

**ADDRESSES:** Written comments should be addressed to: Roylene A. Cunningham, EPA Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101. Copies of the State submittal and other information supporting this action are available at the following addresses for inspection during normal business hours. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day: EPA Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101; and Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 105, Juneau, Alaska 99801-1795.

**FOR FURTHER INFORMATION CONTACT:** Roylene A. Cunningham, EPA Region 10, Office of Air Quality (OAQ-107), 1200 Sixth Avenue, Seattle, Washington 98101, (206) 553-0513.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final rule which is located in the Rules Section of this **Federal Register**.

Dated: May 30, 2001.

**Michael A. Bussell,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 01-15417 Filed 6-19-01; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 271**

**[FRL-7000-2]**

#### **California: Proposed Authorization of State Hazardous Waste Management Program Revision**

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

**ACTION:** Proposed rule.

**SUMMARY:** California has applied to EPA for final authorization of certain changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed California's application and made the tentative decision that these changes satisfy all requirements needed to qualify for final authorization, and is proposing to authorize the State's changes.

**DATES:** EPA must receive written comments on California's application for authorization for changes to its hazardous waste management program by July 20, 2001.

**ADDRESSES:** Send written comments to Rebecca Smith, WST-3, U.S. EPA

Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901, Phone number (415) 744-2152. You can view and copy California's application at the following addresses: California Environmental Protection Agency, Environmental Services Center, 1001 I Street, First Floor, Sacramento, CA 95814, phone number: (916) 322-7394, from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday (appointment preferred but not required); and EPA Region 9, Library, 75 Hawthorne Street, San Francisco, CA 94105-3901, phone number: (415) 744-1510, from 9 a.m. to 4 p.m. Copy services are not available in Sacramento, but should be arranged by the viewer.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Smith at the above address and phone number.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. 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 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 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

##### **B. What Decisions Have We Made in This Rule?**

EPA has made the tentative determination that California's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we are proposing to grant California final authorization to operate its hazardous waste program with the changes described in the authorization application. California will have responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under

the authority of HSWA take effect in authorized states before such states are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in California, including issuing permits, until the State is granted authorization to do so.

##### **C. What Will Be the Effect if California Is Authorized for These Changes?**

If California is authorized for these changes, a facility in California subject to RCRA will have to comply with the authorized State requirements in lieu of the corresponding Federal requirements in order to comply with RCRA. Additionally, such persons will have to comply with any applicable Federally-issued requirements, such as, for example, HSWA regulations issued by EPA for which the State has not received authorization, and RCRA requirements that are not supplanted by authorized state-issued requirements. California continues to have enforcement responsibilities under its State law to pursue violations of its hazardous waste management program. EPA continues to have independent authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, the authority to:

- Do inspections, and require monitoring, tests, analyses or reports,
- Enforce RCRA requirements (including State-issued statutes and regulations that are authorized by EPA and any applicable Federally-issued statutes and regulations) and suspend or revoke permits, and
- Take enforcement actions regardless of whether the State has taken its own actions.

The action to approve these revisions would not impose additional requirements on the regulated community because the regulations for which California will be authorized are already effective under State law and are not changed by the act of authorization.

EPA cannot delegate the Federal requirements at 40 CFR Part 262, Subparts E and H. Although California has adopted these requirements verbatim from the Federal regulations in Title 22 of the California Code of Regulations, sections 66260-66262, EPA will continue to implement those requirements.

##### **D. What Happens If EPA Receives Comments That Oppose This Action?**

If EPA receives comments that oppose this authorization, we will address those comments in a later final rule. You may not have another opportunity to comment. If you want to comment on

this authorization, you must do so at this time.

#### **F. What Has California Previously Been Authorized for?**

California initially received final authorization on July 23, 1992, effective August 1, 1992 (57 FR 32726), to implement the RCRA hazardous waste management program. This "base program authorization" authorized California's RCRA program based on California statutory and regulatory provisions in effect as of December of 1990.

#### **G. What Changes Are We Proposing?**

On January 31, 2000, California submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We have made a tentative determination that California's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. California has applied for many of the Federal changes to the RCRA program since it was authorized for the base program. The earliest of these Federal changes goes back to 1989. However, there are several changes to the Federal program which have been made since California's base program was authorized for which California has not yet applied for authorization. The major areas of changes for which California has not yet applied for authorization are: The used oil regulations; consolidated liability requirements; military munitions; phases three and four of the land disposal restrictions; and universal waste.

Since authorization of California's base program in 1992, California has submitted numerous packages to EPA relating to its efforts to seek authorization for updates to its program based on revisions to the Federal program. EPA has published a series of checklists to aid California and the other states in such efforts, (see EPA's RCRA State Authorization web page at <http://www.epa.gov/epaoswer/hazwaste/state/rcra.htm#csrc>). Each checklist generally reflects changes made to the Federal regulations pursuant to a particular **Federal Register** notice. California's submittals have been grouped into general categories (e.g., Air Emissions Standards, Boilers and Industrial Furnaces, etc.). Each submittal may have reflected changes based on one or more **Federal Register** notices and would have thus referenced one or more corresponding checklists.

What follows is a summary, for each general category identified by California

in its submittals, of the specific subjects of changes to the Federal program for that category. Although the changes to the Federal program are identified in the summary, California did not necessarily make revisions to its program as a result of each Federal revision noted. For example, certain revisions to the Federal program may have resulted in less stringent regulation than that which previously existed. Since states may maintain programs which are more stringent than the Federal program, states have the option whether or not to adopt such revisions.

##### *1. Changes California Identified as Relating to Air Emissions Standards*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following areas: Organic air emission standards for process vents and equipment leaks; and organic air emissions standards for tanks, surface impoundments and containers.

##### *2. Changes California Identified as Relating to the Toxicity Characteristic*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following areas: Interim status standards for down-gradient ground-water monitoring well locations; hydrocarbon recovery operations; chlorofluorocarbon refrigerants; the mining waste exclusion; the recycled coke by-product exclusion; the toxicity characteristic leaching procedure; the mixture and derived-from rules; the removal of strontium sulfide from the list of hazardous wastes; the adoption of an administrative stay for K069 listing (emission control dust/sludge from secondary lead smelting); the adoption of certain technical corrections to the 1990 toxicity characteristic rule; the listing of chlorinated toluene production waste (K149, K150, K151); the standards for treating liquids in landfills; the references which specify testing requirements and monitoring activities; the listing of hazardous constituents from the use of chlorophenolic formulations in wood surface protection; the reference relating to wood surface protection; the listing of beryllium powder (P015); and provisions to be met for excluding as a hazardous waste certain wastewaters from the production of carbamates and carbamoyl oximes (K157).

##### *3. Changes California Identified as Relating to Corrective Action Management*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following areas: Corrective action management units and temporary units.

If these changes are authorized, they will include final authorization of California for the February 16, 1993 Corrective Action Management Unit (CAMU) rule. If California is authorized for the rule, the State will be eligible for interim authorization-by-rule for the proposed amendments to the CAMU rule, which also proposed the interim authorization-by-rule process (see August 22, 2000, 65 FR 51080, 51115). California will also become eligible for conditional authorization if that alternative is chosen by EPA in the final CAMU amendments rule.

##### *4. Changes California Identified as Relating to Boilers and Industrial Furnaces*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following areas: Burning of hazardous waste in boilers and industrial furnaces; an administrative stay for coke ovens; the recycled coke by-products exclusion; certain coke by-products listings; guidelines for air quality modeling and screening for boilers and industrial furnaces burning hazardous waste; the adoption of an administrative stay and interim standards for Bevill residues; and certain technical amendments to record keeping instructions.

##### *5. Changes California Identified as Relating to Wood and Sludge*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following areas: Wood preserving listings; and petroleum refinery primary and secondary oil/water/solids separation sludge listings.

We also propose to find that California did not need to adopt a Federal administrative stay for the requirement that existing drip pads be impermeable because the stay expired on October 30, 1992.

##### *6. Changes California Identified as Relating to Liners and Leak Detection*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the

following area: Liners and leak detection systems for hazardous waste land disposal units.

*7. Changes California Identified as Relating to Recyclable Materials Used in a Manner Constituting Disposal*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following area: The removal of the conditional exemption for certain slag residues.

*8. Changes California Identified as Relating to Recovered Oil*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following area: The recovered oil exclusion.

*9. Changes California Identified as Relating to Delay of Closure*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following area: The delay of closure period for hazardous waste management facilities.

*10. Changes California Identified as Relating to Public Participation*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the

following area: Expanded public participation.

*11. Changes California Identified as Relating to Used Oil Filters*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following area: The used oil filter exclusion.

*12. Changes California Identified as Relating to Land Disposal Restrictions (LDR)*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program in the following areas: LDR third third scheduled wastes; electric arc furnace dust (K061); LDRs for newly listed wastes and hazardous debris; LDRs for ignitable and corrosive characteristic wastes whose treatment standards were vacated; case-by-case capacity variances for hazardous debris; case-by-case capacity variances for lead-bearing hazardous materials; case-by-case capacity variances for hazardous soil; and universal treatment standards and treatment standards for organic characteristic wastes and newly listed wastes.

*13. Changes California Identified as Relating to Exports*

We are proposing to grant California final authorization for all revisions, if

any, to its program due to certain changes to the Federal program in the following area: The identification of the U.S. EPA office to which the notification of export activities and annual export reports must be sent. California has also adopted the Federal regulations implementing a graduated system of procedural and substantive controls for hazardous wastes as they move across national borders within the Organization for Economic Cooperation and Development (OECD) for recovery. The requirements for regulating exports, Subparts E and H of 40 CFR Part 262, will be administered by the U.S. EPA instead of California because the exercise of foreign relations and international commerce powers is delegated to the Federal government under the Constitution. California has adopted these export rules into Title 22 California Code of Regulations for the convenience of the regulated community.

*14. Miscellaneous Changes*

We are proposing to grant California final authorization for all revisions, if any, to its program due to certain changes to the Federal program which removed certain legally obsolete rules.

The following table shows the Federal and analogous State provisions involved in this tentative decision and the relevant corresponding checklists:

**BILLING CODE 6560-50-P**

Description of Federal requirement (checklist #)	Federal Register date and page	Analogous State authority
40 Code of Federal Regulations (40 CFR) 60, Appendix A, Air Emission Standards (AirES), checklist 154.	(154) 59 FR 62896, Dec. 6, 1994 [amended by 60 FR 26828, May 19, 1995; 60 FR 50426, Sept. 29, 1995; 60 FR 56952, Nov. 13, 1995; 61 FR 4903, Feb. 9, 1996; 61 FR 28508, June 5, 1996; and 61 FR 59932, Nov. 25, 1996].	(154) Title 22, California Code of Regulations (22 CCR) 66260.11, amended June 11, 1999.
40 CFR 124.31-124.33 Public Participation (Public), checklist 148.	(148) 60 FR 63417, Dec. 11, 1995 .....	(148) 22 CCR 66260.10, 66271.31-66271.33, amended June 18, 1997.
40 CFR 260.10 Wood and Sludge (Wood), checklist 82; Boilers and Industrial Furnaces (BIF), checklists 85, 111; Toxicity characteristics (TC), checklists 99, 118; Liners and Leak Detection (Liners), checklist 100; Land Disposal Restrictions (LDR), checklist 109; Corrective Action Management Units (CAMU), checklist 121.	(82) 55 FR 50490, Dec. 6, 1990; (85) 56 FR 7134, Feb. 21, 1991; (99) 56 FR 66365, Dec. 23, 1991; (100) 57 FR 3462, Jan. 29, 1992; (109) 57 FR 37194, Aug. 18, 1992; (111) 57 FR 38558, Aug. 25, 1992; (118) 57 FR 54452, Nov. 18, 1992; (121) 58 FR 8658, Feb. 16, 1993.	(99) 22 CCR 66260.10, adopted 1991; (82) 22 CCR 66260.10, amended, 1994; (121) 22 CCR 66260.10, amended 1996; (100) 22 CCR 66260.10, amended July 1, 1996; (85, 111) 22 CCR 66260.10, amended Feb. 11, 1997; (109) 22 CCR 66260.10, amended Aug. 15, 1997; (118) 22 CCR 66260.10, amended Nov. 12, 1998.
40 CFR 260.11 AirES, checklists 79, 154; BIF, checklists 85, 125; TC, checklists 126, 128, 132, 139, 141, 158.	(79) 55 FR 25454, June 21, 1990; (125) 58 FR 38816, July 20, 1993; (126) 58 FR 46040, Aug. 31, 1993; (128) 59 FR 458, Jan. 4, 1994; (132) 59 FR 28484, June 2, 1994; (139) 60 FR 3089, Jan. 13, 1995; (141) 60 FR 17001, Apr. 4, 1995; (158) 62 FR 32452, June 13, 1997.	(79) 22 CCR 66260.11, amended 1993; (85, 125) 22 CCR 66260.11, amended July 1, 1996; (154, 126, 128, 132, 139, 141, 158) 22 CCR 66260.11, amended June 11, 1999.
40 CFR 260.20; BIF, checklist 111 .....	.....	(111) California did not adopt this provision.
40 CFR 260.22; TC, checklist 126 .....	.....	(126) California did not adopt this provision for delisting hazardous waste.

Description of Federal requirement (checklist #)	Federal Register date and page	Analogous State authority
40 CFR 260.30–260.33; LDR, checklist 137 .....	(137) 59 FR 47982, Sept. 19, 1994 .....	(137) California Health and Safety Code (HSC) Division 20, 25143(c), amended 1996. California is not seeking to have these provisions delegated.
40 CFR 261.2; BIF, checklists 85, 94, 96, 111; LDR, checklist 137.	(94) 56 FR 32688, July 17, 1991; (96) 56 FR 42504, Aug. 27, 1991.	(85, 94, 96, 111) HSC Division 20, 25143.2, amended 1988; 22 CCR 66261.2, adopted July 1, 1996; (137) HSC Division 20, 25143.2, amended 1996.
40 CFR 261.3; BIF, checklist 94, 96; TC, checklists 117, 140; LDR, checklists 83, 95, 109; Recovered Oil Exclusion, checklist 135.	(83) 56 FR 3864, Jan. 31, 1991; (95) 56 FR 41164, Aug. 19, 1991; (117) 57 FR 7628, March 3, 1992 and 57 FR 23062, June 1, 1992; (135) 59 FR 38536, July 28, 1994; (140) 60 FR 7824, Feb. 9, 1995 [amended at 60 FR 19165, Apr. 17, 1995; 60 FR 25619, May 12, 1995].	(117) HSC Division 20, 25143.2, amended 1994; (135) HSC Division 20, 25144, amended 1995; (135) HSC Division 20, 25143.2, amended 1996; (94, 96) 22 CCR 66261.3, amended Jan. 31, 1997; HSC, Division 20, 25143.2, amended 1988; (83, 95, 109) 22 CCR 66261.3, amended Aug. 15, 1997; (117, 140) 22 CCR 66261.3, amended Nov. 12, 1998.
40 CFR 261.4; TC, checklists 80, 84, 90, 105, 108; Wood, checklists 82, 92; BIF, checklists 85, 105, 110; LDR, checklist 95; Used Oil Filters, checklists 104, 107; Recovered Oil Exclusion, checklist 135.	(80) 55 FR 40834, Oct. 5, 1990; (84) 56 FR 5910, Feb. 13, 1991; (90) 56 FR 66365, Dec. 23, 1991; (92) 56 FR 30192, July 1, 1991; (104) 57 FR 21524, May 20, 1992; (105) 57 FR 27880, June 22, 1992; (107) 57 FR 29220, July 1, 1992; (108) 57 FR 30657, July 10, 1992; (110) 57 FR 37284, Aug. 18, 1992.	(82, 92, 95, 104, 105, 107, 108, 110) California did not adopt these exclusions; (85, 90) HSC Division 20, 25143.1, amended 1991; (80, 84, 105) 22 CCR 66261.24, amended 1994; (135) HSC Division 20, 25144, amended 1995; 25143.2, amended 1996
40 CFR 261.6; AirES, checklists 79, 154; BIF, checklists 85, 94; Recovered Oil Exclusion, checklist 135.	.....	(85) HSC Division 20, 25143.2, amended 1988; (79) 22 CCR 66266.12, adopted 1993; (135) HSC Division 20, 25144, amended 1995; (135) HSC Division 20, 25143.2, amended 1996; (94) 22 CCR 66261.6, amended June 12, 1997; (154) 22 CCR 66261.6, amended June 11, 1999
40 CFR 261.20; LDR, checklist 83 .....	.....	(83) 22 CCR 66261.20, adopted July 1, 1991
40 CFR 261.22 and 261.24; TC, checklist 126 .....	.....	(126) 22 CCR 66261.22 and 66261.24, amended Nov. 12, 1998
40 CFR 261.31; LDR, checklist 83; Wood, checklists 81, 82, 89, 120; Removal of Legally obsolete rules, checklist 144.	(81) 55 FR 46354, Nov. 2, 1990, amended at 55 FR 51707, Dec. 17, 1990; (89) 56 FR 21955, May 13, 1991; (120) 57 FR 61492, Dec. 24, 1992 (144) 60 FR 33912, June 29, 1995.	(81, 82, 83, 89, 120) 22 CCR 66261.31, amended Oct. 10, 1994 (144) California did not adopt these rules and does not need to repeal them.
40 CFR 261.32, 261.33; TC, checklists 86, 88, 115, 134, 140; BIF, checklist 110.	(86) 56 FR 7567, Feb. 25, 1991; (88) 56 FR 19951, May 1, 1991; (115) 57 FR 47376, Oct. 15, 1992; (134) 59 FR 31551, June 20, 1994.	(110) 22 CCR 66261.32, amended July 31, 1996; (86, 88, 115, 134, 140) 22 CCR 66261.32, 66261.33, amended Nov. 12, 1998.
40 CFR 261.35; Wood, checklists 82, 92 .....	.....	(82, 92) 22 CCR 66261.35, adopted 1994.
40 CFR 261, Appendices II, III, VII, VIII, X; Wood, checklists 81, 82; TC, checklists 86, 115, 119, 126, 128, 134, 140; BIF, checklist 110.	(119) 57 FR 55114, Nov. 24, 1992 .....	(81, 82) 22 CCR, Division 4.5, Chapter 11, Appendices III, VII, VIII, amended 1994; (110) 22 CCR, Division 4.5, Chapter 11, Appendix VII, amended July 31, 1996; (86, 115, 126, 128, 134, 140) 22 CCR, Division 4.5, Chapter II, Appendices II, III, VII, VIII, X, amended Nov. 12, 1998 (119) California did not adopt this regulation.
40 CFR 262.11; LDR, checklist 83 .....	.....	(83) 22 CCR 66262.11, adopted July 1, 1991.
40 CFR 262.34; Wood, checklists 82, 92; LDR, checklists 83, 109; AirES, checklist 154.	.....	(82, 92) 22 CCR 66262.34, adopted 1994; (83, 109) 22 CCR 66262.34, amended Oct. 28, 1997; (154) 22 CCR 66262.34, amended June 11, 1999
40 CFR 262.53(b) and 262.56(b); Exports, checklist 97.	(97) 56 FR 43704, Sept. 4, 1991 .....	(97) 22 CCR 66262.53(c) and 66262.56(b), amended 1993
40 CFR 264.1, 265.1; BIF, checklist 111; CAMU, checklist 121; LDR, checklists 124, 137.	(124) 58 FR 29860, May 24, 1993 .....	(121) 22 CCR 66265.1, amended 1996; (124) HSC Division 20, 25179.2, amended 1996; (111, 124) 22 CCR 66264.1, 66265.1, amended June 12, 1997; 66270.69, amended July 31, 1996; (137) California did not adopt these exemptions.
40 CFR 264.3; CAMU, checklist 121 .....	.....	(121) 22 CCR 66264.3, amended 1996

Description of Federal requirement (checklist #)	Federal Register date and page	Analogous State authority
40 CFR 264.13, 265.13; Delay of Closure (Closure), checklist 64; AirES, checklists 79, 87, 154; LDR, checklist 102; TC, checklist 118.	(64) 54 FR 33376, Aug. 14, 1989; (87) 56 FR 19290, Apr. 26, 1991; (102) 57 FR 8086, Mar. 6, 1992.	(79, 87) 22 CCR 66264.13, 66265.13, amended 1993; (64, 102) 22 CCR 66264.13, amended Oct. 22, 1996; 66265.13, amended, July 20, 1996; (118) 22 CCR 66264.13, 66265.13, amended Nov. 12, 1998; (154) 22 CCR 66264.13, 66265.13, amended June 11, 1999
40 CFR 264.15, 265.15; AirES, checklists 79, 154, 163; Liners, checklist 100.	(163) 62 FR 64636, Dec. 8, 1997 .....	(79) 22 CCR 66264.15, 66265.15, amended 1993; (100) 22 CCR 66264.15, 66265.15, amended July 19, 1995; (154, 163) 22 CCR 66264.15, 66265.15, amended June 11, 1999
40 CFR 264.19, 265.19; Liners, checklist 100 ...	.....	(100) 22 CCR 66264.19, 66265.19, amended June 30, 1997
40 CFR 264.73, 264.77, 265.73, and 265.77; AirES, checklists 79, 87, 154, 163; Liners, checklist 100.	.....	(79, 87) 22 CCR 66264.73, 66264.77, 66265.73, and 66265.77, amended 1993; (100) 22 CCR 66264.73, amended Jan. 31, 1996; 66256.73, amended June 30, 1997; (154, 163) 22 CCR 66264.73, 66264.77, 66265.73, and 66265.77, amended June 11, 1999
40 CFR 264.101; CAMU, checklist 121 .....	.....	(121) 22 CCR 66264.101, amended 1996
40 CFR 264.110–264.111; 265.110–265.111; LDR, checklist 109.	.....	(109) 22 CCR 66264.110–66264.111, 66265.110–66265.111, amended Aug. 15, 1997
40 CFR 264.112, 264.113; 265.112, 265.113; Closure, checklist 64, BIF, checklists 85, 96; LDR, checklist 109.	.....	(64) 22 CCR 66264.112, 66264.113, 66265.112, 66265.113, amended Oct. 22, 1996; (85, 96) 22 CCR 66264.112, 66265.113, amended Dec. 23, 1996; 66265.112, amended Jan. 7, 1997; (109) 22 CCR 66264.112, 66265.112, amended Aug. 15, 1997.
40 CFR 264.140, 264.142, 265.140, 265.142; Closure, checklist 64; LDR, checklist 109.	.....	(64) 22 CCR 66264.142, 66265.142, amended July 20, 1996; 66265.113, amended Oct. 22, 1996; (109) 22 CCR 66264.140, 66264.142, 66265.140, 66265.142, amended Aug. 15, 1997.
40 CFR 264.179, 265.178; AirES, checklist 154	.....	(154) 22 CCR 66264.179, adopted June 11, 1999; 66265.178, amended June 11, 1999.
40 CFR 264.190, 265.190; Wood, checklist 82; TC, checklist 126.	.....	(82) 22 CCR 66264.190, 66265.190, adopted 1994; (126) 22 CCR 66264.190, 66265.190, amended Nov. 12, 1998.
40 CFR 264.200, 265.202; AirES, checklist 154	.....	(154) 22 CCR 66264.200, 66265.202, adopted June 11, 1999.
40 CFR 264.221–264.223, 264.226, 264.228, 265.221–265.223, 265.226, 265.228; Liners, checklist 100; LDR, checklist 109.	.....	(100) 22 CCR 66264.221, 66265.221, amended Oct. 21, 1997; 66264.222, 66265.222, 66265.228, amended June 30, 1997; 66264.223, adopted July 19, 1995; 66264.228, 66265.223, amended July 19, 1995; (109) 22 CCR 66265.221, amended Aug. 15, 1997.
40 CFR 264.232, 265.231; AirES, checklist 154	.....	(154) 22 CCR 66264.232, 66265.231, adopted June 11, 1999.
40 CFR 264.251–264.254, 265.254, 265.255, 265.259, 265.260; Liners, checklist 100.	.....	(100) 66264.251, amended Oct. 21, 1997; 66264.252, 66264.253, 66265.254, 66265.255, amended June 30, 1997; 66264.254, amended July 19, 1995, 66265.259, 66265.260, adopted July 19, 1995.
40 CFR 264.301–264.304, 264.310, 265.301–265.304, 265.310; Liners, checklist 100; TC, checklist 108.	.....	(108) 22 CCR 66265.301, amended Aug. 15, 1997; (100) 22 CCR 66264.301, 66265.301, amended Oct. 21, 1997; 66264.302, 66265.302, amended Jun. 30, 1997, 66264.303, 66264.310, amended July 19, 1995; 66264.304, 66265.303–66265.304, adopted July 19, 1995; 66265.310, amended Aug. 15, 1997.
40 CFR 264.314, 264.316, 265.314, 265.316; TC, checklists 118, 126, 145.	(145) 60 FR 35703, July 11, 1995 .....	(126) 22 CCR 66264.314, adopted July 1, 1991; (118) 22 CCR 66264.316, 66265.316, amended Nov. 12, 1998; (118, 145) 22 CCR 66264.314, 66265.314, amended Apr. 16, 1999; (126) 22 CCR 66265.314, amended Apr. 16, 1999

Description of Federal requirement (checklist #)	Federal Register date and page	Analogous State authority
40 CFR 264.340, 265.340; BIF, checklist 85 .....	.....	(85) 22 CCR 66264.340, 66265.340, amended July 1, 1996
40 CFR 264.552, 264.553; CAMU, checklist 121.	.....	(121) 22 CCR 66264.552, 66264.553, amended 1996
40 CFR 264.570–264.575, 265.440–265.445; Wood, checklists 82, 92, 120.	.....	(82, 92, 120) 22 CCR 66264.570–66264.575, 66265.440–66265.445, adopted 1994
40 CFR 264.601; AirES, checklist 154 .....	.....	(154) 22 CCR 66264.601, adopted June 11, 1999
40 CFR 264.1030–264.1036, 40 CFR 265.1030–265.1035; AirES, checklists 79, 87, 154, 163; TC, checklist 158.	.....	(79, 87) 22 CCR 66260.10, amended 1994; 66264.1030, 66264.1032–66264.1036, 66265.1030, 66265.1032–66265.1035, adopted 1993; (158) 22 CCR 66264.1034, 66265.1034, amended Nov. 12, 1998; (154, 163) 22 CCR 66260.10, amended Sept. 3, 1999; 66264.1030, 66264.1033, 66264.1034, 66264.1035, 66265.1030, 66265.1033, 66265.1034, 66265.1035, amended June 11, 1999
40 CFR 264.1050–264.1065, 265.1050–265.1064; AirES, checklists 79, 87, 154, 163; TC, checklist 158.	.....	(79, 87) 22 CCR 66260.10, amended 1994; 66264.1050, 66264.1052–66264.1065, 66265.1050, 66265.1052–66265.1064, amended 1993; (158) 22 CCR 66264.1063, 66265.1063, amended 1993; (154, 163) 22 CCR 66260.10, amended Sept. 3, 1999; 66264.1050, 66264.1055, 66264.1058, 66264.1060, 66264.1062, 66264.1064, 66265.1050, 66265.1055, 66265.1058, 66265.1060, 66265.1062, 66265.1064, amended June 11, 1999
40 CFR 264.1080–264.1090, 264.1091, 265.1080–265.1090, 265.1091; AirES, checklists 154, 163.	.....	(154, 163) 22 CCR 66260.10, amended Sept 3, 1999; 66264.1080, 66264.1082–66264.1090, 66265.1080, 66265.1082–66265.1090, adopted June 11, 1999.
40 CFR 264.1100–264.1102, 265.1100–265.1102; LDR, checklist 109.	.....	(109) 22 CCR 66264.1100–66264.1102, 66265.1100–66265.1102, amended Aug. 15, 1997.
40 CFR 264, Appendices I, IX; BIF, checklist 131; TC, checklist 158.	(31) 59 FR FR 13891, Mar. 14, 1994 .....	(131) 22 CCR 66264.801, Appendix I, amended June 12, 1997; (158) 22 CCR, division 4.5, Chapter 14, Appendix IX, amended Nov. 12, 1998.
40 CFR 265.91; TC, checklist 99 .....	.....	(99) 22 CCR 66265.97–66265.99, adopted 1991.
40 CFR 265.370; BIF, checklist 94 .....	.....	(94) 22 CCR 66265.370, amended July 1, 1996.
40 CFR 265, Appendices I, VI; BIF, checklist 131; AirES, checklists 154, 163.	.....	(131) 22 CCR 66265.714, Appendix I, amended June 12, 1997; (154, 163) 22 CCR, Division 4.5, Chapter 15, Appendix I, adopted June 11, 1999.
40 CFR 266.20; Removal of the Conditional Exemption for Certain Slag Residues, Checklist 136.	(136) 59 FR 43496, Aug. 24, 1994 (136) HSC Division 20, 25143.2, amended 1991..	(136) HSC Division 20, 25143.2, amended 1991.
40 CFR 266.23; LDR, checklist 137 .....	.....	(137) HSC Division 20, 25143.2 amended 1996. California did not adopt the exemption.
40 CFR 266.30–266.35, 266.40 (remove and reserve); BIF, checklists 85, 94.	.....	(85, 94) California did not adopt this regulation and, thus, did not need to remove it.
40 CFR 266.100; TC, checklists 105, 137; Recovered Oil Exclusion, checklist 135; BIF, checklist 105.	.....	(105) 22 CCR 66261.24, amended 1994; (135) HSC Division 20, 25143.2, amended 1996; HSC Division 20, 25144, amended 1995; 22 CCR 66266.100, adopted July 31, 1996; (137) 22 CCR 66266.100, amended June 12, 1997.
40 CFR 266.100–266.112; BIF, checklists 85, 94, 96, 98, 111, 114, 125, 127.	(98) 56 FR 43874, Sept. 5, 1991; (114) 57 FR 44999, Sept. 30, 1992; (127) 58 FR 59598, Nov. 9, 1993.	(85, 94, 96, 98, 111, 114, 125, 127) 22 CCR 66266.100–66266.112, amended June 12, 1997.
40 CFR 266.103, 266.104; Removal of Legally Obsolete Rules, checklist 144.	.....	(144) California did not adopt these rules and does not need to repeal them.
40 CFR 266.104, 266.106, 266.107; TC, checklist 158.	.....	(158) 22 CCR 66266.104, 66266.106, 66266.107, amended Nov. 12, 1998.

Description of Federal requirement (checklist #)	Federal Register date and page	Analogous State authority
40 CFR 266, Appendices I–XIII; BIF, checklists 85, 94, 96, 111, 114, 125, 127; LDR, checklist 137; TC, checklist 158.		(137) Appendix XIII, adopted July 31, 1996; (85, 94, 96, 111, 114, 125, 127) Appendices I–XII, amended June 12, 1997; (158) 22 CCR, Division 4.5, Chapter 16, Appendix IX, amended Nov. 12, 1998.
40 CFR 268.1; LDR, checklist 124, 137		(124, 137) 22 CCR 66268.1, amended Aug. 15, 1997; (137) California did not adopt one of the exemptions.
40 CFR 268.2; LDR, checklists 83, 109, 124, 137; CAMU, checklist 121.		(121) 22 CCR 66260.10, amended 1996; (83, 109, 124, 137) 22 CCR 66260.10, amended Aug. 15, 1997.
40 CFR 268.3; LDR, checklist 102		(102) California did not adopt this exemption.
40 CFR 268.5; LDR, checklist 109		(109) 22 CCR 66268.5, amended Aug. 1997 (California is not seeking to have these extensions delegated.)
40 CFR 268.7; TC, checklist 126; LDR, checklists 83, 109, 124, 137.		(83, 109, 124, 126, 137) 22 CCR 66268.7, amended, Oct. 28, 1997.
40 CFR 268.9; LDR, checklists 83, 109, 124, 137.		(83, 109, 124, 137) 22 CCR 66268.9, amended Aug. 15, 1997.
40 CFR 268.14; LDR, checklist 109		(109) California did not adopt these exemptions.
40 CFR 268.33; LDR, checklist 83		(83) 22 CCR 66268.33, amended Aug. 15, 1997.
40 CFR 268.35; LDR, checklists 103, 106, 116, 123.	(103) 57 FR 20766, May 15, 1992; (106) 57 FR 28628, June 26, 1992; (116) 57 FR 47772, Oct. 20, 1992; (123) 58 FR 28506, May 14, 1993.	(103, 106, 116, 123) 22 CCR 66268.33, 66268.35, amended Aug. 15, 1997.
40 CFR 268.36; LDR, checklist 109		(109) 22 CCR 66268.36, amended Aug. 15, 1997.
40 CFR 268.37; LDR, checklist 124		(124) HSC Division 20, 25179, amended 1997; 22 CCR 66268.37, amended Aug. 15, 1997.
40 CFR 268.38; LDR, checklist 137		(137) 22 CCR 66268.38, amended Aug. 15, 1997.
40 CFR 268.40–268.43, 268.45, 268.46; LDR, checklists 83, 95, 102, 109, 124, 137; TC, checklist 126, 134; Removal of the Conditional Exemption for Certain Slag Residues, checklist 136.		(136) HSC Division 20, 25143.2, amended 1991; (134) 22 CCR 66268.42, amended Oct. 16, 1995; (83) 22 CCR 66268.42(c), amended January 31, 1996; (83, 102, 124) 22 CCR 66268.40, amended Aug. 15, 1997; 66268.42, amended Oct. 15, 1997; (95, 137) 22 CCR 66268.40, 66268.41, 66268.42, amended Aug. 15, 1997; (109) 22 CCR 66268.40, 66268.41, 66268.45, amended Aug. 15, 1997; 66268.42, 66268.43, 66268.46, amended Jan. 31, 1996; (137) 22 CCR 66268.43, amended Aug. 15, 1997; 22 CCR 66268.45, 66268.46, amended Jan. 31, 1996; (126) 22 CCR 66268.40, amended Nov. 12, 1998; 22 CCR 66268.41, amended Aug. 15, 1997.
40 CFR 268.48; LDR, checklist 137		(137) 22 CCR 66268.48, amended Jan. 31, 1996.
40 CFR 268.50; LDR, checklist 109		(109) 22 CCR 66268.50, amended Apr. 3, 1996.
40 CFR 268, Appendices I, II, IV, V, VII, VIII, IX LDR, checklists 83, 109, 137; TC, checklist 126.		(83, 109, 137) 22 CCR Division 4.5, Chapter 18, Appendix II, IV, V, VII, VIII, IX, adopted Jan. 31, 1996; (126) 22 CCR Division 4.5, Chapter 18, Appendix I, IX, amended Oct. 28, 1997.
40 CFR 270.2; CAMU, checklist 121; Removal of Legally Obsolete Rules, checklist 144; Public, checklist 148.		(121) 22 CCR 66260.10, amended 1996; (144) California did not adopt these rules and does not need to repeal them. (148) 22 CCR 66260.10, amended June 18, 1997.
40 CFR 270.4; Liners, checklist 100 AirES, checklist 154.		(100) 22 CCR 270.4, adopted July 19, 1995; (154) California did not adopt this regulation.
40 CFR 270.6; TC, checklist 126		(126) 22 CCR 66260.11, amended June 11, 1999.
40 CFR 270.10; Removal of Legally Obsolete Rules, checklist 144.		(144) California did not adopt these rules and does not need to repeal them.
40 CFR 270.13; LDR, checklist 109		(109) 22 CCR 66270.13, amended Jan. 31, 1996.

Description of Federal requirement (checklist #)	Federal Register date and page	Analogous State authority
40 CFR 270.14; AirES, checklist 79; LDR, checklist 109; Public, checklist 148.	.....	(79) 22 CCR 66270.14, amended 1993; (148) 22 CCR 66270.14, amended Dec. 19, 1996; (109) 22 CCR 66270.14, amended Aug. 15, 1997.
40 CFR 270.14–270.17; AirES, checklists 87, 154, 163; Liners, checklist 100.	.....	(87) 22 CCR 66270.14, amended 1993; (100) 22 CCR 66270.17, amended July 19, 1995; (154, 163) 22 CCR 66270.14–66270.17, adopted June 11, 1999.
40 CFR 270.18; Liners, checklist 100 .....	.....	(100) 22 CCR 66270.18, amended June 30, 1997.
40 CFR 270.19; TC, checklist 126 .....	.....	(126) 22 CCR 66270.19, amended Nov. 12, 1998.
40 CFR 270.21; Liners, checklist 100 .....	.....	(100) 22 CCR 66270.21, amended June 30, 1997.
40 CFR 270.22; BIF, checklists 85, 94 .....	.....	(85, 94) 22 CCR 66270.22, adopted July 1, 1996.
40 CFR 270.24–270.25; AirES, checklists 79, 87.	.....	(79, 87) 22 CCR 66270.24–66270.25, amended Dec. 28, 1993.
40 CFR 270.26; Wood, checklists 82, 92 .....	.....	(82, 92) 22 CCR 66270.26, adopted 1994.
40 CFR 270.27; AirES, checklists 87, 154, 163	.....	(87, 154, 163) 22 CCR 66270.27, adopted June 11, 1999.
40 CFR 270.30; Public, checklist 148 .....	.....	(148) 22 CCR 66270.30, amended Dec. 19, 1996.
40 CFR 270.42, 270.43; Appendix I, Closure, checklist 64; BIF, checklists 85, 94; LDR, checklists 83, 109, 124; Liners, checklist 100, CAMU, checklist 121.	.....	(85, 94) 22 CCR 66270.42, amended July 31, 1996; (64, 83, 85, 94, 109, 121, 124) 22 CCR Division 4.5, Chapter 20, Appendix I, amended July 31, 1996; (100) 22 CCR Division 4.5, Chapter 20, Appendix I, amended June 30, 1997.
40 CFR 270.61, 270.62, 270.66; BIF, checklists 85, 94; TC, checklist 126; Public, checklist 148.	.....	(85, 94) 22 CCR 66270.66, amended June 12, 1997; (148) 22 CCR 66270.61, adopted May 24, 1991; 22 CCR 66260.10, 66270.62, 66270.66 amended June 18, 1997; (126) 22 CCR 66270.62, 66270.66, amended Nov. 12, 1998.
40 CFR 270.72–270.73; BIF, checklists 85, 94; LDR, checklist 109.	.....	(85, 94) 22 CCR 66270.72–66270.73, amended July 31, 1996; (109) 22 CCR 66270.72, amended July 31, 1996.

## BILLING CODE 6560–50–M

**H. Where Are the Revised State Rules Different From the Federal Rules?**

State requirements that go beyond the scope of the Federal program are not part of the authorized program and EPA can not enforce them. Although you must comply with these requirements in accordance with California law, they are not RCRA requirements. We consider that the following State requirements, which pertain to the revisions involved in this tentative decision, go beyond the scope of the Federal program. The following analysis differs in some ways from the areas which California identified as being broader in scope than the Federal program in its application.

1. The definition of “remediation waste” at 22 C.C.R. § 66260.10 is broader in scope than the Federal definition at 40 CFR 260.10 only to the extent California’s definition includes hazardous substances which are neither “hazardous wastes” nor “solid wastes.”

2. 22 C.C.R. § 66264.552(e)(4)(A)(2) is broader in scope than 40 CFR 264.552(e)(4)(i)(B) only to the extent the

California provision controls the escape of “hazardous substances” which are not “hazardous waste,” “hazardous constituents,” “leachate,” “contaminated runoff” or “hazardous waste decomposition products.”

3. California’s program is broader in scope than the Federal program to the extent it regulates spent wood preserving solutions that have been used and are reclaimed and reused for their original intended purpose and wastewaters from the wood preserving process that have been reclaimed and are reused to treat wood. These materials are excluded from the Federal definition of solid waste by virtue of 40 CFR 261.4(a)(9)(i) and (ii), respectively.

4. HSC § 25144(c) is broader in scope than 40 CFR 261.4(a)(12) since the California provision exempts oil recovery process units and associated storage units from regulation, rather than exempting recovered oil from the definition of solid waste, which is what the Federal provision does. Thus, the State program is broader in scope than the Federal program to the extent California regulates recovered oil not

contained in such recovery process units or associated storage units.

5. HSC § 25143.2(c)(1) was broader in scope than was former section 40 CFR 261.6(a)(3)(vi) (renumbered as 261.6(a)(3)(v) in 1995 (60 FR 25492<sup>1</sup>), which exempted from regulation petroleum coke produced from petroleum refinery hazardous waste containing oil produced by the same person who generated the waste unless the resulting coke product was characteristically hazardous. HSC § 25143.2(c)(1), which was part of the authorized program, was not amended to conform to the changes made to 40 CFR 261.6(a)(3)(vi) in 1994. At that time, the Federal exemption was expanded to include petroleum coke produced by the same person who generated the petroleum hazardous waste containing oil, rather than being limited to petroleum coke produced at the same facility at which such wastes were generated. The State’s exemption retains the “at the same facility”

<sup>1</sup> 40 CFR 261.6(a)(3)(v) was superseded by 40 CFR 261.4(a)(12) in 1998 (63 FR 42110).



language and, to this extent, is broader than the Federal requirement.<sup>2</sup>

6. California does not have the Federal exclusion found at 40 CFR 261.4(b)(13), which excludes from the definition of hazardous waste non-terrestrial used oil filters that are not mixed with hazardous wastes if those filters are gravity hot drained in accordance with specified procedures. To the extent California regulates such oil filters, its program is broader in scope than the Federal program.

7. California has not adopted the Federal exclusion found at 40 CFR 261.4(a)(10). This provision excludes from the definition of solid waste K060, K070, K087, K141, K142, K143, K145, K147, K148, and those coke by-product residues that are hazardous only because they exhibit the toxicity characteristic when, subsequent to generation, these wastes are recycled by being returned to coke ovens, to the tar recovery process as a feedstock to produce coal tar or mixed with coal tar. The Federal exclusion is conditioned on there being no land disposal of the waste from the point of generation to the point of recycling. Thus, the absence of this exemption makes the California program broader than the Federal program in this respect.

8. California has not adopted the Federal provision at 40 CFR 266.100(b)(3), which exempts from regulation the burning of wastes produced by conditionally exempt small quantity generators (*see also* 40 CFR 261.5). Thus, California's program is broader in scope than the Federal program in this respect.

9. California has not adopted the Federal provision at 40 CFR 266.100(b)(4), which excludes from regulation coke ovens if the only hazardous waste burned is K087, decanter tank tar sludge from coking operations. The Federal provision was a necessary corollary to EPA's removal of the coke and coal tar exemption (formerly 40 CFR 261.6(a)(3)(vii)) due to the reclassification of coke and coal tar as products under 40 CFR 261.4(a)(10) in 1991. California had not adopted the exemption as part of the base program, nor did it adopt the 1991 exemption at 40 CFR 261.4(a)(10). Thus, the California program is broader in scope than the Federal program to the extent California regulates coke ovens that solely burn K087.

10. The California provision at 22 C.C.R. § 66266.100(b)(3) excludes from regulation in boilers and industrial furnaces ("BIFs") those materials which are exempted from regulation at 22 C.C.R. § 66261.4. This provision tracks the Federal provision at 40 CFR 266.100(b)(3), which excludes from regulation in BIFs those materials which are exempted from regulation at 40 CFR 261.4. The Federal provision at 40 CFR 261.4 includes more exemptions than the State provision at 22 C.C.R. § 66266.4 and, therefore, California's BIF program is broader in scope than the Federal program in this respect.

11. 40 CFR 261.4(a)(11) excludes from the definition of solid waste, non-wastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units provided it is shipped in drums (if shipped) and is not land disposed before recovery. California has not adopted this exclusion and its program is thus broader in scope than the Federal program in this respect.

12. California's program is broader in scope than the Federal program with respect to the regulation of secondary materials that are recycled back into secondary production processes from which they were generated. 40 CFR 261.2(e)(1)(iii) exempts such materials, so long as the materials are managed such that there is no placement on the land. HSC 25143.2(b)(3), as restricted by HSC sections 25143.2(e) and 25143.9, which is the State's analogue to 40 CFR 261.2(e)(1)(iii), excludes only recyclable materials that are returned to a primary process.

#### **I. Who Handles Permits After the Authorization Takes Effect?**

California will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits issued by EPA prior to California being authorized for these revisions will continue in force until the effective date of the State's issuance or denial of a State RCRA permit, or the permit otherwise expires or is revoked. California will administer any RCRA hazardous waste permits or portions of permits which EPA issued prior to the effective date of this authorization until such time as California has issued a corresponding State permit. EPA will not issue any more new permits or new portions of permits for provisions for which California is authorized after the effective date of this authorization. EPA will retain responsibility to issue permits needed for HSWA requirements for which California is not yet authorized.

#### **J. How Would Authorizing California for These Revisions Affect Indian Country (18 U.S.C. 115) in California?**

California is not authorized to carry out its hazardous waste program in Indian country within the State. A map of Indian Country in California can be found on the world wide web at [http://www.epa.gov/region09/cross\\_pr/indian/maps](http://www.epa.gov/region09/cross_pr/indian/maps). A list of Indian Tribes in California can be found on the web at <http://www.doi.gov/bureau-indian-affairs>; it is complete except for two newly listed tribes, Graton and Lower Lake Rancherias. Therefore, this proposed action would have no effect on the Indian country so described, including Graton and Lower Lake Rancherias. EPA will continue to implement and administer the RCRA program in Indian country within the State.

#### **K. Administrative Requirements**

The Office of Management and Budget has exempted RCRA authorizations from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and, therefore, a decision to authorize California for these revisions is not subject to review by OMB. This authorization will effectively suspend the applicability of certain Federal regulations in favor of California's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. Authorization will not impose any new burdens on small entities. Accordingly, I certify that authorization for these revisions will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because implementing this proposal would authorize pre-existing requirements under State law and would not impose any additional enforceable duty beyond that required by State law, it will 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). For the same reason, this proposed rule does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on Tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibility between the Federal government and Indian tribes, as specified in Executive Order 13175. Authorization will not have substantial direct effects on the states, on the relationship between the national

<sup>2</sup> The 1998 revision to 40 CFR 261.4(a)(12) changed the Federal requirement again to limit the exemption to materials which are inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery. Thus the State's exemption remains narrower than the Federal exemption in this respect.

government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. A decision to authorize California for these revisions also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. The proposed rule does not include environmental justice related issues that require consideration under Executive Order 12898 (59 FR 7629, February 16, 1994).

Under RCRA 3006(b), EPA grants a state's application for authorization as long as the state meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a state authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of a decision to authorize California for these revisions in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the Executive Order. A decision to authorize California's revisions will not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and record keeping requirements.

**Authority:** This proposed action 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: June 12, 2001.

**Laura Yoshii,**

*Acting Regional Administrator, Region 9.*

[FR Doc. 01-15481 Filed 6-19-01; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### RIN 1018-AH03

### Endangered and Threatened Wildlife and Plants; Notice of Availability of Draft Economic Analysis, Reopening of Comment Period, and Notice of Public Hearing for the Proposed Critical Habitat Determination for the Quino Checkerspot Butterfly

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

**ACTION:** Proposed rule; notice of availability of draft economic analysis, reopening of public comment period, and notice of public hearing.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announces the availability of the draft economic analysis for the proposed determination of critical habitat for the Quino checkerspot butterfly (*Euphydryas editha quino*) and the reopening of the public comment period for the proposed determination to allow all interested parties to submit written comments on the proposal and on the draft economic analysis. Comments previously submitted need not be resubmitted as they have been incorporated into the public record and will be fully considered in the final rule. Additionally, we are announcing that a public hearing will be held on the proposed critical habitat determination. **DATES:** The original public comment period on the critical habitat proposed determination closed on April 9, 2001. The public comment period is reopened, and we will accept comments until July 30, 2001. Comments must be received by the 5:00 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this action. The public hearing will be held on July 17, 2001, from 1:00 p.m. to 3:00 p.m. and from 6:00 p.m. to 8:00 p.m. in Escondido, California.

**ADDRESSES:** The public hearing will be held at the Castle Creek Inn Resort,

29850 Circle R Way, Escondido, California. Copies of the draft economic analysis and proposed critical habitat determination are available on the Internet at <http://carlsbad.fws.gov> or by writing to the Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 2730 Loker Avenue West, Carlsbad, California, 92008. Written comments should be sent to the Field Supervisor. You may also send comments by electronic mail (e-mail) to [fws1quino@fws.gov](mailto:fws1quino@fws.gov). Please submit comments in ASCII file format and avoid the use of special characters and encryption. Please include "Attn: Quino checkerspot butterfly" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, contact us directly by calling our Carlsbad Fish and Wildlife Office at phone number 760-431-9440. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Carlsbad Fish and Wildlife Office, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Douglas Krofta, Branch Chief, Listing, Carlsbad Fish and Wildlife Office, at the above address (telephone 760-431-9440; facsimile 760-431-9624).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Quino checkerspot butterfly is a member of the family Nymphalidae (brush-footed butterflies) that occurs in open habitat patches primarily in coastal sage scrub and native plant communities ranging from southwestern Riverside County, California to north-central Baja California, Mexico. The primary host plant for Quino checkerspot butterfly larvae is *Plantago* spp. (plantain), while nectar sources for adult butterflies primarily include plants of the figwort plant family, or closely related plants.

The adult Quino checkerspot butterfly has a wingspan of approximately 4 centimeters (1.5 inches). The top sides of the wings have a red, black, and cream colored checkered pattern and the bottom sides are dominated by a red and cream marbled pattern. The abdomen of Quino checkerspot butterflies has red stripes across the top. Quino checkerspot butterfly larvae are black with a row of nine orange fleshy/hairy extensions on their back. Pupae are mottled black on a pale blue-gray background and extremely well camouflaged.

Historically, common in southern California and north-central Baja