



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R04-RCRA-2024-0289; FRL-12213-02-R4]

Mississippi: Final Authorization of State Hazardous Waste Management Program

Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action on the authorization of changes to Mississippi's hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. These changes were outlined in an April 2, 2024 application to the EPA. We have determined that these changes satisfy all requirements needed for final authorization.

DATES: This authorization is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice unless the EPA receives adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If the EPA receives adverse comment, we will either publish a timely withdrawal of this direct final action in the **Federal Register** informing the public that the authorization will not take effect, or we will publish a notification containing a response to comments that either reverses the decision or affirms that the final action will take effect. In the event that the final action is withdrawn, we would address all public comments and make a final decision on authorization in a subsequent final action.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-RCRA-2024-0289, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The 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. The 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>.

The EPA encourages electronic submittals and lists all publicly available docket materials electronically at www.regulations.gov. If you are unable to make electronic submittals or require alternative access to docket materials, please notify Jennifer Vogel through the provided contacts in the **FOR FURTHER INFORMATION CONTACT** section. Please also contact Jennifer Vogel if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you.

FOR FURTHER INFORMATION CONTACT: Jennifer Vogel; RCRA Programs and Cleanup Branch; Land, Chemicals and Redevelopment Division; U.S. Environmental Protection Agency; Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960; telephone number: (404) 562-8462; fax number: (404) 562-9964; email address: vogel.jennifer@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Why is the EPA using a direct final action?

The EPA is publishing this action without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. This action is a routine program change. However, in the “Proposed Rules” section of this issue of the **Federal Register**, we are publishing a separate document that will serve as the proposed rule allowing the public an opportunity to comment. We will not institute a second comment period on this action. Any

parties interested in commenting must do so at this time. For further information about commenting on this action, see the **ADDRESSES** section of this document.

If the EPA receives adverse comments, we will either withdraw this action by publishing a document in the **Federal Register** before the action becomes effective, or we will publish a notification containing a response to comments that either reverses the decision or affirms that the final action will take effect. In the event that the final action is withdrawn, the EPA would base any further decision on the authorization of the State's program changes on the proposal mentioned in the previous paragraph and after consideration of all comments received during the comment period. We would address all public comments and make a final decision on authorization in a subsequent final action.

II. Why are revisions to state programs necessary?

States that have received final authorization from the 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 the 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 the EPA's regulations in Title 40 of the Code of Federal Regulations (CFR), parts 124, 260 through 268, 270, 273, and 279.

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

III. What decisions has the EPA made in this action?

Mississippi submitted a complete program revision application (PRA), dated April 2, 2024, seeking authorization of changes to its hazardous waste program corresponding to certain Federal rules promulgated between July 1, 2014 and June 30, 2021 (including RCRA Cluster¹ XXIV (Checklists² 233 (A, B, C, D2, E) and 234), RCRA Cluster XXV (Checklists 236 and 237), RCRA Cluster XXVI (Checklists 238 and 239), RCRA Cluster XXVII (Checklists 240 and 241), RCRA Cluster XXVIII (Checklist 242), and RCRA Cluster XXIX (Checklist 243)). The EPA concludes that Mississippi's application to revise its authorized program meets all of the statutory and regulatory requirements established under RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, the EPA grants Mississippi final authorization to operate its hazardous waste program with the changes described in the PRA, and as outlined below in section VI of this document.

Mississippi has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian country, as defined at 18 U.S.C. 1151) and for carrying out the aspects of the RCRA program described in its PRA, subject to the limitations of HSWA, as discussed above.

IV. What is the effect of this authorization decision?

The effect of this decision is that the changes described in Mississippi's PRA as outlined below and in section VI of this document will become part of the authorized State hazardous waste program and will therefore be federally enforceable. Mississippi will continue to have primary enforcement authority and responsibility for its State hazardous waste program. The EPA will maintain its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses, and reports;

¹ A "cluster" is a grouping of hazardous waste rules that the EPA promulgates from July 1st of one year to June 30th of the following year.

² A "checklist" is developed by the EPA for each Federal rule amending the RCRA regulations. The checklists document the changes made by each Federal rule and are presented and numbered in chronological order by date of promulgation.

- 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 does not impose additional requirements on the regulated community because the regulations for which the EPA is authorizing Mississippi are already effective under State law and are not changed by this action.

V. What has Mississippi previously been authorized for?

Mississippi initially received final authorization on June 13, 1984, effective June 27, 1984 (49 FR 24377), to implement the RCRA hazardous waste management program. The EPA granted authorization for changes to Mississippi's program on August 17, 1988, effective October 17, 1988 (53 FR 31000); August 10, 1990, effective October 9, 1990 (55 FR 32624); March 29, 1991, effective May 28, 1991 (56 FR 13079); June 26, 1991, effective August 27, 1991 (56 FR 29589); May 11, 1992, effective July 10, 1992 (57 FR 20056); April 8, 1993, effective June 7, 1993 (58 FR 18162); October 20, 1993, effective December 20, 1993 (58 FR 54044); March 18, 1994, effective May 17, 1994 (59 FR 12857); June 1, 1995, effective July 31, 1995 (60 FR 28539); August 30, 1995, effective October 30, 1995 (60 FR 5718); February 23, 2005, effective April 25, 2005 (70 FR 8731); August 4, 2008, effective October 3, 2008 (73 FR 45170); and April 3, 2019, effective April 3, 2019 (84 FR 12936).

VI. What changes is the EPA authorizing with this action?

Mississippi submitted a complete PRA, dated April 2, 2024, seeking authorization of changes to its hazardous waste management program in accordance with 40 CFR 271.21. This application included changes associated with Checklists 233, 234, and 236 through 243 from RCRA Clusters XXIV through XXIX. The EPA has determined, subject to receipt of written comments that oppose this action, that Mississippi'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, the EPA

grants final authorization to Mississippi for the following program changes:

Description of Federal Requirement	Federal Register Date and Page	Analogous State Authority¹
<p>Checklist 219 (2008)², Revisions to the Definition of Solid Waste (DSW), as amended by Checklist 233 (2015 and 2018)</p> <p>Checklist 233A, Changes affecting all non-waste determinations and variances</p> <p>Checklists 233B, Legitimacy-related provisions, including prohibition of sham recycling, definition of legitimacy, definition of contained</p> <p>Checklist 233C, Speculative Accumulation</p> <p>Checklist 233D2, 2008 DSW exclusions and non-waste determinations, including revisions from 2015 DSW final rule and 2018 DSW final rule</p> <p>Checklist 233E, Remanufacturing exclusion</p>	<p>73 FR 64668 10/20/2008</p> <p>80 FR 1694 1/13/2015</p> <p>83 FR 24664 5/30/2018</p>	<p>R. 1.1, 1.2, and 1.16</p>
<p>Checklist 234, Response to Vacatur of the Comparable Fuels Rule and the Gasification Rule</p>	<p>80 FR 18777 4/8/2015</p>	<p>R. 1.1 and 1.2</p>
<p>Checklist 236, Imports and Exports of Hazardous Waste</p>	<p>81 FR 85696 11/28/2016</p> <p>82 FR 41015 8/29/2017</p> <p>83 FR 38263 8/6/2018</p>	<p>R. 1.1, 1.2, 1.3, 1.5, 1.7, 1.11, 1.13, 1.14, and 1.21</p>

Checklist 237, Hazardous Waste Generator Improvements Rule	81 FR 85732 11/28/2016	R. 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 1.11, 1.12, 1.13, 1.14, 1.15, 1.16, 1.21, and 1.22
Checklist 238, Confidentiality Determinations for Hazardous Waste Export and Import Documents	82 FR 60894 12/26/2017	R. 1.1 and 1.3
Checklist 239, Hazardous Waste Electronic Manifest System User Fee	83 FR 420 1/3/2018	R. 1.1, 1.3, 1.5, 1.7, and 1.11
Checklist 240, Safe Management of Recalled Airbags	83 FR 61552 11/30/2018	R. 1.1, 1.2, and 1.3
Checklist 241, Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine	84 FR 5816 2/22/2019	R. 1.2, 1.3, 1.7, 1.11, 1.13, 1.15, 1.17, and 1.21
Checklist 242, Universal Waste Regulations: Addition of Aerosol Cans	84 FR 67202 12/9/2019	R. 1.1, 1.2, 1.7, 1.11, 1.15, 1.16, and 1.21
Checklist 243, Modernizing Ignitable Liquids Determinations	85 FR 40594 7/7/2020	R. 1.1 and 1.2

Notes

¹ The Mississippi regulatory provisions are from the Mississippi Hazardous Waste Regulations, Title 11, Part 3, Chapter 1, last amended on May 26, 2022.

² Mississippi has adopted the 2008 Federal Revisions to the Definition of Solid Waste Rule, as amended on January 13, 2015, and May 30, 2018.

VII. Where are the revised State rules different than the Federal rules?

When revised State rules differ from the Federal rules in the RCRA State authorization process, the EPA determines whether the State rules are equivalent to, more stringent than, or broader in scope than the Federal program. Pursuant to RCRA section 3009, 42 U.S.C. 6929, State programs may contain requirements that are more stringent than the Federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable. Although the statute does not prevent States from adopting regulations that are broader in scope than the Federal program, States cannot receive Federal authorization for such regulations, and they are not federally enforceable. There are no State requirements in the program revisions listed in the table above that are considered to be broader in scope than the Federal requirements. The EPA has determined that certain regulations included in Mississippi's program revisions listed in the table above are more stringent than the Federal program. These more stringent requirements will become part of the federally enforceable RCRA program in Mississippi when authorized.

Mississippi's program at 11 Miss. Admin. Code Pt. 3, Ch. 1, R.1.3, 1.4, 1.6, 1.8, and 1.12, is more stringent than the Federal Program at 40 CFR 262.18(d), 262.41(a), 264.75, and 265.75. The Mississippi provisions require annual reporting where the Federal provisions require biennial or quadrennial reporting or notification.

There are certain regulatory provisions for which the States cannot be authorized to administer or implement. These provisions include the requirements associated with the operation of the national E-Manifest system and its user fee provisions contained in the Hazardous Waste Electronic Manifest User Fee Rule (Checklist 239). Although Mississippi has adopted these regulations to maintain its equivalency with the Federal program, it has appropriately maintained the Federal references. *See* 11 Miss. Admin. Code Pt. 3, Ch. 1, R. 1.1, 1.3, 1.5, 1.7, and 1.11.

Because of the Federal Government's special role in matters of foreign policy, the EPA

does not authorize States to administer the Federal import/export functions associated with the Revisions to the Definition of Solid Waste (Checklist 233D2), Imports and Exports of Hazardous Waste Rule (Checklist 236), and the Confidentiality Determinations for Hazardous Waste Export and Import Documents Rule (Checklist 238). Although Mississippi has adopted these regulations to maintain its equivalency with the Federal program, it has appropriately maintained the Federal references. *See* 11 Miss. Admin. Code Pt. 3, Ch. 1, R.1.1, 1.2, 1.3, 1.5, 1.7, 1.11, 1.13, 1.21.

VIII. Who handles permits after the authorization takes effect?

When final authorization takes effect, Mississippi will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits that the EPA issued prior to the effective date of authorization until they expire or are terminated. The 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. The EPA will continue to implement and issue permits for HSWA requirements for which Mississippi is not yet authorized. The EPA has the authority to enforce state-issued permits after the State is authorized.

IX. How does today's action affect Indian country in Mississippi?

Mississippi is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the Mississippi Band of Choctaw Indians. Therefore, this action has no effect on Indian Country. The EPA retains jurisdiction over Indian country and will continue to implement and administer the RCRA program on these lands.

X. What is codification and is the EPA codifying Mississippi's hazardous waste program as authorized in this action?

Codification is the process of placing citations and references to the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. The EPA does this by adding those citations and references to the authorized State rules in 40 CFR part 272. The EPA is not codifying the authorization of

Mississippi's revisions at this time. However, the EPA reserves the ability to amend 40 CFR part 272, subpart Z, for the authorization of Mississippi's program changes at a later date.

XI. Statutory and Executive Order Reviews

This action is not a significant regulatory action subject to review by the Office of Management and Budget (OMB) under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action authorizes 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 subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because actions such as the authorization of Mississippi's revised hazardous waste program under RCRA are exempt from review 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 authorizes 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 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. 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), the 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 the 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 rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The 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).

The Congressional Review Act, 5 U.S.C. 801 et seq., as added 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 final action will be effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

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 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: May 7, 2025.

Kevin J. McOmber,
Regional Administrator.

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