



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 271 and 272**

**[EPA-R08-RCRA-2024-0408; FRL-12226-04-R8]**

**Utah: Final Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference**

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

**ACTION:** Final authorization.

**SUMMARY:** The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the Environmental Protection Agency (EPA) to authorize States to operate their hazardous waste management programs in lieu of the Federal program. Utah has applied to EPA for final authorization of the changes to its hazardous waste program under RCRA. The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing Utah's changes through this final action. Additionally, the EPA will finalize the codification and incorporation by reference of the State's authorized hazardous waste program.

**DATES:** This final authorization is effective on **[insert date of publication in the Federal Register]**.

**FOR FURTHER INFORMATION CONTACT:** Moye Lin, Land, Chemicals and Redevelopment Division, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129; telephone number: (303) 312-6667, email address: [lin.moye@epa.gov](mailto:lin.moye@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. 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 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

Utah initially received final authorization on October 10, 1984, effective October 24, 1984 (49 FR 39683), to implement the RCRA hazardous waste management program. Utah received authorization for revisions to its program on February 21, 1989 (54 FR 7417), effective March 7, 1989; May 23, 1991 (56 FR 23648) and August 6, 1991 (56 FR 37291), both effective July 22, 1991; May 15, 1992 (57 FR 20770), effective July 14, 1992; February 12, 1993 (58 FR 8232) and May 5, 1993 (58 FR 26689), both effective April 13, 1993; October 14, 1994 (59 FR 52084), effective December 13, 1994; May 20, 1997 (62 FR 27501), effective July 21, 1997; January 13, 1999 (64 FR 02144), effective March 15, 1999; October 16, 2000 (65 FR 61109), effective January 16, 2001; May 7, 2002 (67 FR 30599), effective July 7, 2002; June 11, 2003 (68 FR 34829), effective June 11, 2003; and May 23, 2008, effective May 23, 2008 (73 FR 29987).

On April 13, 2023, the State of Utah submitted a final complete program revision application seeking authorization of their changes in accordance with 40 CFR 271.21. On December 23, 2024, the EPA published both a direct final rule (89 FR 104435) granting Utah final authorization for these revisions to its federally authorized hazardous waste program and the codification and incorporation by reference of the State's authorized hazardous waste program, along with a companion proposed rule announcing the EPA's proposal to grant such final authorization, codification, and incorporation by reference (89 FR 104486). The EPA announced in both documents that the direct final rule and the proposed rule were subject to a thirty-day public comment period. The public comment period ended on January 22, 2025. Further, the EPA stated in both documents that if it received adverse comments on its intent to authorize Utah's program revisions that it would (1) withdraw the direct final rule; (2) proceed

with the proposed rule as the basis for the receipt and evaluation of such comments; and (3) subsequently publish a final determination responding to such comments and announce its final decision as to whether to authorize Utah's program revisions, codification, and incorporation by reference. The EPA did receive two adverse comments during the public comment period, and on February 20, 2025, the EPA published a document withdrawing the direct final rule (90 FR 9954).

This action responds to the comments the EPA received and publishes the EPA's final determination granting Utah final authorization of its program revisions and the incorporation by reference of the authorized program. Further background on the EPA's direct final rule and its tentative determination to grant authorization to Utah for its program revisions appears in the aforementioned *Federal Register* documents. The issues raised by the commenters are summarized and responded to in section B. below.

## **B. What Were the Comments and Responses to the EPA's Proposal?**

During the public comment period, adverse comments were received from two sources. The comments did not address specific concerns with the EPA's approval of the 41 additional RCRA regulatory provisions in Utah's authorized hazardous waste program; rather the comments were general in nature: Opposition to Utah administering hazardous waste and allegations that Utah's State government is incompetent, has not cleaned the State of air pollution, and created a water crisis related to overdevelopment and agricultural use. In response to the first commenter who stated they are "worried that the EPA is allowing the state of Utah to alter the hazardous waste plan, because the history of the state regarding the protection of the people during the uranium years was not good" the EPA notes that the authorization of the additional RCRA regulatory provisions as specified in the direct final rule will not impact the way Utah regulates hazardous waste. The State has already adopted these regulatory provisions into the Utah Hazardous Waste Management Rules. Additionally, the EPA notes that, in general, this authorization does not address radioactive waste.

In response to the second commenter who expressed concerns that the State of Utah should not be entrusted to administer hazardous waste, commenting that instead, “the EPA should be fully budgeted and staffed to manage the program,” claiming the Utah State government is incompetent due to other perceived environmental failures. The State of Utah initially received delegation of the RCRA program in 1984, with many subsequent authorizations of Federal final rules in the years since. The Utah Department of Environmental Quality (UDEQ) has followed the process specified in 40 CFR part 271 for submitting an application for authorization to the EPA and the EPA has conducted a thorough review of both the application for authorization and the State’s hazardous waste program as a whole. Neither review revealed a basis for revoking the status of the delegation of the RCRA hazardous waste program for Utah.

Therefore, we have determined that these comments do not provide a basis to deny authorization and codification of Utah’s hazardous waste program.

### **C. What Decisions Have We Made In This Final Action?**

Based on the EPA’s response to public comments, we have determined that approval and codification of Utah’s RCRA program revisions should proceed. The EPA has made a final determination that Utah’s application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA; therefore, we grant Utah final authorization to operate its hazardous waste program with the changes described in the authorization application. Additionally, the State’s program is approved for codification and incorporation by reference under 40 CFR part 272. Utah has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian country as that term is defined at 18 U.S.C. 1151, and for carrying out the aspects of the RCRA program described in its 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 the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements; thus, the EPA will implement those requirements and

prohibitions in Utah, including issuing permits, until Utah is authorized to do so. For further background on the scope and effect of this action to approve Utah's RCRA program and codify and incorporate by reference the authorized hazardous waste program, please refer to the preambles of the EPA's December 23, 2024, proposed and direct final rules at 89 FR 104486 and 89 FR 104435, respectively.

#### **D. Administrative Requirements**

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011); therefore, this action is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because State hazardous waste program authorization revisions under Subtitle C of RCRA actions are exempt from review under Executive Order 12866. For these reasons, this action is not subject to review by OMB. This action authorizes and codifies State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. 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 and codifies 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). 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 and codifies 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 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, Feb. 7, 1996), in issuing this action, 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.*).

The Congressional Review Act (CRA), 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 action will be effective **[insert date of publication in the Federal Register]**.

## **List of Subjects**

### *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.

### *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 Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: May 19, 2025.

**Cyrus M. Western,**  
*Regional Administrator, Region 8.*

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