States, until the States become authorized for such requirement or prohibition. Authorized States are required to revise their programs to adopt the HSWA requirements and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

Some existing State requirements may be similar to the HSWA requirements implemented by EPA. However, until EPA authorizes those State requirements, EPA can only enforce the HSWA requirements and not the State analogs. EPA will not codify those State requirements until the State receives authorization for those requirements.

#### **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 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 final rule an explanation why that 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.

The section 202 and 205 requirements do not apply to today's action because it is not a "Federal mandate" and because it does not impose annual costs of \$100 million or more for State, local and/or tribal governments in the aggregate, or the private sector. Today's action contains no Federal mandates for State, local or tribal governments or the private sector because it does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector. This rule merely incorporates by reference existing requirements with which regulated entities must already comply under State and Federal law. For this same reason, this action will not result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector because it incorporates by reference an existing State program that EPA previously authorized. Cost to the State, local and/or tribal governments, and to regulated entities already exist under the authorized program. 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 because it 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 treatment, storage, and disposal facilities, this codification incorporates into the CFR Indiana's requirements which EPA already authorized under 40 CFR part 271. Small governments are not subject to any additional significant or unique requirements by virtue of this action.

#### **Certification Under the Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.**

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 RFA generally requires an agency 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 action on small entities, small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (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.

After considering the economic impacts of this codification on small entities, I certify pursuant to the provision at 5 U.S.C. 605(b), that this codification will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that are hazardous waste generators, transporters, or that own and/or operate TSDFs are already subject to the regulatory requirements under the State laws authorized by EPA under 40 CFR part 271. This codification incorporates Indiana's requirements which have been authorized by EPA under 40 CFR part 271 into the CFR. The EPA's codification does not impose any additional burdens on these 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 12898: Environmental Justice**

Under Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" as well as through EPA's April 1995, "Environmental Justice Strategy, OSWER Environmental Justice Task Force Action Agenda Report," and National Environmental Justice Advisory Council, EPA has undertaken to incorporate environmental justice into its policies and programs. EPA is committed to addressing environmental justice concerns, and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities. Today's rule is not expected to negatively impact any community, and therefore is not expected to cause any disproportionately high and adverse impacts to minority or low-income communities versus non-minority or affluent communities.

#### **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 Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

#### **Compliance With 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 the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This authorization does not have federalism implications. It will not have a substantial direct effect on 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, because this rule affects only one State. This action

simply approves Indiana's proposal to be authorized for updated requirements of the hazardous waste program that the State has voluntarily chosen to operate. Further, as a result of this action, newly authorized provisions of the State's program now apply in Indiana in lieu of the equivalent Federal program provisions implemented by EPA under HSWA. Affected parties are subject only to those authorized State program provisions, as opposed to being subject to both Federal and State regulatory requirements. Thus, the requirements of section 6 of the Executive Order do not apply.

#### **Compliance With Executive Order 13175**

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 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." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175.

This rule is not subject to Executive Order 13175 because it does not significantly or uniquely affect the communities of Indian tribal governments. Indiana 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 may implement 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"), Public Law No. 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 272**

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, Water pollution control, Water supply.

**Authority:** This rule 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: July 3, 2001.

**David A. Ullrich,**

*Acting Regional Administrator, Region 5.*

For the reasons set forth in the preamble, 40 CFR part 272 is amended as follows:

**PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS**

1. The authority citation for part 272 continues to read as follows:

**Authority:** Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

**Subpart P—[Amended]**

2. Section 272.750 is removed and reserved.

3. Section 272.751 is revised to read as follows:

**§ 272.751 Indiana state-administered program: Final authorization.**

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Indiana has final authorization for the following elements as submitted to EPA in Indiana's base program application for final authorization which was approved by EPA effective on January 31, 1986. Subsequent program revision applications were approved effective on December 31, 1986, January 19, 1988, September 11, 1989, September 23, 1991 (two separate revisions), September 27, 1991, September 30, 1991, October 21, 1996, November 30, 1999, and January 4, 2001.

(b) *State statutes and regulations.* (1) The Indiana statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a). Copies of the Indiana regulations that are incorporated by reference in this paragraph are available from the Indiana Legislative Services Agency, Administrative Code and Register Division, 302 State House, Indianapolis, Indiana 46204.

(i) The EPA approved Authorized Indiana Statutory Requirements Applicable to the Hazardous Waste Management Program, dated March 2001.

(ii) The EPA approved Indiana Regulatory Requirements Applicable to the Hazardous Waste Management Program, dated March 2001.

(2) The following statutes and regulations concerning State procedures and enforcement, although not incorporated by reference, are part of the authorized State program:

(i) Annotated Indiana Code, 1998 edition, Title 13, Article 4-21.5, 5-14-3-2, 13-11-2, 13-14-2-2, 13-14-9, 13-14-10, 13-15-2, 13-19-1, 13-19-2, 13-20, 13-22-1, 13-22-3, 13-22-5 through 13-22-14, 13-23, 13-30, and 23-1-16.

(ii) Indiana Administrative Code, as amended, 1996 edition, certified October 24, 1995, 2000 cumulative supplement, certified November 30, 1999, sections 329 IAC 3.1-1-1 through 3.1-1-6; 3.1-1-8 through 3.1-1-14; 3.1-2-1 through 3.1-2-16; 3.1-3-1 through 3.1-3-9; 3.1-4-2 through 3.1-4-26; 3.1-13-5; 3.1-13-8 through 3.1-13-17; 3.1-14-2; 3.1-14-3; and 13-1-3 through 13-1-6.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference: Indiana Administrative Code as amended, 1996 edition, certified October 24, 1995, 2000 cumulative supplement, certified November 30, 1999, sections 329 IAC 3.1-6-3; and 3.1-8-4.

(4) *Unauthorized State provisions:* Although the Federal rules listed in the following table have been adopted by the State and have been included in the materials incorporated by reference in paragraph (b)(1) of this section, EPA has not authorized the State for these rules at this time. While they may be enforceable under State law, they are not enforceable under RCRA:

Federal requirement	Federal Register reference	Publication date
1. Hazardous Waste Management System; Testing and Monitoring Activities (Checklist 158).	62 FR 32452 .....	June 13, 1997.
2. Kraft Mill Stream Stripper Condensate Exclusion (Checklist 164) .....	63 FR 18504 .....	April 15, 1998.
3. Recycled Used Oil Management Standards; Technical Correction and Clarification (Checklist 166) as amended (Checklist 166.1).	63 FR 24963 .....	May 6, 1998.
4. Bevill Exclusion Revisions and Clarification (Checklist 167E) .....	63 FR 37780 .....	July 14, 1998.
5. Exclusion of Recycled Wood Preserving Wastewaters (Checklist 167F) .....	63 FR 28556 .....	May 26, 1998.
6. Hazardous Waste Combustors Revised Standards (Checklist 168) .....	63 FR 33782 .....	June 19, 1998.
7. Universal Waste Rule; Technical Amendment (Checklist 176) .....	63 FR 71225 .....	December 24, 1998.

(i) Additionally Indiana has adopted but is not authorized to implement the HSWA rules that are listed the following table. EPA will continue to implement the Federal HSWA requirements for which Indiana is not authorized until the State receives specific authorization for those requirements:

Federal requirement	Federal Register reference	Publication date
1. HSWA Codification Rule 2; Corrective Action for Injection Wells (Checklist 44C) .....	52 FR 45788 .....	December 1, 1987.
2. Burning of Hazardous Waste in Boilers and Industrial Furnaces (Checklist 85) .....	56 FR 7134 .....	February 21, 1991.
3. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments (Checklist 94).	56 FR 32688 .....	July 17, 1991.
4. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendments II (Checklist 96).	56 FR 42504 .....	August 27, 1991.
5. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III (Checklist 111).	57 FR 38558 .....	August 25, 1992.
6. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment IV (Checklist 114).	57 FR 44999 .....	September 30, 1992.
7. Requirements for Preparation, Adoption, and Submittal of Implementation Plans (Checklist 125).	58 FR 38816 .....	July 20, 1993.
8. Burning of Hazardous Waste in Boilers and Industrial Furnaces (Checklist 127) .....	58 FR 59598 .....	November 9, 1993.
9. 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 (Checklist 157).	62 FR 25998 .....	May 12, 1997.
10. Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions (Checklist 159).	62 FR 32974 .....	June 17, 1997.
11. Land Disposal Restrictions-Phase III—Emergency Extension of the K088 National Capacity Variance (Checklist 160).	62 FR 37694 .....	July 14, 1997.
12. Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production (Checklist 161).	62 FR 45568 .....	August 28, 1997.
13. Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment (Checklist 163).	62 FR 64636 .....	December 8, 1997.
14. Land Disposal Restrictions-Phase IV: Treatment Standards for Metal Wastes and Mineral Processing Wastes (Checklist 167A), Hazardous Soils Treatment Standards and Exclusions (Checklist 167B), and Corrections (Checklist 167C) as amended (Checklist 167C.1).	63 FR 28556 .....	May 26, 1998.
15. Petroleum Refining Process (Checklist 169) as amended (Checklist 169.1) .....	63 FR 31266 .....	June 8, 1998.
16. Land Disposal Restrictions-Phase IV (Checklist 170) .....	63 FR 42110 .....	August 6, 1998.
17. Emergency Revisions of the Land Disposal Restrictions Treatment Standards (Checklist 171).	63 FR 54356 .....	October 9, 1998.
18. Emergency Revision of the Land Disposal Restrictions Treatment Standards (Checklist 172).	63 FR 46332 .....	August 31, 1998.
19. Land Disposal Restrictions Treatment Standards (Spent Potliners) (Checklist 173) ..	63 FR 47409 .....	September 4, 1998.
	63 FR 48124 .....	September 9, 1998.
	63 FR 51254 .....	September 24, 1998.

(ii) Some regulations listed in the table in paragraph (b)(4)(i) of this section are predominantly HSWA authority but contain provisions that are not HSWA authority. EPA will not enforce these non-HSWA provisions. The affected rules are as follows:

- (A) Burning of Hazardous Waste in Boilers and Industrial Furnaces (BIF), including BIF (February 21, 1991);
- (B) Corrections and Technical Amendments I (July 17, 1991);
- (C) Technical Amendments II (August 27, 1991);
- (D) Technical Amendments III (August 25, 1992);
- (E) Amendment IV (September 30, 1992);
- (F) Requirements for Preparation, Adoption, and Submittal of Implementation Plans (July 20, 1993); and
- (G) BIF (November 9, 1993).

(iii) EPA will not enforce BIF rules for Sludge Dryers, Infrared Incinerators, Plasma Arc Incinerators, and Carbon Regeneration Units, until Indiana is

authorized for these rules. Petroleum Refining Process (August 6, 1998, as amended October 9, 1998) 40 CFR 261.3, 261.4, and 261.6 are non-HSWA provisions. Standards Applicable to Owners and Operators of Closed/Closing Facilities (October 22, 1998) 40 CFR 264.90(e), 265.110(c), 265.118(c)(4), 265.121 (except § 265.121(a)(2)), 270.1, 270.14(a), and 270.28 are non-HSWA provisions. Hazardous Remediation Waste Management Requirements (HWIR Media) (November 30, 1998) 40 CFR 261.4(g), 264.1(j)(1–13), 264.73(b)(17), 270.2, 270.11(d), 270.68, 270.73(a), and 270.79 through 270.230 (40 CFR part 270, subpart H) except § 270.230(e)(1) are non-HSWA provisions. Until Indiana becomes authorized for these rules, EPA will not enforce the non-HSWA provisions.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 5 and the Indiana Department of Environmental Management, signed by the Commissioner of the IDEM on February

14, 1996 and acknowledged by the EPA Regional Administrator in the **Federal Register** noticed signed on July 29, 1996, August 2, 1999, and December 14, 2000, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of legal authority.* “Attorney General’s Statement for Final Authorization”, signed by the Attorney General of Indiana on June 28, 1985 and revisions, supplements and addenda to that Statement dated August 26, 1986, June 1, 1987, December 15, 1987, March 25, 1988, July 22, 1988, December 15, 1989, May 29, 1996, March 24, 1997, and January 31, 2000 are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program

under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

3. Appendix A to part 272, State Requirements, is amended by adding in alphabetical order the listing for "Indiana" to read as follows:

**Appendix A to Part 272—State Requirements**

\* \* \* \* \*

**Indiana**

The statutory provisions include: Annotated Indiana Code, 1998 edition, Title 13, Sections 13-14-1, 13-14-7, 13-14-8, 13-19-3, 13-22-2, and 13-22-4.

Copies of the Indiana statutes that are incorporated by reference are available from West Publishing Company, 610 Opperman Drive, P.O. Box 64526, St. Paul, Minnesota 55164-0526.

The regulatory provisions include: Indiana Administrative Code, 1996 edition, 2000 cumulative supplement, Title 329, Article 3.1, Sections 3.1-1-7, 3.1-4-1, 3.1-5-1, 3.1-5-2, 3.1-5-3, 3.1-5-4, 3.1-5-5, 3.1-5-6, 3.1-6-1, 3.1-6-2, 3.1-7-1, 3.1-7-2, 3.1-7-3, 3.1-7-4, 3.1-7-5, 3.1-7-6, 3.1-7-7, 3.1-7-8, 3.1-7-9, 3.1-7-10, 3.1-7-11, 3.1-7-12, 3.1-7-13, 3.1-7-14, 3.1-7-15, 3.1-7-16, 3.1-8-1, 3.1-9-1, 3.1-9-2, 3.1-9-3, 3.1-10-1, 3.1-10-2(1 through 3), 3.1-10-2(5 through 22), 3.1-11-1, 3.1-11-2, 3.1-12-1, 3.1-13-1, 3.1-13-2(1 through 3), 3.1-13-2(5 through 15), 3.1-13-3, 3.1-13-4, 3.1-13-5, 3.1-13-6, 3.1-13-7, 3.1-13-8, 3.1-13-9, 3.1-13-10, 3.1-13-11, 3.1-13-12, 3.1-13-13, 3.1-13-14, 3.1-13-15, 3.1-13-16, 3.1-13-17, 3.1-14-1, 3.1-14-2, 3.1-14-3, 3.1-14-4, 3.1-14-5, 3.1-14-6, 3.1-14-7, 3.1-14-8, 3.1-14-9, 3.1-14-10, 3.1-14-11, 3.1-14-12, 3.1-14-13, 3.1-14-14, 3.1-14-15, 3.1-14-16, 3.1-14-17, 3.1-14-18, 3.1-14-19, 3.1-14-20, 3.1-14-21, 3.1-14-22, 3.1-14-23, 3.1-14-24, 3.1-14-25, 3.1-14-26, 3.1-14-27, 3.1-14-28, 3.1-14-29, 3.1-14-30, 3.1-14-31, 3.1-14-32, 3.1-14-33, 3.1-14-34, 3.1-14-35, 3.1-14-36, 3.1-14-37, 3.1-14-38, 3.1-14-39, 3.1-14-40, 3.1-15-1, 3.1-15-2, 3.1-15-3, 3.1-15-4, 3.1-15-5, 3.1-15-6, 3.1-15-7, 3.1-15-8, 3.1-15-9, 3.1-15-10, 3.1-16-1, 13-1-1, 13-1-2, 13-2-1, 13-2-2, 13-2-3, 13-2-4, 13-2-5, 13-2-6, 13-2-7, 13-2-8, 13-2-9, 13-2-10, 13-2-11, 13-2-12, 13-2-13, 13-2-14, 13-2-15, 13-2-16, 13-2-17, 13-2-18, 13-2-19, 13-2-20, 13-2-21, 13-2-22, 13-2-23, 13-2-24, 13-2-25, 13-2-26, 13-2-27, 13-3-1, 13-3-2, 13-3-3, 13-4-1, 13-4-2, 13-4-3, 13-4-4, 13-4-5, 13-5-1, 13-5-2, 13-5-3, 13-6-1, 13-6-2, 13-6-3, 13-6-4, 13-6-5, 13-6-6, 13-6-7, 13-6-8, 13-7-1, 13-7-2, 13-7-3, 13-7-4, 13-7-5, 13-7-6, 13-7-7, 13-7-8, 13-7-9, 13-7-10, 13-8-1, 13-8-2, 13-8-3, 13-8-4, 13-8-5, 13-8-6, 13-8-7, 13-8-8, 13-9-1, 13-9-2, 13-9-3, 13-

9-4, 13-9-5, 13-9-6, 13-10-1, 13-10-2, 13-10-3.

Copies of the Indiana regulations that are incorporated by reference are available from Indiana Legislative Services Agency, Administrative Code and Register Division, Legislative Information Center, 302 State House, Indianapolis, Indiana 46204.

\* \* \* \* \*

[FR Doc. 01-26682 Filed 10-23-01; 8:45 am]

BILLING CODE 6560-50-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 01-2386, MM Docket No. 01-160, RM-10159]

**Digital Television Broadcast Service; Albuquerque, NM**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of ACME Television Licenses of New Mexico, LLC, substitutes DTV channel 45 for DTV channel 51c at Albuquerque, New Mexico. *See* 66 FR 40174, August 2, 2001. DTV channel 45 can be allotted to Albuquerque, New Mexico, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (35-12-48 N. and 106-27-00 W.) with a power of 245, HAAT of 1287 meters and with a DTV service population of 759 thousand. With this action, this proceeding is terminated.

**DATES:** Effective December 3, 2001.

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Mass Media Bureau, (202) 418-1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01-160, adopted October 12, 2001, and released October 18, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

**List of Subjects in 47 CFR Part 73**

Television, Digital television broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

**PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under New Mexico, is amended by removing DTV channel 51c and adding DTV channel 45 at Albuquerque.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Services Division, Mass Media Bureau.*

[FR Doc. 01-26752 Filed 10-24-01; 8:45 am]

BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[DA 01-2378; MM Docket No. 00-226; RM-10001]

**Radio Broadcasting Services; Fair Bluff, NC, Litchfield Beach, Johnsonville and Olanta, SC**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission denies request of joint petitioners Atlantic Broadcasting Co., Inc., permittee of Station WSIM(FM), Channel 287C3, Fair Bluff, North Carolina, and The Waccamaw Neck Broadcasting Company, licensee of Station WPDT(FM), Channel 286A, Johnsonville, South Carolina. The Report and Order denies the request for the reallocation of Channel 286A from Johnsonville, South Carolina, to Olanta, South Carolina, as the community's first local aural transmission service, because it would remove the community's sole local transmission service without countervailing public interest benefits. It denies as moot the reallocation of Channel 287C3 from Fair Bluff, North Carolina, to Litchfield Beach, South Carolina, as the community's first local aural transmission service.

**FOR FURTHER INFORMATION CONTACT:** Victoria McCauley, Mass Media Bureau, (202) 418-2180.