

- 58.01.01.175–181, Procedures and Requirements for Permits Establishing a Facility Emissions Cap
- 58.01.01.861, Standards of Performance of Hospital/Medical/Infectious Waste Incinerators

### C. Scope of Proposed Action

Idaho has not demonstrated authority to implement and enforce IDAPA Chapter 58 within “Indian Country” as defined in 18 U.S.C. 1151.<sup>7</sup> Therefore, EPA proposes that this SIP approval not extend to “Indian Country” in Idaho. See CAA sections 110(a)(2)(A) (SIP shall include enforceable emission limits), 110(a)(2)(E)(i) (State must have adequate authority under State law to carry out SIP), and 172(c)(6) (nonattainment SIPs shall include enforceable emission limits). This is consistent with EPA’s previous approval of Idaho’s PSD program, in which EPA specifically disapproved the program for sources within Indian Reservations in Idaho because the State had not shown it had authority to regulate such sources. See 40 CFR 52.683(b). It is also consistent with EPA’s approval of Idaho’s title V air operating permits program. See 61 FR 64622, 64623 (December 6, 1996) (interim approval does not extend to Indian Country); 66 FR 50574, 50575 (October 4, 2001) (full approval does not extend to Indian Country).

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements

<sup>7</sup> “Indian country” is defined under 18 U.S.C. 1151 as: (1) All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation. (2) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, and (3) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation. In Idaho, Indian country includes, but is not limited to, the Coeur d’Alene Reservation, the Duck Valley Reservation, the Reservation of the Kootenai Tribe, the Fort Hall Indian Reservation, and the Nez Perce Reservation as described in the 1863 Nez Perce Treaty.

beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 3, 2010.

**Dennis J. McLerran,**

*Regional Administrator, Region 10.*

[FR Doc. 2010–5965 Filed 3–17–10; 8:45 am]

**BILLING CODE 6560–50–P**

### ENVIRONMENTAL PROTECTION AGENCY

**40 CFR Parts 260, 261, 262, 263, 264, 265, 266, 268, and 270**

[EPA–RCRA–2008–0678; FRL–9127–8]

RIN 2050–AG52

### Hazardous Waste Technical Corrections and Clarifications Rule

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA or the Agency) is proposing a number of technical changes that would correct or clarify several parts of the hazardous waste regulations that relate to hazardous waste identification, manifesting, the hazardous waste generator requirements, the standards for owners and operators of hazardous waste treatment, storage and disposal facilities, the standards for the management of specific types of hazardous waste and specific types of hazardous waste management facilities, the land disposal restrictions program and the hazardous waste permit program.

**DATES:** Written comments must be received by May 3, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2008–0678, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- *E-mail:* [rcra-docket@epa.gov](mailto:rcra-docket@epa.gov) and [oleary.jim@epa.gov](mailto:oleary.jim@epa.gov). Attention Docket ID No. EPA–HQ–RCRA–2008–0678.
- *Fax:* 202–566–9744. Attention Docket ID No. EPA–HQ–RCRA–2008–0678.
- *Mail:* RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–RCRA–2008–0678. Please include a total of 2 copies.
- *Hand Delivery:* EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA–HQ–RCRA–2008–0678. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any

personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA

Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the HQ-Docket Center, Docket ID No. EPA-HQ-RCRA-2008-0678, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the RCRA Docket is (202) 566-0270. A reasonable fee may be charged for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** For more information on this rulemaking, contact Jim O'Leary, U.S. Environmental Protection Agency, Office of Resource Conservation and Recovery (MC:5304P), 1200 Pennsylvania Avenue, NW.,

Washington, DC 20460, Phone: 703/308-8827; or e-mail: [oleary.jim@epa.gov](mailto:oleary.jim@epa.gov).

#### SUPPLEMENTARY INFORMATION:

### I. Why Is EPA Issuing This Proposed Rule?

This document proposes a number of technical changes that would correct or clarify several parts of the hazardous waste regulations that relate to hazardous waste identification, manifesting, the hazardous waste generator requirements, the standards for owners and operators of hazardous waste treatment, storage and disposal facilities, the standards for the management of specific types of hazardous waste and specific types of hazardous waste management facilities, the land disposal restrictions program, and the hazardous waste permit program. In the "Rules and Regulations" section of this **Federal Register**, EPA is making these technical changes as a Direct Final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the Direct Final rule. If we receive no adverse comment on any of the individual technical changes we are promulgating today, we will not take further action on this proposed rule. If, however, we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that those paragraphs or amendments of the Direct Final rule for which the Agency received adverse comment will not take effect, and the reason for such withdrawals. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

### II. Does This Action Apply to Me?

Entities potentially affected by this action include facilities subject to the RCRA hazardous waste regulations and States implementing the RCRA hazardous waste regulations.

### III. Statutory and Executive Order Reviews

For a complete discussion of all the administrative requirements applicable to this action, see the Direct Final rule in the Rules and Regulations section of this **Federal Register**.

#### A. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any

rule subject to the 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 rule on small entities, small entity is defined as:* (1) A small business as defined by the Small Business Administrations' regulations at 13 CFR 121.201; (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 impact of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not create any new regulatory requirements, but rather corrects typographical errors and incorrect citations, and makes conforming changes (where they have not been made previously) to all applicable parts of the hazardous waste regulations.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities.

#### List of Subjects

##### 40 CFR Part 260

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Reporting and recordkeeping requirements.

##### 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

##### 40 CFR Part 262

Environmental protection, Exports, Hazardous materials transportation, Hazardous waste, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

##### 40 CFR Part 263

Environmental protection, Hazardous materials transportation, Hazardous Waste, Reporting and recordkeeping requirements.

**40 CFR Part 264**

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

**40 CFR Part 265**

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

**40 CFR Part 266**

Environmental protection, Energy, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

**40 CFR Part 268**

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

**40 CFR Part 270**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: March 10, 2010.

**Lisa P. Jackson,**  
Administrator.

[FR Doc. 2010-5697 Filed 3-17-10; 8:45 am]

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**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS-R4-ES-2010-0011]  
[MO 92210-0-0008-B2]

**Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Berry Cave Salamander as Endangered**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce a 90-day finding on a petition to list the Berry Cave salamander (*Gyrinophilus gulolineatus*) as endangered under the Endangered Species Act of 1973, as amended. Based on our review, we find that the petition presents substantial scientific or commercial information

indicating that listing this species may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the species to determine if listing the Berry Cave salamander is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding this species. Based on the status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted, as provided in section 4(b)(3)(B) of the Act. **DATES:** To allow us adequate time to conduct this review, we request that we receive information on or before May 17, 2010. After this date, you must submit information directly to the Field Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we may not be able to address or incorporate information that we receive after the above requested date.

**ADDRESSES:** You may submit information by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Search for Docket No. FWS-R4-ES-2010-0011 and follow the instructions for submitting comments.

- U.S. mail or hand-delivery: Public Comments Processing, Attn: FWS-R4-ES-2010-0011; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Information Requested section below for more details).

**FOR FURTHER INFORMATION CONTACT:** Mary E. Jennings, Field Supervisor, Cookeville Ecological Services Field Office, 446 Neal Street, Cookeville, TN, 38501; by telephone (931-528-6481); or by facsimile (931-528-7075). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:****Information Requested**

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on the Berry Cave

salamander from governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties. We seek information on:

- (1) The species' biology, range, and population trends, including:
  - (a) Habitat requirements for feeding, breeding, and sheltering;
  - (b) Genetics and taxonomy;
  - (c) Historical and current range, including distribution patterns;
  - (d) Historical and current population levels, and current and projected trends; and
  - (e) Past and ongoing conservation measures for the species, its habitat, or both.
- (2) The factors that are the basis for making a listing determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:
  - (a) The present or threatened destruction, modification, or curtailment of its habitat or range;
  - (b) Overutilization for commercial, recreational, scientific, or educational purposes;
  - (c) Disease or predation;
  - (d) The inadequacy of existing regulatory mechanisms; or
  - (e) Other natural or manmade factors affecting its continued existence.
- (3) The potential effects of climate change on this species and its habitat.

If we determine that listing the Berry Cave salamander is warranted, it is our intent to propose critical habitat to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, with regard to areas within the geographical range currently occupied by the Berry Cave salamander, we also request data and information on what may constitute physical or biological features essential to the conservation of the species, where these features are currently found, and whether any of these features may require special management considerations or protection.

In addition, we request data and information regarding whether there are areas outside the geographical area occupied by the species that are essential for the conservation of the species. Please provide specific comments and information as to what, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat meets the requirements of the Act.

Please include sufficient information with your submission (such as scientific journal articles, other supporting publications, or data) to allow us to