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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 272

[EPA-R10-RCRA-2011-0973; FRL-9707-1]

#### Idaho: Incorporation by Reference of Approved State Hazardous Waste Management Program

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

**ACTION:** Direct final rule.

**SUMMARY:** The Resource Conservation and Recovery Act, as amended, (RCRA), allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs if the EPA finds that such programs are equivalent to and consistent with the Federal RCRA program and if such programs provide adequate enforcement of compliance. The regulations are used by the EPA to codify its decision to authorize individual State programs and incorporate by reference those provisions of the State statutes and regulations that are subject to the EPA's RCRA inspection and enforcement authorities as authorized provisions of the State's program. This direct final rule revises the codification of the authorized Idaho hazardous waste management program and incorporates by reference authorized provisions of the State's rules and regulations.

**DATES:** This rule is effective November 30, 2012, unless the EPA receives adverse comment on this regulation by the close of business October 31, 2012. If the EPA receives such comments, the EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that the rule will not take effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to codify Idaho's authorized hazardous waste management program. The Director of the Federal Register approves this incorporation by reference as of November 30, 2012 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R10-RCRA-2011-0973 by one of the following methods:

- *www.regulations.gov*: Follow the on-line instructions for submitting comments.
- *Email*: [kocourek.nina@epa.gov](mailto:kocourek.nina@epa.gov).
- *Mail*: Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite

900, Mail Stop AWT-122, Seattle, WA 98101.

• *Hand Delivery*: Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop AWT-122, Seattle, WA 98101. Such deliveries are only accepted during the normal business hours of operation; special arrangements should be made for deliveries of boxed information.

*Instructions*: Direct your comments to Docket ID No. EPA-R10-RCRA-2011-0973.

The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *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 *www.regulations.gov* or email. The *www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email 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, the 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 the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the 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 the 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 *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 *www.regulations.gov* or in hard copy at the EPA Region 10 Library, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

The EPA Region 10 Library is open from 9:00 a.m. to noon, and 1:00 to 4:00 p.m. Monday through Friday, excluding legal holidays. The EPA Region 10 Library telephone number is (206) 553-1289.

#### FOR FURTHER INFORMATION CONTACT:

Nina Kocourek, U.S. EPA, Region 10, 1200 Sixth Avenue, Suite 900, Mail Stop AWT-122, Seattle, WA 98101, email: [kocourek.nina@epa.gov](mailto:kocourek.nina@epa.gov), phone number (206) 553-6502.

#### SUPPLEMENTARY INFORMATION:

##### I. Incorporation by Reference

###### A. What is codification?

Codification is the process of including the rules and regulations that comprise the State's authorized hazardous waste management program in the Code of Federal Regulations (CFR). Section 3006(b) of RCRA, 42 U.S.C. 6926(b), allows the Environmental Protection Agency to authorize State hazardous waste management programs. The State regulations authorized by the EPA supplant the federal regulations concerning the same matter with the result that after authorization the EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by the EPA with the consequence that the EPA enforces the authorized statutory provision. The EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. EPA codifies the authorized State program in 40 CFR part 272 and incorporates by reference State statutes and regulations that make up the approved program which is Federally enforceable. The EPA retains independent enforcement authority pursuant to sections 3007, 3008, 3013 and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973 and any other applicable statutory and regulatory provisions.

This action codifies the EPA's authorization of revisions to Idaho's hazardous waste management program. This direct final action codifies the State program in effect at the time the EPA authorized revisions to the Idaho hazardous waste management program in a final rule effective July 11, 2012 (77 FR 34229, June 11, 2012). Notice and an opportunity for comment regarding those revisions to the authorized State program were provided to the public at the time those revisions were proposed. The EPA is not reopening its decision to authorize changes to the State's program nor is the EPA requesting comment on those revisions.

*B. What is the history of the authorization and codification of Idaho's hazardous waste management program?*

Idaho initially received final authorization for its hazardous waste management program effective April 9, 1990 (55 FR 11015, March 26, 1990). Subsequently, the EPA authorized revisions to the State's program effective June 5, 1992 (57 FR 11580, April 6, 1992), August 10, 1992 (57 FR 24757, June 11, 1992), June 11, 1995 (60 FR 18549, April 12, 1995), January 19, 1999 (63 FR 56086, October 21, 1998), July 1, 2002 (67 FR 44069, July 1, 2002), March 10, 2004 (69 FR 11322, March 10, 2004), July 22, 2005 (70 FR 42273, July 22, 2005), February 26, 2007 (72 FR 8283, February 26, 2007), December 23, 2008 (73 FR 78647, December 23, 2008), and July 11, 2012 (77 FR 34229, June 11, 2012). The EPA first codified Idaho's authorized hazardous waste management program effective February 4, 1991 (55 FR 50327, December 6, 1990), and updated the codification of Idaho's program effective June 5, 1992 (57 FR 11580, April 6, 1992), August 10, 1992 (57 FR 24757, June 11, 1992), August 24, 1999 (64 FR 34133, June 25, 1999), March 8, 2005 (70 FR 11132, March 8, 2005), April 20, 2006 (71 FR 20341, April 20, 2006), April 6, 2010 (75 FR 17309, April 6, 2010). In this action, the EPA is revising subpart N of 40 CFR part 272, to include the most recent authorization revision effective July 11, 2012 (77 FR 34229, June 11, 2012).

*C. What codification decisions have we made in this rule?*

This action incorporates by reference the authorized revisions to the Idaho hazardous waste management program by revising subpart N of 40 CFR part 272. Previously, 40 CFR 272.651, incorporated by reference Idaho's authorized hazardous waste management program, as amended, through 2008. Section 272.651 also referenced the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provided the legal basis for the State's implementation of the hazardous waste management program. In addition, Section 272.651 referenced the Memorandum of Agreement, the Attorney General's Statement and the Program Description which were evaluated as part of the approval process of the hazardous waste management program in accordance with Subtitle C of RCRA. This action updates those demonstrations of adequate enforcement authority, including procedural and enforcement

provisions, which provide the legal basis for the State's implementation of the hazardous waste management program, as well as the Memorandum of Agreement, the Attorney General's Statement and the Program Description, all of which were evaluated as part of the approval process for the program revision effective on July 11, 2012 (77 FR 34229, June 11, 2012).

*D. What is the effect of Idaho's codification on enforcement?*

The EPA retains its independent enforcement authority under statutory provisions, including but not limited to, sections 3007, 3008, 3013 and 7003 of RCRA, and any other applicable statutory and regulatory provisions, to undertake inspections and enforcement actions and to issue orders in all authorized States. With respect to enforcement actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State analogues to these provisions. Therefore, the EPA is not incorporating by reference Idaho's inspection and enforcement authorities nor are those authorities part of Idaho's approved State program which operates in lieu of the Federal program. The EPA lists Idaho's authorities for informational purposes, and because the EPA considered them in determining the adequacy of Idaho's enforcement authorities. This action revises this listing for informational purposes where these authorities have changed under Idaho's revisions to State law and were considered by the EPA in determining the adequacy of Idaho's enforcement authorities. Idaho's authority to inspect and enforce the State's hazardous waste management program requirements continues to operate independently under State law.

*E. What State provisions are not part of the codification?*

The public is reminded that some provisions of Idaho's hazardous waste management program are not part of the federally authorized State program.

These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which Idaho is not authorized, which have been incorporated into the State regulations because of the way the State adopted federal regulations by reference; and

(3) State procedural and enforcement authorities which are necessary to establish the ability of the program to enforce compliance but which do not

supplant the Federal statutory enforcement and procedural authorities.

State provisions that are "broader in scope" than the federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.651(c)(3) lists the Idaho regulatory provisions which are "broader in scope" than the federal program and which are not part of the authorized program being incorporated by reference. While "broader in scope" provisions are not part of the authorized program and cannot be enforced by the EPA, the State may enforce such provisions under State law.

*F. What will be the effect of the proposed codification on Federal HSWA requirements?*

With respect to any requirement(s) pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) for which the State has not yet been authorized and which the EPA has identified as taking effect immediately in States with authorized hazardous waste management programs, the EPA will enforce those Federal HSWA standards until the State is authorized for those provisions.

This codification does not affect Federal HSWA requirements for which the State is not authorized. The EPA has authority to implement HSWA requirements in all States, including States with authorized hazardous waste management programs, until the States become authorized for such requirements or prohibitions unless the EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the Federal Rules program. A HSWA requirement or prohibition, unless identified by the EPA as optional or as less stringent, supersedes any less stringent or inconsistent State provision which may have been previously authorized by the EPA (50 FR 28702, July 15, 1985).

Some existing State requirements may be similar to the HSWA requirements implemented by the EPA. However, until the EPA authorizes those State requirements, the EPA enforces the HSWA requirements and not the State analogs.

**II. Statutory and Executive Order Reviews**

This direct final action codifies revisions to the EPA-authorized hazardous waste management program in Idaho pursuant to RCRA section 3006 and imposes no requirements other than those imposed by State law. This action complies with applicable executive orders and statutory provisions as follows:

#### 1. Executive Order 12866 and 13563

This action will codify revisions to the federally approved hazardous waste management program in Idaho. This type of action is exempt from review under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and EO 13563 (76 FR 3821, January 21, 2011).

#### 2. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. Burden is defined at 5 CFR 1320.3(b). This direct final rule does not establish or modify any information or recordkeeping requirements for the regulated community.

#### 3. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), 5 U.S.C. 601 *et seq.*, generally requires Federal agencies to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of this direct final rule on small entities, small entity is defined as: (1) A small business, as codified in the Small Business Size Regulations at 13 CFR part 121; (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. The EPA has determined that this direct final action will not have a significant impact on small entities because the action will only have the effect of codifying authorized pre-existing State law requirements. After considering the economic impacts of this action, I certify that this action will not have a significant economic impact on a substantial number of small entities.

#### 4. Unfunded Mandates Reform Act

This action contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for State, local, or tribal governments or the private sector. This

action imposes no new enforceable duty on any State, local or tribal governments or the private sector. Therefore, this action is not subject to the requirements of sections 202 or 205 of the UMRA. This action is also not subject to the requirements of section 203 of the UMRA because it contains no regulatory requirements that might significantly or uniquely affect small government entities.

#### 5. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action addresses the codification of the authorized State hazardous waste management program in Idaho. Codification is the process of including the rules and regulations that comprise the State's authorized hazardous waste management program in the CFR. Thus, Executive Order 13132 does not apply to this action.

#### 6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175. This action addresses the codification of the authorized State hazardous waste management program in Idaho. Codification is the process of including the rules and regulations that comprise the State's authorized hazardous waste management program in the CFR. Thus, the EPA has determined that Executive Order 13175 does not apply to this rule.

#### 7. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order (EO) 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the EO has the potential to influence the regulation. This action is not subject to EO 13045 because it codifies an approved state program into the CFR. Codification is the process of including the rules and regulations that comprise the State's authorized hazardous waste management program in the CFR.

#### 8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001), because it is not a “significant regulatory action” as defined under Executive Order 12866.

#### 9. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, section 12(d) (15 U.S.C. 272) 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 bodies. The NTTAA directs the EPA to provide Congress, through the OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. The EPA has determined that this action does not involve “technical standards” as defined by the NTTAA. Therefore, the EPA did not considering the use of any voluntary consensus standards.

#### 10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

The EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action addresses codifying a revision of the authorized hazardous waste management program in the State of Idaho. The EPA has determined that the action is not subject to Executive Order 12898.

## 11. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective November 30, 2012.

### List of Subjects in 40 CFR Part 272

Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

**Authority:** This action is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste and Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 24, 2012.

**Dennis J. McLerran,**

*Regional Administrator, EPA Region 10.*

For the reasons set forth in the preamble, the EPA amends 40 CFR part 272 as follows:

## PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

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

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

■ 2. Section 272.651 is revised to read as follows:

### § 272.651 Idaho State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Idaho has final authorization for the following elements as submitted to the EPA in Idaho's base program application for final authorization which was approved by the EPA effective on April 9, 1990. Subsequent program revision applications were approved by the EPA effective on June 5, 1992, August 10, 1992, June 11, 1995, January 19, 1999,

July 1, 2002, March 10, 2004, July 22, 2005, February 26, 2007, December 23, 2008, and July 11, 2012.

(b) The State of Idaho has primary responsibility for enforcing its hazardous waste management program. However, the EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.* (1) The Idaho statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq.

(i) The binder entitled "EPA-Approved Idaho Statutory and Regulatory Requirements Applicable to the Hazardous Waste Management Program", dated July 2012.

(ii) [Reserved]

(2) The EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 44, "Hazardous Waste Management", published in 2002 by the Michie Company, Law Publishers, Charlottesville, Virginia: sections 39-4401; 39-4402; 39-4404; 39-4405 with exception of 39-4405(9); 39-4406; 39-4407; 39-4408(4); 39-4409(2) except first sentence; 39-4409(3); 39-4409(4) only first sentence; 39-4410; 39-4411(1); 39-4411(3); 39-4411(6); 39-4412; 39-4413; 39-4414; 39-4415; 39-4416; 39-4417; 39-4418; 39-4419; 39-4420; 39-4421; 39-4422; 39-4423(3); and 39-4426.

(ii) Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 58, "Hazardous Waste Facility Siting Act", published in 2002 by the Michie Company, Law Publishers, Charlottesville, Virginia: sections 39-5801; 39-5802; 39-5804; 39-5805; 39-5806; 39-5807; 39-5809; 39-5810; 39-5811; 39-5812; 39-5813(2); 39-5814; 39-5816; 39-5817; and 39-5818(1).

(iii) Idaho Code containing the General Laws of Idaho Annotated, Volume 2, Title 9, Chapter 3, "Public Writings", published in 2010 by the Michie Company, Law Publishers, Charlottesville, Virginia: sections 9-337 et seq.; 9-338; 9-339; 9-340A; 9-340B; 9-340C; 9-340D; 9-340E; 9-340F; 9-

340G; 9-340H; 9-341; 9-342A; 9-343; and 9-344.

(iv) Idaho Department of Environmental Quality Rules and Regulations, Idaho Administrative Code, IDAPA 58, Title 1, Chapter 5, "Rules and Standards for Hazardous Waste", published in April 2011: sections 58.01.05.000; 58.01.05.356.02; 58.01.05.356.03; 58.01.05.356.04; 58.01.05.356.05; 58.01.05.800; 58.01.05.850; 58.01.05.996; 58.01.05.997; and 58.01.05.999.

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference, and are not federally enforceable:

(i) Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 44, "Hazardous Waste Management", published in 2002 by the Michie Company, Law Publishers, Charlottesville, Virginia: sections 39-4403(6); 39-4403(14); 39-4403(17) only the second and third sentences; 39-4405(9); 39-4409(1) only the fourth and fifth sentences; 39-4409(7); 39-4423(2); 39-4427B; 39-4427C; 39-4427D; 39-4428; 39-4429; 39-4430; 39-4431; and 39-4432.

(ii) 2010 Cumulative Pocket Supplement to the Idaho Code (I.C.), containing, Title 39, Chapters 44 "Hazardous Waste Management", published in 2010 by the Michie Company, Law Publishers, Charlottesville, Virginia: section 39-4427.

(iii) Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 58, "Hazardous Waste Siting Act", published in 2002 by the Michie Company, Law Publishers Charlottesville, Virginia: section 39-5813(3).

(iv) Idaho Department of Environmental Quality Rules and Regulations, Idaho Administrative Code, IDAPA 58, Title 1, Chapter 5, "Rules and Standards for Hazardous Waste", published in April 2011: sections 58.01.05.011 only the fourth sentence; 58.01.05.355; 58.01.05.500; and 58.01.05.900.

(4) *Memorandum of Agreement.* The Memorandum of Agreement between the EPA Region 10 and the State of Idaho (IDEQ), signed by the EPA Regional Administrator on August 1, 2001, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921, et seq.

(5) *Statement of Legal Authority.* The "Attorney General's Statement for Final Authorization," signed by the Attorney

General of Idaho on July 5, 1988, and revisions, supplements and addenda to that Statement, dated July 3, 1989, February 13, 1992, December 29, 1994, September 16, 1996, October 3, 1997, April 6, 2001, September 11, 2002, September 22, 2004, June 13, 2006, September 29, 2006, June 23, 2008, and October 14, 2011, including clarification letter dated July 12, 2012, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921, *et seq.*

(6) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by revising the listing for “Idaho” to read as follows:

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

\* \* \* \* \*

##### Idaho

(a) The statutory provisions include:

Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 44, “Hazardous Waste Management”, published in 2002 by the Michie Company, Law Publishers: sections 39–4403 except for 39–4403(6), 39–4403(14), and the second and third sentences of 39–4403(17); 39–4408(1); 39–4408(2); 39–4408(3); 39–4409(1) except the fourth and fifth sentences; 39–4409(2) only first sentence; 39–4409(4) except the first sentence; 39–4409(5); 39–4409(6); 39–4409(8); 39–4411(2); 39–4411(4); 39–4411(5); 39–4423(1); and 39–4424.

Idaho Code containing the General Laws of Idaho Annotated, Title 39, Chapter 58, “Hazardous Waste Facility Siting Act”, published in 2002 by the Michie Company, Law Publishers: sections 39–5803; 39–5808; 39–5813(1); and 39–5818(2).

Copies of the Idaho statutes that are incorporated by reference are available from Michie Company, Law Publishers, 1 Town Hall Square, Charlottesville, VA 22906–7587.

(b) The regulatory provisions include:

Idaho Department of Environmental Quality Rules and Regulations, Idaho Administrative Code, IDAPA 58, Title 1, Chapter 5, “Rules and Standards for Hazardous Waste”, published in April 2011: sections 58.01.05.001; 58.01.05.002; 58.01.05.003; 58.01.05.004; 58.01.05.005; 58.01.05.006; 58.01.05.007; 58.01.05.008; 58.01.05.009; 58.01.05.010; 58.01.05.011 with the exception of the fourth sentence; 58.01.05.012; 58.01.05.013; 58.01.05.015;

58.01.05.016; 58.01.05.017; 58.01.05.018; 58.01.05.356.01; and 58.01.05.998.

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[FR Doc. 2012–23972 Filed 9–28–12; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket ID FEMA–2012–0003; Internal Agency Docket No. FEMA–8247]

#### Suspension of Community Eligibility

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule identifies communities where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP) that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date. Also, information identifying the current participation status of a community can be obtained from FEMA’s Community Status Book (CSB). The CSB is available at <http://www.fema.gov/fema/csb.shtm>.

**DATES: Effective Dates:** The effective date of each community’s scheduled suspension is the third date (“Susp.”) listed in the third column of the following tables.

**FOR FURTHER INFORMATION CONTACT:** If you want to determine whether a particular community was suspended on the suspension date or for further information, contact David Stearrett, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–2953.

**SUPPLEMENTARY INFORMATION:** The NFIP enables property owners to purchase Federal flood insurance that is not otherwise generally available from private insurers. In return, communities agree to adopt and administer local floodplain management measures aimed

at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits the sale of NFIP flood insurance unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59.

Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. We recognize that some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue to be eligible for the sale of NFIP flood insurance. A notice withdrawing the suspension of such communities will be published in the **Federal Register**.

In addition, FEMA publishes a Flood Insurance Rate Map (FIRM) that identifies the Special Flood Hazard Areas (SFHAs) in these communities. The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year on FEMA’s initial FIRM for the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment procedures under 5 U.S.C. 553(b), are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.