The tolerances will expire and are revoked on the date specified in the following table.

Commodity	Parts per million	Expiration/ Revocation date
Canola, meal	1.1	12/1/99
Canola, seed	0.4	12/1/99
Corn, sweet, forage	4.0	12/1/99
Corn, sweet, kernels and cobs with husks removed	4.0	12/1/99
Corn, sweet, stover	6.0	12/1/99

* * * * *

[FR Doc. 99–20869 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6424–1]

Texas: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Texas has applied for final authorization to revise its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization. The EPA reviewed Texas's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Texas' Hazardous Waste Program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant Texas final authorization for the program modifications contained in the revision.

DATES: This action is effective on October 18, 1999 without further notice, unless EPA receives relevant adverse comments by September 17, 1999. If adverse comments are received, EPA will publish a timely withdrawal of the immediate final rule or identify the issues raised, respond to the comments, and affirm that the immediate final rule will take effect as scheduled.

ADDRESSES: Mail written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Louisiana during normal business hours at the following locations: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444; or Louisiana Department of Environmental Quality, H.B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana, 70810, (504) 765–0617.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665–8533.

SUPPLEMENTARY INFORMATION:

A. What is Resource Conservation and Recovery Act (RCRA) State Authorization?

The RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), provides for authorization of State hazardous waste programs under subtitle C. Under RCRA Section 3006, EPA may authorize a State to administer and enforce the RCRA hazardous waste program. *See* 40 Code of Federal Regulations (CFR) part 271. In fact, Congress designed RCRA so that the entire subtitle C program would eventually be administered by the States in lieu of the Federal Government. This is because the States are closer to, and more familiar with, the regulated community and therefore are in a better position to administer the programs and respond to local needs effectively.

After receiving authorization, the State administers the program in lieu of the Federal government, although EPA retains enforcement authority under RCRA sections 3008, 3013, and 7003. Authorized States are required to revise their programs when EPA promulgates Federal Standards that are more stringent or broader in scope than existing Federal standards. States are not required to modify their programs to address Federal changes that are less stringent than the existing Federal program or that reduce the scope of the existing Federal program. These changes are optional and are noted as such in the **Federal Register** (FR) documents. However, EPA encourages States to adopt optional rules because they provide benefit to environmental protection.

B. Why are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal Hazardous Waste Program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 CFR parts 124, 260–266, 268, 270, 273, and 279.

C. What is the Effect of This Authorization?

This authorization should have little impact because the State's requirements are already effective. However, upon approval of the revisions, Texas will be authorized to administer federal rules referred by EPA as RCRA Cluster V (these rules are listed in a chart in this FR document). Currently, federal cluster V rules are administered by the EPA.

D. What is the History of Texas' Final Authorization and Its Revisions

Texas received final authorization to implement its hazardous waste management program on December 12, 1984, effective December 26, 1984 (49 FR 48300). This authorization was clarified in a notice published in the FR on March 26, 1985 (50 FR 11858). Texas received final authorization for revisions to its program in notices published in the FR on January 31, 1986, effective October 4, 1985 (51 FR 3952), on December 18, 1986, effective February 17, 1987 (51 FR 45320). We authorized the following revisions: March 1, 1990, effective March 15, 1990 (55 FR 7318), on May 24, 1990, effective July 23, 1990 (55 FR 21383), on August 22, 1991, effective October 21, 1991 (56 FR 41626), on October 5, 1992, effective December 4, 1992 (57 FR 45719) and on April 11, 1994, effective June 27, 1994, (59 FR 16987); on April 12, 1994, effective (59 FR 17273), September 12, 1997, effective November 26, 1997, (62 FR 47947), and on September 19, 1997, effective December 3, 1997, (62 FR 49163). Effective December 3, 1997 (62 FR 49163), EPA incorporated by reference the State of Texas Base Program into CFR. On February 11, 1999, Texas submitted a final complete program revision application, seeking authorization of its program revision in accordance with 40 CFR 271.21.

In 1991, Texas Senate Bill 2 created the TNRCC which combined the functions of the former Texas Water Commission and the former Texas Air Control Board. The transfer of functions to the TNRCC from the two agencies became effective on September 1, 1993.

Under the Texas Solid Waste Disposal Act (codified in Chapter 361 of the Texas Health and Safety Code), the

TNRCC has primary responsibility for administration of laws and regulations concerning hazardous waste. The TNRCC is authorized to administer the RCRA program. However, Under the Texas Natural Resources Code, title 3, and Texas Water Code, Chapter 27, waste (both hazardous and nonhazardous) resulting from activities associated with the exploration, development, or production of oil, gas, or geothermal resources, is regulated by the Railroad Commission of Texas (RRC). A list of activities that generate wastes that are subject to the jurisdiction of the RRC is found at 16 TAC sections 3.8(a)(30) and at 30 TAC 335.1. Such wastes are termed ''oil and gas wastes.'' The TNRCC has responsibility to administer the RCRA program, however, hazardous waste generated at natural gas or natural gas liquids processing plants or reservoir pressure maintenance or repressurizing plants are subject to the jurisdiction of the TNRCC until the RRC is authorized by EPA to administer RCRA. When the RRC is authorized by EPA to administer RCRA program for these wastes, jurisdiction over such hazardous waste will transfer from the TNRCC to the RRC. The EPA has designated the TNRCC to be the lead agency to coordinate RCRA activities between the two agencies. The EPA is responsible for the regulation of hazardous waste for which TNRCC has not been previously authorized.

The TNRCC has rules necessary to implement EPA's RCRA Cluster V revisions to the Federal Hazardous Waste Program from July 1, 1994, to June 30, 1995. The TNRCC authority to incorporate Federal rules by reference can be found at Texas Government Code Annotated section 311.027 and adoption of the hazardous waste rules in general are pursuant to the following statutory provisions: (1) Texas Water Code Annotated section 5.103 (Vernon 1988 & Supplement 1998), effective September 1995, as amended, (2) Texas Health and Safety Code Annotated section 361.024 (Vernon 1992 & supplement 1998), effective September 1, 1995, as amended, (3) Texas Health and Safety Code Annotated section 361.078 (Vernon 1992), effective September 1, 1989.

In this authorization the EPA has also clarified the jurisdiction of the TNRCC and the RRC. Effective May 31, 1998, the TNRCC and the RRC signed a Memorandum of Understanding that clarified the jurisdiction between the agencies for waste associated with exploration, development, production and refining of oil and gas.

E. What Revisions are we Approving With Today's Action?

The State of Texas submitted a final complete program revision application, seeking authorization of their revisions in accordance with 40 CFR 271.21. Texas' revisions consist of regulations which specifically govern Federal Hazardous Waste promulgated from July 1, 1994 to June 30, 1995 (RCRA Cluster V). Texas requirements are listed on the chart included in this document. The EPA is now making an immediate final decision, subject to receipt of written comments that oppose this action, that Texas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Texas final authorization for the following program revisions:

Federal citation	State analog
1. Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste; Recovered Oil Exclusion, [59 FR 38536–38545] July 28, 1994. (Checklist 135).	Texas Water Code Annotated (TWCA) §§ 5.102, 5.103 (Vernon 1988 & Supplement (Supp.) 1998), effective September 1, 1995, as amended; § 5.105 (Vernon 1988) effective September 1, 1985; Texas Health and Safety Code Annotated (THSCA) § 361.003 (Vernon 1992 & Supp. 1998), effective September 1, 1997, as amended, THSCA § 361.017 and 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended, THSCA § 361.078 (Vernon 1992) effective September 1, 1989; 30 Texas Administrative Code (TAC) §§ 335.1(56), 335.1(119), 335.24, and 335.221, effective October 19, 1998, as amended.
2. Removal of the Conditional Exemption for Certain Slag Residues, [59 FR 43496–43500] August 24, 1994. (Checklist 136).	TWCA §§ 5.102 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended; TWCA 5.103 (Vernon 1988 & 1998), effective 1, 1995, as amended; TWCA 5.105 (Vernon 1988) effective September 1, 1985, TWCA 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.017 (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended; THSCA 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended; THSCA 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.211, and 335.431, effective October 19, 1998, as amended.
3. Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Waste and Newly Listed Wastes [59 FR 47982–48110] September 19, 1994, as amended at [60 FR 242–302], January 3, 1995. (Checklist 137).	TWCA §§ 5.102, 5.103, (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, TWCA § 5.105 (Vernon 1988), effective September 1, 1985; THSCA §§ 361.003, 361.017, 361.024, (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended, and 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.1(119), 335.18, 335.19, as amended, effective October 19, 1998; 335.20, as amended, effective May 29, 1986, 335.21, 335.41, 335.214, 335.221, and 335.431, as amended, effective October 19, 1998. At 40 CFR 268.7(a) (tolling agreements), the State regulations are more stringent than the Federal regulations because the State regulations do not contain an explicit provision analogous to 40 CFR part 268.79(a)(10).
4. Testing and Monitoring Activities Amendment I, [60 FR 3089–3095] January 13, 1995. (Checklist 139).	TWCA §§ 5.102, 5.103, (Vernon 1988 & Supp. 1998), effective 1, 1985, as amended, 5.105, (Vernon 1988, effective September 1, 1985; THSCA §§ 361.017, 361.024, (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended, 361.078, (Vernon 1992), effective September 1, 1989; 30 TAC § 335.31, effective October 19, 1998, as amended.
5. Carbamate Production Identification and Listing of Hazardous Waste, [60 FR 7824–7859], February 9, 1995, as amended at [60 FR 19165], April 17, 1995, and at [60 FR 25619], May 12, 1995. (Checklist 140).	TWCA §§ 5.102, 5.103, (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.105, (Vernon 1988) effective September 1, 1985; THSCA §§ 361.003, 361.017, 361.024, 361.078 (Vernon 1992 & Supp. 1998), effective September 1, 1997, as amended, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.29, and 335.1(56), effective September 19, 1998, as amended. The State statutory and regulatory definitions of hazardous waste incorporate by reference the Federal definition, automatically including any changes. The State rule is broader in scope because the waste vacated by the November 1, 1996, decision by United States Court of Appeals For the District of Columbia Circuit in Dithiocarbamate Task Force v. EPA. However, this has no impact on the equivalency of the definition of hazardous waste.

Federal citation	State analog
6. Testing and Monitoring Activities Amendment II, [60 FR 17001–17004], April 4, 1995. (Checklist 141).	TWCA §§ 5.102, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.105 (Vernon 1988), effective September 1, 1985; 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended, THSCA §§ 361.017, 361.024 (Vernon 1992 & Supp. 1998), as amended, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC § 335.31, effective October 19, 1998, as amended.
7. Universal Waste: General Provisions, [60 FR 25492–25551] May 11, 1995. (Checklist 142 A).	TWCA §§ 5.102, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.105 (Vernon 1988), effective September 1, 1985; 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998), effective September 1, 1997, as amended, 361.017, 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, as amended, 361.078l (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.1, 335.2(l), 335.41(j), 335.61(g), 335.62, 335.78(c), (f), and (g), 335.261, 335.431, effective October 19, 1998, as amended.
8. Universal Waste Rule: Specific Provisions for Batteries, [60 FR 25492–2551] May 11, 1995. (Checklist 142 B).	TWCA §§ 5.102, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.105 (Vernon 1988), effective September 1, 1985, 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998), effective September 1, 1997, as amended, 361.017, 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.1, 335.2(l), 335.24(c), 335.41(j), 335.251, 335.261, and 335.431, effective October 19, 1998.
9. Universal Waste Rule: Specific Provisions for Pesticides, [60 FR 25492–25551] May 11, 1995. (Checklist 142 C).	TWCA §§ 5.102 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1995, 5.105 (Vernon 1988), effective September 1, 1985, 26.011 (Vernon 1988 & supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998), effective September 1, 1997, as amended, 361.017, 361.024, (Vernon 1992 & Supp. 1998), effective September 1, 1995 as amended, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 335.1, 335.2(l), 335.41(j) 335.261, and 335.431, effective October 19, 1998, as amended.
10. Universal Waste rule: Specific Provisions for Thermostats, [60 FR 25492–25551] May 11, 1995. (Checklist 142 D).	TWCA §§ 5.102 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1995, as amended, 5.105 (Vernon 1988), effective September 1, 1985, 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998) effective September 1, 1997, as amended, 361.017, 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC 335.1, 335.2(l), 335.41(j), 335.261, 335.431, effective October 19, 1998.
11. Universal Waste Rule: Petition Provisions to Add a New Universal Waste, [60 FR 25492–25551] May 11, 1995. (Checklist 142 E).	TWCA §§ 5.102 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1995, as amended, 5.105 (Vernon 1988), effective September 1, 1985, 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998) effective September 1, 1997, as amended, 361.017, 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 20.15, effective June 6, 1996, as amended, 335.261, effective October 19, 1998 as amended.
12. Removal of Legally Obsolete Rules, [60 FR 33912–33915 June 29, 1995. (Checklist 114).	TWCA §§ 5.102 (Vernon 1988 & Supp. 1998), effective September 1, 1985, as amended, 5.103 (Vernon 1988 & Supp. 1998), effective September 1, 1995, as amended, 5.105 (Vernon 1988), effective September 1, 1985, 26.011 (Vernon 1988 & Supp. 1998), effective March 28, 1991, as amended; THSCA §§ 361.003 (Vernon 1992 & Supp. 1998) effective September 1, 1997, as amended, 361.017, 361.024 (Vernon 1992 & Supp. 1998), effective September 1, 1995, 361.078 (Vernon 1992), effective September 1, 1989; 30 TAC §§ 305.42, 335.1, 335.221(a)(11), 335.221(a)(15), effective October 19, 1998, as amended, 305.50(4)(G), effective November 20, 1996, and 335.223(b), effective July 29, 1992.

F. What Decisions Have We Made?

We conclude that Texas' application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Texas is granted final authorization to operate its hazardous waste program as revised, assuming no adverse comments are received as discussed above. Upon effective final approval Texas will be responsible for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Texas also will have 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.

G. How Do the Revised State Rules Differ From the Federal Rules?

EPA considers the following State requirement to be more stringent than the Federal: The State section 335.431(c)(2) does not contain a explicit provision analogous to 40 CFR 268.7(a)(10) (tolling agreement). These requirements are part of Texas' authorized program and are federally enforceable. In this authorization of the State of Texas' program revisions for RCRA Cluster V, the following provisions are broader in scope: Sections 335.29(4) and 335.29(5) which corresponds to 40 CFR part 261, appendix VII and VIII, and section 20.15 which corresponds to 40 CFR 260.20(a). The Texas regulations are broader in scope because the waste listing vacated by the November 1, 1996, decision by the United States Court of Appeals for the District of Columbia Circuit in Dithiocarbamate Task Force v. EPA, 98 F. (D.C. Cir. 1996), remain reflected in the State's adoption by reference of the February 9, 1995, version of 40 CFR part 261, appendix VII and VIII. However, this has no impact on the equivalency of the definition of hazardous waste. Broader in scope requirements are not part of the authorized program and EPA cannot enforce them.

H. Who Handles Permits After This Authorization Takes Effect?

Texas will issue permits for all the provisions for which it is authorized and will also administer program

revisions for Federal rules promulgated from July 1, 1994 to June 30, 1995 (RCRA Cluster V). EPA will continue to administer any RCRA hazardous waste permits or portions of permits which it issued prior to the effective date of this authorization until they expire or are terminated. EPA will not issue any more permits or portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which the State is not yet authorized. HSWA requirements are effective in all States and are administered by EPA until States are authorized to do so.

I. Why Wasn't There a Proposed Rule Before Today's Notice?

The EPA is authorizing the State's changes through this immediate final action and is publishing this rule without a prior proposal to authorize the changes because EPA believes it is not controversial and do not expect comments that oppose this action. EPA is providing an opportunity for public comment now. In the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State changes. If EPA receives comments which oppose this authorization, that document will serve as a proposal to authorize the changes.

J. Where Do I Send My Comments and When Are They Due?

You should send written comments to Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533. Please refer to Docket Number TX–99–1. We must receive your comments by September 17, 1999. You may not have an opportunity to comment again. If you want to comment on this action, you must do so at this time.

K. What Happens if EPA Receives Comments Opposing This Action?

If EPA receives comments which oppose this authorization, a second **Federal Register** notice will be published before the time the immediate final rule takes effect. The second notice may withdraw the immediate final rule or identify the issues raised, respond to the comments and affirm that the immediate final rule will take effect as scheduled.

L. When Will This Approval Take Effect?

Unless EPA receives comments that oppose this action, this final authorization approval will become effective without further notice on October 18, 1999.

M. Where Can I Review the State's Application?

You can view and copy the State of Texas' application from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following addresses: Texas Natural Resource Conservation Commission, 1700 N. Congress Avenue, Austin TX 78711–3087, (512) 239–6757 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6444. For further information contact Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–8533.

N. Now Does Today's Action Affect Indian Country in Texas?

Texas is not authorized to carry out its hazardous waste program in Indian country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian country.

O. What is Codification?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA reserves the amendment of 40 CFR part 272, subpart SS for this authorization of Texas' program changes until a later date.

Administrative Requirements

Compliance With Executive Order (E.O.) 12866

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of E.O. 12866.

Compliance Executive Order 13045

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' applies to any rule that: (1) the OMB determines is ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that the 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.

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 the 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 the 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, the EPA did not consider the use of any voluntary consensus standards.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 and 205 of the UMRA, the EPA 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. The 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 State of Texas' program, and today's action does not impose any additional obligations on regulated entities. In fact, the 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 the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of the UMRA requires the 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 hazardous waste treatments, storage or disposal facilities (TSDFs), they are already subject to the regulatory requirements under the existing State laws that are being authorized by the 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 1966), 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 any 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 submitted 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'' defined by 5 U.S.C. 804(2).

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.

Executive Order 12875 Enhancing Intergovernmental Partnerships

Under E.O. 12875, the EPA may not issue 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, the EPA must provide to the OMB 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, E.O. 12875 requires the 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 E.O. 12875 do not apply to this rule.

Executive Order 13084 Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, the EPA may not issue a regulation that is not require 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 cost incurred by the tribal governments. If the mandate is unfunded, the EPA must provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of the EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires the 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 governments. The State of Louisiana is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that the EPA implements in the Indian country within the State.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, and 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).

Dated: July 30, 1999.

W.B. Hathaway,

Acting Regional Administrator, Region 6.

[FR Doc. 99–21423 Filed 8–17–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 413

[HCFA–1001–IFC]

RIN 0938–AI27

Medicare Program; Graduate Medical Education (GME): Incentive Payments Under Plans for Voluntary Reduction in the Number of Residents

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

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period implements section 1886(h)(6) of the Social Security Act, as added by section 4626(a) of the Balanced Budget Act (BBA) of 1997. Section 4626(a) of the BBA allows qualifying hospitals to receive incentive payments over a 5-year period for voluntarily reducing the size of their residency programs. A hospital seeking incentive payments must submit, to HCFA and its Medicare intermediary, an application that specifies reductions in its number of residents by 20 to 25 percent.

DATES: *Effective date:* This interim final rule with comment period is effective September 17, 1999.

Comment Period: Comments will be considered if we receive them at the appropriate address, as provided in the **ADDRESSES** section, no later than 5 p.m. on October 18, 1999.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA–1001–IFC, P.O. Box 9010, Baltimore, MD 21244–9010.

If you prefer, you may deliver your written comments (one original and three copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or

Room C5–16–03, Central Building, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

For comments that relate to information collection and recordkeeping requirements, mail copies of comments directly to the following:

Health Care Financing Administration, Office of Information Services, Security Standards Group, Division of HCFA Enterprise Standards, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850; and the

Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Rebecca Hirshorn, (410) 786–3411.

SUPPLEMENTARY INFORMATION:

Comments

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1001–IFC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

I. Background

Since the inception of Medicare in 1965, the program has shared in the costs of educational activities incurred by participating providers. Our regulations at 42 CFR 413.85(b) define approved educational activities to mean formally organized or planned programs of study usually engaged in by providers in order to enhance the quality of patient care in an institution. These activities include approved training programs for physicians, nurses, and certain allied health professionals. Medicare makes payments for both the direct and indirect costs of graduate medical education (GME). Under section 1886(h) of the Social Security Act (the Act) and 42 CFR 413.86, Medicare pays hospitals for the costs of direct GME. Under 1886(d)(5)(B) of the Act and 42 CFR 412.105, Medicare pays hospitals for the costs of indirect medical education (IME).

A. Direct Graduate Medical Education

Under sections 1886 (a)(4) and (d)(1)(A) of the Act and 42 CFR 412.113, direct GME costs are excluded from the definition of a hospital's operating costs and, accordingly, are not included in the calculation of payment rates under the hospital inpatient prospective payment system or in the calculation of the rate-of-increase limit for hospitals excluded from the prospective payment system. Under section 1886(h) of the Act and 42 CFR 413.86, hospitals are paid for direct GME costs based on Medicare's share of a hospital-specific per resident amount multiplied by the number of full-time equivalent (FTE) residents.

B. Indirect Medical Education (IME)

Medicare has made payments to short-term acute care hospitals under section 1886(d) of the Act on the basis of the prospective payment system since 1983. Under the prospective payment system, hospitals receive a predetermined payment for each Medicare discharge. Section 1886(d)(5)(B) of the Act specifically directs the Secretary to provide an additional payment under the inpatient operating prospective payment system to hospitals for IME costs. This additional payment, which reflects the higher operating costs associated with GME, is based in part on the applicable IME adjustment factor. The adjustment factor is calculated by using a hospital's ratio of residents-to-beds in the formula set forth at section 1886(d)(5)(B)(iii) and specified in regulations at § 412.105.

Psychiatric and rehabilitation hospitals and units as well as long-term care, cancer, and children's hospitals are excluded from the prospective payment system and are paid on a reasonable cost basis under section 1861(v)(1)(A) of the Act, subject to a rate-of-increase limit. Payments to excluded hospitals for their IME costs are included in their payments for operating costs and are therefore subject to the rate-of-increase limit.

Under section 1886(g) of the Act and § 412.322 of the existing regulations, we also make capital GME payments to hospitals on the basis of each respective hospital's ratio of residents to average daily census.

C. The Balanced Budget Act of 1997

Section 4626(a) of the Balanced Budget Act (BBA) of 1997, Public Law 105–33 (enacted on August 5, 1997), added section 1886(h)(6) to the Act to set forth provisions that allow Medicare participating hospitals to receive incentive payments over a 5-year period under approved plans for voluntarily reducing the number of residents that are in their approved medical residency training programs. Section 1886(h)(6)(C) of the Act defines the entities that may qualify for incentive payments under a voluntary reduction plan and section 1886(h)(6)(B) of the Act sets forth