



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA-R04-RCRA-2018-0255; FRL- 9981-48-Region 4]

### Georgia: Proposed Authorization of State Hazardous Waste Management Program Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** Georgia has applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. EPA has reviewed Georgia's application and has determined that these changes satisfy all requirements needed to qualify for final authorization. Therefore, we are proposing to authorize the state's changes. EPA seeks public comment prior to taking final action.

**DATES:** Comments must be received on or before *[INSERT DATE 30 DAYS AFTER THE DATE OF PUBLICATION]*.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-RCRA-2018-0255, at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Once submitted, comments cannot be edited or removed from *www.regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Thornell Cheeks, Materials and Waste Management Branch, RCR Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960; telephone number: (404) 562-8479; fax number: (404) 562-9964; e-mail address: *cheeks.thornell@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**A. Why are revisions to state programs necessary?**

States that 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 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates pursuant to the Hazardous and Solid Waste Amendments of 1984 (HSWA) take effect in authorized states at the same time that they take effect in unauthorized states. Thus, EPA will implement those requirements and prohibitions in Georgia, including the issuance of new permits implementing those requirements, until the state is granted authorization to do so.

**B. What decisions has EPA made in this rule?**

On September 22, 2015, September 12, 2016, and November 7, 2017, Georgia submitted program revision applications seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated between July 1, 2005 and June 30, 2017 (also known as RCRA Clusters XVI, XIX and XXII through XXV). EPA concludes that Georgia's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, EPA proposes to grant Georgia final authorization to operate its hazardous waste program with the changes described in its authorization applications, and as outlined below in Section F of this document.

Georgia has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program applications, subject to the limitations of HSWA, as discussed above.

**C. What is the effect of this proposed authorization decision?**

If Georgia is authorized for the changes described in Georgia's authorization applications, these changes will become part of the authorized state hazardous waste program, and therefore will be federally enforceable. Georgia will continue to have primary enforcement authority and responsibility for its state hazardous waste program. EPA would retain its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements, including authorized state program requirements, and suspend or revoke permits; and
- Take enforcement actions regardless of whether the state has taken its own actions.

This action will not impose additional requirements on the regulated community because the regulations for which EPA is proposing to authorize Georgia are already effective, and are not changed by this proposed action.

**D. What happens if EPA receives comments that oppose this action?**

If EPA receives comments on this proposed action, we will address all such 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.

**E. What has Georgia previously been authorized for?**

Georgia initially received final authorization on August 7, 1984, effective August 21,

1984 (49 FR 31417), to implement the RCRA hazardous waste management program. EPA granted authorization for changes to Georgia's program on the following dates: July 7, 1986, effective September 18, 1986 (51 FR 24549); July 28, 1988, effective September 26, 1988 (53 FR 28383); July 24, 1990, effective September 24, 1990 (55 FR 30000); February 12, 1991, effective April 15, 1991 (56 FR 5656); May 11, 1992, effective July 10, 1992 (57 FR 20055); November 25, 1992, effective January 25, 1993 (57 FR 55466); February 26, 1993, effective April 27, 1993 (58 FR 11539); November 16, 1993, effective January 18, 1994 (58 FR 60388); April 26, 1994, effective June 27, 1994 (59 FR 21664); May 10, 1995, effective July 10, 1995 (60 FR 24790); August 30, 1995, effective October 30, 1995 (60 FR 45069); March 7, 1996, effective May 6, 1996 (61 FR 9108); September, 18, 1998, effective November 17, 1998 (63 FR 49852); October 14, 1999, effective December 13, 1999 (64 FR 55629); November 28, 2000, effective March 30, 2001 (66 FR 8090); July 16, 2002, effective September 16, 2002 (67 FR 46600); November 19, 2002, effective January 21, 2003 (67 FR 69690); July 18, 2003, effective September 16, 2003 (68 FR 42605); January 27, 2005, effective April 20, 2005 (70 FR 12973); April 25, 2006, effective June 26, 2006 (71 FR 23864); May 2, 2013, effective July 1, 2013 (78 FR 25579); and January 26, 2015, effective March 27, 2015 (80 FR 3888).

**F. What changes are we proposing with this action?**

On September 22, 2015, September 12, 2016, and November 7, 2017, Georgia submitted program revision applications seeking authorization of changes to its hazardous waste management program in accordance with 40 CFR 271.21. EPA proposes to determine, subject to receipt of written comments that oppose this action, that Georgia's hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and

therefore satisfy all of the requirements necessary to qualify for final authorization. Therefore, EPA is proposing to authorize Georgia for the following program changes:

<b>Description of Federal Requirement</b>	<b><u>Federal Register</u> Date and Page</b>	<b>Analogous State Authority<sup>1</sup></b>
Checklist 213, Burden Reduction Initiative	71 FR 16862 4/4/06	391-3-11-.05(1)-(2); 391-3-11-.07(1)-(2); 391-3-11-.10(1)-(3); 391-3-11-.11(3)(h) and (7)(d); and 391-3-11-.16.
Checklist 228, Hazardous Waste Technical Corrections and Clarifications	77 FR 22229 4/13/12	391-3-11-.07(1) and 391-3-11-.10(3).
Checklist 229, Conditional Exclusions for Solvent Contaminated Wipes	78 FR 46448 7/31/13	391-3-11-.02(1) and 391-3-11-.07(1).
Checklist 231, Hazardous Waste Electronic Manifest Rule	79 FR 7518 2/7/14	391-3-11-.02(1); 391-3-11-.08(1); 91-3-11-.09; and 391-3-11-.10(1)-(2).
Checklist 232, Revisions to the Export Provisions of the Cathode Ray Tube Rule	79 FR 36220 6/26/14	391-3-11-.02(1) and 391-3-11-.07(1).
Checklists 219 and 233, Revisions to the Definition of Solid Waste	73 FR 64668 10/30/08  80 FR 1694 1/13/15	391-3-11-.02(1); 391-3-11-.05(5); 391-3-11-.07(1)-(2); and 391-3-11-.11(7)(d).
Checklist 236, Imports and Exports of Hazardous Waste	81 FR 85696 11/28/16	391-3-11-.02(1); 391-3-11-.07(1); 391-3-11-.08(1); 391-3-11-.09; 391-3-11-.10(1)-(3); and 391-3-11-.18.
Checklist 237, Hazardous Waste Generator Improvements Rule	81 FR 85732 11/28/16	391-3-11-.01(2)(e); 391-3-11-.02(1); 391-3-11-.07(1); 391-3-11-.08(1); 391-3-11-.09; 391-3-11-.10(1)-(3); 391-3-11-.11(1)(a), (5), and (7)(d); 391-3-11-.16; 391-3-11-.17; and 391-3-11-.18.

<sup>1</sup> The Georgia provisions are from the Georgia Rules for Hazardous Waste Management Chapter 391-3-11, effective September 28, 2017.

**G. Where are the revised state rules different from the Federal rules?**

EPA considers the following state requirements to go beyond the scope of the Federal program:

- Georgia is broader in scope than the Federal program in its adoption of 40 CFR 260.43 (2015) and 40 CFR 261.4(a)(24) (2015) at Ga. Comp. R. & Regs. r. 391-3-11-.07(1). Both of these regulations include provisions from the 2015 Definition of Solid Waste (DSW) Rule that have been vacated and replaced with the less stringent requirements of 40 CFR 260.43 (2008) and 40 CFR 261.4(a)(24) and (25) (2008) from the 2008 DSW Rule.
- Georgia is also broader in scope than the Federal program by not adopting the conditional exclusion for carbon dioxide streams in geologic sequestration activities (Checklist 230) at 40 CFR 261.4(h) (see Ga. Comp. R. & Regs. r. 391-3-11-.01(2)). Georgia's continued regulation of these waste streams is broader in scope than the Federal program.

Broader-in-scope requirements are not part of the authorized program and EPA cannot enforce them. Although regulated entities must comply with these requirements in accordance with state law, they are not RCRA requirements.

EPA cannot delegate certain Federal requirements associated with the Hazardous Waste Electronic Manifest Rule (Checklist 231), the Imports and Exports of Hazardous Waste Rule (Checklist 236), and the Revisions to the Export Provisions of the Cathode Ray Tube Rule (Checklist 232) (40 CFR 261.39(a)(5) and 261.41). Georgia has adopted these requirements and appropriately preserved EPA's authority to implement them (see Ga. Comp. R. & Regs. R. 391-3-11-.01(2)(c))

**H. Who handles permits after the final authorization takes effect?**

Georgia 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 issued prior to the effective date of this authorization until they are terminated. EPA will not issue any new permits or new portions of permits for the provisions listed in the Table above after the effective date of the final authorization. EPA will continue to implement and issue permits for HSWA requirements for which Georgia is not yet authorized.

**I. What is codification and will EPA codify Georgia's hazardous waste program as proposed 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. EPA does this by referencing the authorized state rules in 40 CFR part 272. EPA is not proposing to codify the authorization of Georgia's changes at this time. However, EPA reserves the amendment of 40 CFR part 272, subpart L, for the authorization of Georgia's program changes at a later date.

**J. Statutory and Executive Order Reviews**

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action proposes to authorize state requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by state law.

Therefore, this action is not subject to review by OMB. This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as this proposed authorization of Georgia's revised hazardous waste program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action 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 this action proposes to authorize 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 (2 U.S.C. 1531–1538). For the same reason, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action 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 (64 FR 43255, August 10, 1999), because it merely proposes to authorize 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. This action 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. This action is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 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 proposing this 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 this action in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). “Burden” is defined at 5 CFR 1320.3(b). 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. Because this action proposes authorization of pre-existing state rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by state law, and there are no anticipated significant adverse human health or environmental effects, this proposed rule is not subject to Executive Order 12898.

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

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, 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, and 6974(b).

Dated: July 10, 2018.

Onis “Trey” Glenn, III,  
Regional Administrator, Region 4.

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