



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 260, 261, and 270**

**[EPA-HQ-OLEM-2023-0085; FRL 9247-03-OLEM]**

**RIN 2050-AH27**

### **Definition of Hazardous Waste Applicable to Corrective Action for Releases from Solid Waste Management Units**

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

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** The Environmental Protection Agency (EPA) is extending, until March 26, 2024, the comment period for the proposed rule published in the *Federal Register* on February 8, 2024. The proposed rule would amend the definition of hazardous waste applicable to corrective action to address releases from solid waste management units at RCRA-permitted treatment, storage, and disposal facilities and make related conforming amendments, thereby providing clear regulatory authority to fully implement the Resource Conservation and Recovery Act (RCRA) statutory requirement that permitted facilities conduct corrective action to address releases not only of substances listed or identified as hazardous waste in the regulations but of any substance that meets the statutory definition of hazardous waste. The proposed rule would also provide notice of EPA's interpretation that the statutory definition of hazardous waste applies to corrective action for releases from solid waste management units at permitted and interim status facilities.

**DATES:** The public comment period for the proposed rule published in the *Federal Register* (FR) on February 8, 2024 (89 FR 8598), originally ending March 11, 2024, is being extended by 15 days. Written comments must be received on or before March 26, 2024.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA-HQ-OLEM-2023-0085, by any of the following methods:

- *Federal eRulemaking Portal*: <https://www.regulations.gov/> (our preferred method).

Follow the online instructions for submitting comments.

- *Mail*: U.S. Environmental Protection Agency, EPA Docket Center, RCRA Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand Delivery/Courier*: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m.–4:30 p.m., Monday – Friday (except Federal Holidays).

*Instructions*: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the “Public Participation” heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Submit your comments, identified by Docket ID No. EPA-HQ-RCRA-2023-0085, at <https://www.regulations.gov> (our preferred method), or the other methods identified in the **ADDRESSES** section of this document. Once submitted, comments cannot be edited or removed from the docket. 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 <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Barbara Foster, Program Information and Implementation Division, Office of Resource Conservation and Recovery (5303T) Environmental Protection Agency, 1200 Pennsylvania Ave NW, Washington D.C., 20460, 202-566-0382, foster.barbara@epa.gov.

**SUPPLEMENTARY INFORMATION:**

On February 8, 2024, the Agency published in the *Federal Register* (89 FR 8598) a proposed rule that would amend the regulations applicable to RCRA treatment, storage, and disposal facilities in two related respects. First, it would amend the definition of hazardous waste applicable to corrective action. Specifically, it would amend the definition in § 260.10 to expressly apply the RCRA section 1004(5) statutory definition of hazardous waste to corrective action requirements under § 264.101 and 40 CFR part 264 Subpart S. Similarly, it would amend the identical definition in the hazardous waste facility permitting regulations, § 270.2, to expressly apply the statutory definition of hazardous waste to the requirements relating to corrective action in § 270.14(d). These proposed revisions would more clearly provide EPA authority to address, through corrective action for solid waste management units, releases of the full universe of substances that the statute intended – not only hazardous waste and hazardous constituents listed or identified in the regulations, but all substances that meet the definition of hazardous waste in RCRA section 1004(5) at a facility. These proposed amendments are consistent with EPA’s longstanding interpretation of the RCRA statute.

Second, this proposed rule would add RCRA sections 3004(u) and (v) and 3008(h) to the statutory authorities identified in § 261.1(b)(2). That section provides that the statutory definitions of solid and hazardous waste govern the scope of EPA’s authority under certain sections of RCRA, not the more limited 40 CFR part 261 regulatory definitions. These revisions provide notice of and codify the Agency’s interpretation of the statute – that it provides authority to address releases from solid waste management units of all substances that meet the definition of hazardous waste under the statute.

Following publication of the proposed rule, several members of the public requested that the Agency extend the comment period.

In response to these requests, the Agency is extending the comment period for 15 days, until March 26, 2024. EPA does not want to unnecessarily delay this rulemaking and believes that this 15-day extension provides more than adequate time for reviewers to review the proposed rule and to submit comments given the very narrow scope of the rulemaking, and the limited amount of material reviewers need to review.

**Dated:** February 28, 2024.

**Carolyn Hoskinson,**

*Director,*

*Office of Resource Conservation and Recovery .*

[FR Doc. 2024-04712 Filed: 3/5/2024 8:45 am; Publication Date: 3/6/2024]