



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R05-RCRA-2015-0555; FRL-9943-72-Region 5]

Illinois: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Illinois has applied to EPA for Final Authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Illinois' application with regards to federal requirements, and is proposing to authorize the state's changes.

DATES: Comments on this proposed rule must be received on or before *[insert date 30 days after date of publication in the Federal Register]*.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-RCRA-2015-0555 by one of the following methods:

http://www.regulations.gov: Follow the on-line instructions for submitting comments.

E-mail: westefer.gary@epa.gov.

Mail: Gary Westefer, Illinois Regulatory Specialist, LR-8J, U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand Delivery: Gary Westefer, LR-8J, U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. 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 Number EPA-R05-RCRA-2015-0555. 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 www.regulations.gov or e-mail. The www.regulations.gov website 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 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 or 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 www.regulations.gov index. Although listed in the index, some of the information is not publicly available; e.g., CBI or other

information for which 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. You may view and copy Illinois' application from 9 a.m. to 4 p.m. at the following addresses: U.S. EPA Region 5, LR-8J, 77 West Jackson Boulevard, Chicago, Illinois, contact: Gary Westefer (312) 886-7450; or Illinois Environmental Protection Agency, 1021 North Grand Avenue, East, Springfield, Illinois, contact: Todd Marvel (217) 524-5024.

FOR FURTHER INFORMATION CONTACT: Gary Westefer, Illinois Regulatory Specialist, U.S. EPA Region 5, LR-8J, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7450, e-mail westefer.gary@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA Section 3006(b) of RCRA, 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 request 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?

We have made a tentative decision that Illinois' application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we propose to grant Illinois final authorization to operate its hazardous waste program with the changes described in the authorization application. Illinois 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 they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Illinois, including issuing permits, until the state is granted authorization to do so.

C. What Will be the Effect if Illinois is Authorized for These Changes?

If Illinois is authorized for these changes, a facility in Illinois subject to RCRA will have to comply with the authorized state requirements instead of the corresponding federal requirements in order to comply with RCRA. Additionally, such facilities will have to comply with any applicable federal requirements such as, for example, HSWA regulations issued by the EPA for which the state has not received authorization. Illinois continues to have enforcement authorities and responsibilities under its state hazardous waste program for RCRA violations, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include among others, authority to:

1. Conduct inspections which may include but are not limited to requiring monitoring, tests, analyses and/or reports;

1. Enforce RCRA requirements which may include but are not limited to suspending, terminating, modifying and/or revoking permits; and
3. Take enforcement actions regardless of whether the state has taken its own actions.

The action to approve these revisions will not impose additional requirements on the regulated community because the regulations for which Illinois is requesting authorization are already effective under state law, and will not be changed by the act of authorization.

D. What Happens if EPA Receives Adverse Comments On This Action?

If EPA receives adverse comments on this authorization, we will address all public comments in a later Federal Register. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

E. What Has Illinois Previously Been Authorized for?

Illinois initially received final authorization effective January 31, 1986 (51 FR 3778, January 30, 1986) to implement the RCRA hazardous waste management program. Subsequently the EPA granted authorization for changes to the Illinois program effective March 5, 1988 (53 FR 126, January 5, 1988); April 30, 1990 (55 FR 7320, March 1, 1990); June 3, 1991 (56 FR 13595, April 3, 1991); August 15, 1994 (59 FR 30525, June 14, 1994); May 14, 1996, (61 FR 10684, March 15, 1996); and October 4, 1996 (61 FR 40520, August 5, 1996).

F. What Changes Are We Proposing with Today's Action?

On October 19, 2015, Illinois submitted a final program revision application, seeking authorization of changes in accordance with 40 CFR 271.21. We have determined that Illinois'

hazardous waste program revisions satisfy all of the requirements necessary to qualify for Final Authorization. We are now proposing to authorize, subject to receipt of written comments that oppose this action, Illinois' hazardous waste program revision. We propose to grant Illinois Final Authorization for the following program changes:

Description of Federal Requirement	<u>Federal Register</u> date and page	Analogous State Authority
Universal Waste Rule: General Provisions Checklist 142A	May 11, 1995 60 FR 25492	35 IAC 703.123; 720.101; 721.105; 722.110; 722.111; 724.101; 725.101; 728.101; 733.101; 733.103; 733.105; 733.106; 733.111; 733.112; 733.114; 733.115; 733.116; 733.117; 733.118; 733.119; 733.120; 733.131; 733.132; 733.134; 733.135; 733.136; 733.137; 733.138; 733.139; 733.140; 733.151; 733.152; 733.153; 733.154; 733.155; 733.156; 733.160; 733.161; 733.162; 733.170 Effective April 15, 1998
Universal Waste Rule: Specific Provisions for Batteries Checklist 142B	May 11, 1995 60 FR 25492	35 IAC 703.123; 720.110; 721.106; 721.109; 724.101; 725.101; 726.180; 728.101; 733.102; 733.106; 733.113(a),(b),(c); 733.114; 733.133(a),(b),(c); 733.134 Effective April 15, 1998
Universal Waste Rule: Specific Provisions for Pesticides Checklist 142C	May 11, 1995 60 FR 25492	35 IAC 703.123; 720.110; 721.109; 724.101; 725.101; 728.101; 733.101; 733.103; 733.106; 733.113(a),(b),(c); 733.114; 733.132; 733.133(a),(b),(c); 733.134 Effective April 15, 1998
Universal Waste Rule: Specific Provisions for Thermostats Checklist 142D	May 11, 1995 60 FR 25492	35 IAC 703.123; 720.110; 721.109; 724.101; 725.101; 728.101; 733.101; 733.104; 733.106; 733.113(a),(b),(c); 733.114; 733.133(a),(b),(c); 733.134 Effective April 15, 1998
Universal Waste Rule:	May 11, 1995	35 IAC 720.120; 720.123; 733.180;

Provisions for Petitions to Add a New Universal Waste Checklist 142E	60 FR 25492	733.181 Effective April 15, 1998
RCRA Expanded Public Participation Checklist 148	December 11, 1995 60 FR 63417	35 IAC 702.110; 703.183; 703.191; 703.192; 703.193; 703.220; 703.223; 703.225; 703.232; 703.248 Effective December 16, 1997
Identification and Listing of Hazardous Waste; Amendments to Definition of Solid Waste Checklist 150	March 26, 1996 61 FR 13103	35 IAC 721.104 Effective December 16, 1997
Imports and Exports of Hazardous Waste Checklist 152	April 12, 1996 61 FR 16290	35 IAC 721.106; 722.110; 722.153; 722.156; 722.158; 722.180; 722.181; 722.182; 722.183; 722.184; 722.185; 722.186; 722.187; 722.189; 723.110; 723.120; 724.112; 724.171; 725.112; 725.171; 726.170; 733.120; 733.140; 733.156; 733.170 Effective December 16, 1997
Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments and Containers Checklist 154 as amended Checklist 154.1 as amended Checklist 154.2 as amended Checklist 154.3 as amended Checklist 154.4 as amended Checklist 154.5 as amended Checklist 154.6	November 25, 1996 61 FR 59931 November 25, 1996 61 FR 59931 December 12, 1994 59 FR 62896 May 19, 1995 60 FR 26828 September 29, 1995 60 FR 50426 November 13, 1995 60 FR 56952 February 9, 1996 61 FR 4903 June 5, 1996 61 FR 28508	35 IAC 702.181; 703.184; 703.201; 703.202; 703.203; 703.213; 720.111; 721.106; 722.134; 724.113; 724.115; 724.173; 724.177; 724.279; 724.300; 724.332; 724.701; 724.930; 724.933; 724.934; 724.935; 724.950; 724.955; 724.958; 724.964; 724.980; 724.981; 724.982; 724.983; 724.984; 724.985; 724.986; 724.987; 724.988; 724.989; 724.990; 724.991; 725.101; 725.113; 725.115; 725.173; 725.177; 725.278; 725.302; 725.331; 725.930; 725.933; 725.934; 725.935; 725.950; 725.955; 725.958; 725.964; 725.980; 725.981; 725.982; 725.983; 725.984; 725.985; 725.986; 725.987; 725.988; 725.989; 725.990; 725.991; 725 Appendix F Effective September 28, 1998
Land Disposal Restrictions	January 14, 1997	35 IAC 728.139

Phase III – Emergency Extension of the K088 Capacity Variance Checklist 155	62 FR 1992	Effective September 28, 1998
Land Disposal Restrictions: Phase IV Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials and Miscellaneous Hazardous Waste Provisions Checklist 157	May 12, 1997 62 FR 25998	35 IAC 721.104; 721.106; 728.101; 728.104; 728.107; 728.109; 728.130; 728.140; 728.142; 728.144; 728 Appendix F; 728 Appendix G; 728 Appendix H Effective September 28, 1998
Hazardous Waste Management System; Testing and Monitoring Activities Checklist 158	June 13, 1997 62 FR 32452	35 IAC 720.111; 724.934; 724.963; 724 Appendix I; 725.934; 725.963; 726.204; 726.206; 726.207; 726 Appendix I Effective September 28, 1998
Land Disposal Restrictions: Phase III – Emergency Extension of the K088 National Capacity Variance Checklist 160	July 14, 1997 62 FR 37694	35 IAC 728.139 Effective January 19, 1999
Organic Air Emission Standards for Tanks, Surface Impoundments and Containers; Clarification and Technical Amendment Checklist 163	December 8, 1997 62 FR 64636	35 IAC 703.183; 724.115; 724.173; 724.930; 724.933; 724.950; 724.960; 724.962; 724.964; 724.980; 724.982; 724.983; 724.984; 724.985; 724.986; 724.987; 724.989; 725.115; 725.173; 725.930; 725.933; 725.950; 725.960; 725.962; 725.964; 725.980; 725.981; 725.982; 725.983; 725.984; 725.985; 725.986; 725.987; 725.988; 725.990; 725.Appendix F Effective January 19, 1999
Kraft Mill Steam Stripper Exclusion Checklist 164	April 15, 1998 63 FR 18504	35 IAC 721.104 Effective January 19, 1999
Emergency Revisions of LDR Treatment Standards Checklist 172	September 9, 1998 63 FR 48124	35 IAC 728.134 Effective July 26, 1999
Land Disposal Restrictions Treatment Standards	September 24, 1998 63 FR 51254	35 IAC 728.139; 728.140 Effective July 26, 1999

(Spent Potliners) Checklist 173		
Universal Waste Rule; Technical Amendment (Conditionally Optional) Checklist 176	December 24, 1998 63 FR 71225	35 IAC 726.180; 733.106 Effective July 26, 1999
Organic Air Emission Standards Checklist 177	January 21, 1999 64 FR 3381	35 IAC 722.134; 724.931; 724.980; 724.983; 724.984; 724.986; 725.980; 725.984; 725.985; 725.987 Effective January 21, 2000
Test Procedures for the Analysis of Oil and Grease and Non-Polar Material Checklist 180	May 14, 1999 64 FR 26315	35 IAC 720.111 Effective January 21, 2000
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (MACT Rule) Checklist 182 as amended Checklist 182.1	September 30, 1999 64 FR 52827 November 19, 1999 64 FR 63209	35 IAC 703.205; 703.208; 703.221; 703.232; 703 Appendix A; 720.110; 721.138; 724.440; 724.701; 725.440; 726.200; 726.201; 726.205; 726.212; 726 Appendix H Effective June 20, 2000
Waste Water Treatment Sludges from Metal Finishing Industry; 180 Day Accumulation Time Checklist 184	March 8, 2000 65 FR 12378	35 IAC 722.134 Effective January 11, 2001
Organobromine Production Wastes Checklist 185	March 17, 2000 65 FR 14472	35 IAC 721.132; 721.133; 721 Appendix G; 721 Appendix H; 728.133; 728.140; 728.148 Effective January 11, 2001
NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors Checklist 188 as amended: Second Technical Correction Checklist 188.1 as amended: Checklist 188.2	July 10, 2000 65 FR 42292 May 14, 2001 66 FR 24270 July 3, 2001 66 FR 35087	35 IAC 703.280; 721.138; 724.440 Effective July 9, 2001
Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes	November 8, 2000 65 FR 67068	35 IAC 721.132; 721 Appendix G; 721 Appendix H; 728.133; 728.140; 728.148 Effective July 9, 2001

Checklist 189		
Deferral of Phase IV Standards for PCBs as a Constituent Subject to Treatment in Soil Checklist 190	December 26, 2000 65 FR 81373	35 IAC 728.132; 728.148; 728.149; 728 Appendix C Effective July 9, 2001
Storage, Treatment, Transportation and Disposal of Mixed Waste Checklist 191	May 16, 2001 66 FR 27218	35 IAC 726.310; 726.320; 726.325; 726.330; 726.335; 726.340; 726.345; 726.350; 726.355; 726.360; 726.405; 726.410; 726.415; 726.420; 726.425; 726.430; 726.435; 726.440; 726.445; 726.450; 726.455; 726.460 Effective April 22, 2002
Change of EPA Mailing Address, Additional Technical Amendments and Corrections Checklist 193	June 28, 2001 66 FR 34374	35 IAC 720.111 Effective April 22, 2002
Hazardous Air Pollutant Standards for Combustors: Interim Standards Checklist 197	February 13, 2002 67 FR 6792	35 IAC 703.205; 703.208; 703.221; 703.232; 703.320; 724.440; 725.440; 726.200 Effective February 14, 2003
Hazardous Air Pollutant Standards for Combustors; Corrections Checklist 198	February 14, 2002 67 FR 6968	35 IAC 703.280; 726.200 Effective February 14, 2003
Land Disposal Restrictions: National Treatment Variance To Designate New Treatment Subcategories for Radioactively Contaminated Cadmium-, Mercury-, and Silver-Containing Batteries Checklist 201	November 21, 2002 67 FR 62618	35 IAC 728.140 Effective July 17, 2003
NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors - Corrections Checklist 202	December 19, 2002 67 FR 77687	35 IAC 703.205; 703.208; 703.221; 703.232 Effective July 17, 2003
NESHAP: Surface Coating of Automobiles and Light Duty Trucks Checklist 205	October 26, 2004 69 FR 22601	35 IAC 724.950 Effective February 23, 2006

Hazardous Waste Management System; Modification of the Hazardous Waste Manifest System Checklist 207 as Amended Checklist 207.1	March 4, 2005 70 FR 10776 June 16, 2005 70 FR 35034	35 IAC 720.110; 721.107; 722.120; 722.121; 722.127; 722.132; 722.133; 722.134; 722.154; 722.160; 722 Appendix 8700-22; 733.120; 733.121; 724.170; 724.171; 724.172; 724.176; 725.170; 725.171; 725.172; 725.176 Effective February 23, 2006
Standardized Permit for RCRA Hazardous Waste Management Facilities Checklist 210	September 8, 2005 70 FR 53420	35 IAC 702.101; 702.110; 702.120; 702.125; 703.125; 703.191; 703.192; 703.238; 703.260; 703.270; 703.272; 703.350; 703.351; 703.352; 703.353; 705.102; 705.128; 705.300; 705.301; 705.302; 705.303; 705.304; 720.110; 720.111; 721.107; 727.100; 727.110; 727.130; 727.150; 727.170; 727.190; 727.210; 727.240; 727.270; 727.290; 727.900; 727 Appendix A Effective December 20, 2006
NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Checklist 212	October 12, 2005 70 FR 59402	35 IAC 703.110; 703.189; 703.205; 703.208; 703.210; 703.211; 703.221; 703.232; 703.241; 703.280; 703.320; 703 Appendix A; 720.111; 724.440; 725.440; 726.200 Effective December 20, 2006

G. Which Revised State Rules Are Different from the Federal Rules?

Illinois has not applied for the federal requirements at 40 CFR 260.21, 264.149, 264.150, 265.149, 265.150, 268.5, 268.6, 268.42(b), 268.44, and 270.3. EPA will continue to implement those requirements.

More Stringent Rules:

In 35 IAC 722.122 and 722.123(a)(4), Illinois requires more manifest copies than the Federal rules. In 35 IAC 724.213(d)(3) Illinois adds requirements to the contingent corrective measures plan found in 40 CFR 264.113(e)(4)(i). In 35 IAC 722.141, 724.175 and 725.175, Illinois requires an annual report instead of the biennial report required in 40 CFR 262.22,

264.75, and 265.75. Illinois has added 35 IAC 724.156(i) to facilitate State notification. In 35 IAC 725.245, Illinois does not allow the extension of time to submit the financial test and corporate guarantee documents to the agency as federally allowed in 40 CFR 265.145(e)(4). In 35 IAC 725.414, Illinois prohibits all liquids in landfills; the federal rules allow for exceptions in 40 CFR 265.314(f)(1) and (2). Illinois' 35 IAC Part 729 prohibits disposal of certain hazardous wastes in landfills. This part has no direct equivalent Federal part, but is a counterpart of the land ban regulations at 40 CFR part 268 and the landfill requirements at 40 CFR parts 264 and 265. In 35 IAC 728.106(e) Illinois requires at least a 90 day notice when a facility wants to make changes to unit design; EPA in 40 CFR 268.6(e) only requires a 30 day notice. In 35 IAC 703.271(e) Illinois adds some additional cases where a permit must be modified.

Broader in Scope Rules:

In 35 IAC 721.103(g), Illinois does not allow the exemption allowed in the federal rules at 40 CFR 261.3(g)(4). In 35 IAC 739.146, Illinois adds subsection (a)(6) which covers special waste (35 IAC part 808). This special waste is not regulated in the RCRA subtitle C program. 35 IAC 739.146(a)(6) adds information requirements. The same requirements are also added in 35 IAC 739.156, 739.165, and 739.174.

Universal Waste Lamps Rules Not Authorized:

Illinois allows Lamp Crushing under its current version of the Universal Waste Rule (35 IAC 733.105, 733.113(d), 733.133(d), and 733.134(e)), and has not applied for authorization of the Universal Waste Lamps Rule. In the future, EPA will determine whether to prohibit crushing of lamps, or decide under what conditions lamp crushing may be permitted. Until the issue is resolved, no state that allows crushing may be authorized for the Universal Waste Lamps rule

and the Illinois version of the Universal Waste Lamps Rule is not part of the Illinois authorized program.

H. Who Handles Permits After the Final Authorization Takes Effect?

Illinois will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which EPA issues prior to the effective date of the proposed authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of the authorization. EPA will continue to implement and issue permits for HSWA requirements for which Illinois is not yet authorized.

I. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Illinois?

Illinois is not authorized to carry out its hazardous waste program in "Indian Country," as defined in 18 U.S.C. 1151. Indian Country includes:

1. All lands within the exterior boundaries of Indian Reservations within or abutting the State of Illinois;
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off an Indian reservation that qualifies as Indian Country.

Therefore, this action has no effect on Indian Country. EPA retains the authority to implement and administer the RCRA program on these lands.

J. How Does Proportionate Share Liability Affect Illinois' RCRA Program

Illinois' RCRA authorities are not impacted by the proportionate share liability (PSL) provision of the Illinois Environmental Protection Act, 415 ILCS 5/58.9(a)(1). Section 58.9(a)(1) provides, in pertinent part:

“Notwithstanding any other provisions of this Act to the contrary, ... in no event may the Agency, the State of Illinois, or any person bring an action pursuant to this Act or the Groundwater Protection Act to require any person to conduct remedial action or to seek recovery of costs for remedial activity conducted by the State of Illinois or any person beyond the remediation of releases of regulated substances that may be attributed to being proximately caused by such person's act of omission or beyond such person's proportionate degree of responsibility for costs of the remedial action of releases of regulated substances that were proximately caused or contributed to by 2 or more persons.”

Section 58.9 is part of Title XVII (Site Remediation Program) of the Illinois Environmental Protection Act. Title XVII does not apply to a particular site if “...(ii) the site is a treatment, storage, or disposal site for which a permit has been issued, or that is subject to closure requirements under federal or state solid or hazardous waste laws” (415 ILCS 5/58.1(a)(2)(ii)). Hazardous waste treatment, storage, and disposal facilities under Subtitle C of RCRA fall within the exclusion at section 58.1(a)(2)(ii). These facilities are subject to closure and post-closure care requirements under the Act (415 ILCS 5/22.17) and Illinois program rules that are identical in substance to federal rules at 40 CFR 264 (35 Ill. Adm. Code 724). The Illinois Appellate Court has held that the PSL does not apply to sites that are outside the scope of Title XVII. *People of the State of Illinois v. State Oil*, 822 N.E. 2d 876 (Ill. App. 2004). Therefore the exclusion at Section 58.1(a)(2)(ii) renders Title XVII, including section 58.9,

inapplicable to sites upon which RCRA regulated facilities are located. Based on this exclusion, and as indicated by the Illinois Attorney General in the Attorney General Statement included in the State's October 19, 2015 final program revision application, the PSL provision does not impact the adequacy of Illinois' RCRA authorities.

K. What Is Codification and Is EPA Codifying Illinois' Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the state's statutes and regulations that comprise the state's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized state rules in 40 CFR part 272. Illinois' authorized rules, up to and including those revised June 3, 1991, have previously been codified through the incorporation-by-reference effective March 31, 1992 (57 FR 3722, January 31, 1992). We reserve the amendment of 40 CFR part 272, subpart O for the codification of Illinois' program changes until a later date.

L. Statutory and Executive Order Reviews

This proposed rule only authorizes hazardous waste requirements pursuant to RCRA 3006 and imposes no requirements other than those imposed by state law (see Supplementary Information, Section A. Why are Revisions to State Programs Necessary?). Therefore, this rulemaking complies with applicable executive orders and statutory provisions as follows:

1. Executive Order 18266: Regulatory Planning and Review and Executive Order 13563: Improving Regulations and Regulatory Review

The Office of Management and Budget has exempted this rule from its review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821 January 21, 2011).

2. *Paperwork Reduction Act*

This rulemaking does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

3. *Regulatory Flexibility Act*

This proposed rule authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those required by state law. Accordingly, I certify that this rulemaking 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.*).

4. *Unfunded Mandates Reform Act*

Because this rulemaking approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

5. *Executive Order 13132: Federalism*

Executive Order 13132 (64 FR 43255, August 10, 1999) does not apply to this proposed rule because it will not have federalism implications (*i.e.*, 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).

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

Executive Order 13175 (65 FR 67249, November 9, 2000) does not apply to this proposed rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, or on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes).

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

This proposed rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant as defined in Executive Order 12866 and because the EPA does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

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

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

9. National Technology Transfer Advancement Act

EPA approves state programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a state program, to require the use of any particular voluntary consensus standard in place of another standard that meets 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 to this proposed rule.

10. Executive Order 12988

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.

11. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 18, 1988) by examining the takings implications of the rulemaking in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order.

12. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

Because this rulemaking proposes authorization of pre-existing state rules and imposes no additional requirements beyond those imposed by state law and there are no anticipated significant adverse human health or environmental effects, the proposed rule is not subject to Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information; Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This 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: February 29, 2016.

Robert Kaplan,
Acting Regional Administrator, Region 5.

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