



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA-R01-RCRA-2025-0188; FRL 12874-02-R1]

### Massachusetts: Final Authorization of State Hazardous Waste Management Program

#### Revisions

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

**ACTION:** Direct final authorization.

**SUMMARY:** Massachusetts has applied to the Environmental Protection Agency (EPA) for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The EPA has reviewed Massachusetts' application and has determined that these revisions satisfy all requirements needed to qualify for final authorization. Therefore, we are taking direct final action to authorize the State's changes. In the "Proposed Rules" section of this *Federal Register*, EPA is also publishing a separate document that serves as the proposal to authorize these revisions. Unless EPA receives written comments that oppose this authorization during the comment period, the decision to authorize Massachusetts' revisions to its hazardous waste program will take effect.

**DATES:** This final authorization will become effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, unless EPA receives adverse written comments 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 notice 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 In the event that the final action is withdrawn, we would address all public comments and make a final decision on authorization in a subsequent final action.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-R01-RCRA-2025-0188**, at <https://www.regulations.gov/>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](http://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>. If you are unable to make electronic submittals or require alternative access to docket materials, please notify Sara Kinslow through the provided contact information in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Sara Kinslow, RCRA Waste Management and Lead Branch; Land, Chemicals, and Redevelopment Division; U.S. EPA Region 1, 5 Post Office Square, Suite 100 (Mail code 07-1), Boston, MA 02109-3912; phone: 617-918-1648; e-mail: [kinslow.sara@epa.gov](mailto:kinslow.sara@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.

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 that they take effect in unauthorized states. Thus, the EPA will implement those requirements and prohibitions in Massachusetts, including the issuance of new permits implementing those requirements, until the State is granted authorization to do so.

#### **B. What decisions has the EPA made in this final action?**

On August 26, 2024, Massachusetts submitted a complete program revision application seeking authorization of revisions to its hazardous waste program. The EPA concludes that Massachusetts' application to revise its authorized program meets 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, the EPA grants final authorization to Massachusetts to operate its hazardous waste program with the revisions described in its authorization application, and as listed below in Section G of this document.

The Massachusetts Department of Environmental Protection (MassDEP) 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 application, subject to the limitations of HSWA, as discussed above.

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

This decision authorizes Massachusetts for the revisions to its authorized hazardous waste program described in its authorization application. These changes will become part of the authorized State hazardous waste program and will therefore be Federally enforceable. Massachusetts will continue to have primary enforcement authority and responsibility for its

State hazardous waste program. The EPA would maintain its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses and 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 the EPA is authorizing Massachusetts are already effective under state law and are not changed by this action.

#### **D. Why is the EPA using a direct final action?**

The EPA is publishing this action without prior proposal because the EPA views this as a noncontroversial action and anticipates no adverse comment. This action is a routine program change. However, in the “Proposed Rules” section of this *Federal Register*, we are publishing a separate document that will serve as the proposed action allowing the public an opportunity to comment. For further information about commenting on this action, please refer to the **ADDRESSES** section and Section E of the **SUPPLEMENTARY INFORMATION** section.

#### **E. What happens if the EPA receives comments that oppose this action?**

If the EPA receives comments that oppose this authorization, we will either withdraw this action by publishing a document in the *Federal Register* before the action becomes effective, or we will publish a notice 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 will base any further decision on the authorization of the State’s program revisions on the proposal mentioned in the previous section, after considering all comments received during the comment period. The EPA will then address all such comments in a later final action.

If EPA receives comments that oppose only the authorization of a particular revision to the State’s hazardous waste program, EPA will withdraw that part of this action, but the

authorization of the program revisions that the comments do not oppose will become effective on the date specified above. The *Federal Register* withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

**F. What has Massachusetts previously been authorized for?**

The Commonwealth of Massachusetts initially received final authorization effective February 7, 1985 (50 FR 3344, January 24, 1985) to implement its base hazardous waste management program. The EPA granted authorization for revisions to Massachusetts' regulatory program on the following dates: September 30, 1998, effective November 30, 1998 (63 FR 52180); October 12, 1999, effective immediately (64 FR 55153); March 12, 2004, effective immediately (69 FR 11801); January 31, 2008, effective March 31, 2008 (73 FR 5753); June 23, 2010, effective August 23, 2010 (75 FR 35660); and January 4, 2022, effective March 7, 2022 (87 FR 194). Additionally, on November 15, 2000, the EPA granted interim authorization for Massachusetts to regulate Cathode Ray Tubes under the Toxicity Characteristics rule through January 1, 2003, effective immediately (65 FR 68915). This interim authorization was subsequently extended to run through January 1, 2006 (67 FR 66338, October 31, 2002) which was then further extended until January 1, 2011 (70 FR 69900, November 18, 2005).

**G. What revisions is the EPA proposing with this proposed action?**

**1. State-initiated revisions**

On August 26, 2024, Massachusetts submitted a final complete program revision application, seeking authorization of additional revisions to its program in accordance with 40 CFR 271.21. Massachusetts seeks authority to administer the Federal requirements that are listed in Table 1 below. This table lists Massachusetts' analogous requirements that are being recognized as no less stringent than the analogous Federal requirements.

Massachusetts' regulatory references are to Title 310 of Code of Massachusetts Regulations (CMR), Chapter 30, as amended effective May 24, 2024. Massachusetts' statutory

authority for its hazardous waste program is based on the Massachusetts Hazardous Waste Management Act of 1979 (Massachusetts General Laws Chapter 21C).

The EPA determines, subject to public review and comment, that Massachusetts' hazardous waste program revisions are equivalent to, consistent with, and no less stringent than the Federal program, and therefore satisfy all the requirements necessary to qualify for final authorization. Therefore, the EPA grants final authorization to Massachusetts for the following program revisions:

**Table 1. Massachusetts' Analogs to the Federal Requirements**

<b>Federal Requirement</b>	<b>Federal Register Page and Date</b>	<b>Analogous State Authority</b>
Checklist (CL) 128: Wastes from the Use of Chlorophenolic Formulations in Wood Surface Protection	59 FR 458; January 4, 1994	Title 310 Code of Massachusetts Regulations (310 CMR) 30.012(k) and 30.160
CL 148: RCRA Expanded Public Participation	60 FR 63417; December 11, 1995	310 CMR 30.010, 30.831(1), 30.832(3), 30.833, 30.837, and 30.861(5)
CL 238: Confidentiality Determinations for Hazardous Waste Export and Import Documents	83 FR 60894; December 26, 2017	310 CMR 30.104(3)(h)1.e, 30.361, and 30.405(8)(d)
CL 240: Safe Management of Recalled Airbags	83 FR 61552; November 30, 2018	310 CMR 30.010, 30.104(3)(k), and 30.353(8)
CL 241: Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine	84 FR 5816; February 22, 2019	310 CMR 30.136 <sup>1</sup>
CL 242: Universal Waste Regulations: Addition of Aerosol Cans	84 FR 67202; December 9, 2019	310 CMR 30.143(2), 30.1001(3), 30.1010 <sup>2</sup> , 30.1020(6), 30.1034(3)(b) <sup>2</sup> , 30.1034(6), 30.1043(2)(d), 30.1044(3) <sup>2</sup> , and 30.1044(6)  (More stringent provisions: 310 CMR 30.1010 definition of "Large quantity handler of universal waste")

Federal Requirement	Federal Register Page and Date	Analogous State Authority
Special Consolidated Checklist for the Hazardous Waste Electronic Manifest Rules (CL 231 and 239)	79 FR 7518; February 7, 2014, and 83 FR 420; January 3, 2018	310 CMR 30.010, 30.311(1), 30.311(6), 30.311(7), 30.311(8), 30.316, 30.361, 30.404, and 30.405(1)

**Notes**

<sup>1</sup> Massachusetts is only seeking authority for the State analog to the amended P075 waste listing for nicotine. Authority for other provisions in CL 241 will be considered in a future program revision.

<sup>2</sup> Massachusetts’ analogous universal waste standards for mercury-containing lamps and equipment were previously authorized on January 4, 2022, effective March 7, 2022. Please see 87 FR 194 for a discussion of equivalency, scope, and stringency for these provisions.

**H. Where are the revised State rules different from 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. As such, the EPA cannot enforce broader-in-scope State rules; however, compliance with such rules is required by State law.

**1. Massachusetts requirements that are Broader in Scope**

Massachusetts’ hazardous waste program contains certain provisions that are broader than the scope of the Federal program, including, but not limited to, the following:

(a) At 310 CMR 30.311(1), Massachusetts requires that a manifest must be used for any hazardous waste transported for “off-site treatment, storage, disposal or use...” To the extent that material “in use” has not met the criteria for being discarded, abandoned, used in a manner constituting disposal, sham recycled, or any of the other factors in the definition of solid waste at 40 CFR 261.2, the EPA would not consider it to be a solid or hazardous waste and, therefore, not

subject to the hazardous waste management program including electronic manifest requirements. Additionally, the EPA does not consider material managed in compliance with the used oil standards at 40 CFR part 279 – which may involve off-site shipment of used oil for recycling, burning for energy recovery, or other allowable “use” – to be hazardous waste. Such materials are considered “State-only” wastes for purposes of the electronic manifest requirements, as addressed in 40 CFR 260.5. Wastes required by the State to be transported with a manifest, for which there is no Federal analog, make Massachusetts’ universe of regulated wastes and entities larger than the EPA’s and, therefore, broader in scope.

## **2. Massachusetts requirements that are More Stringent than the Federal program**

Massachusetts’ hazardous waste program contains several provisions that are more stringent than the Federal RCRA program, noted in Table 1, above. They include, but are not limited to, the following:

(a) Both Massachusetts and the EPA define a Large Quantity Handler (LQH) of Universal Waste (UW) as a UW handler who accumulates 5,000 kilograms or more total of UW at any time. Under the Federal program, designation as an LQH is retained through the end of the calendar year in which the 5,000-kilogram level is met or exceeded. Massachusetts includes in its definition at 310 CMR 30.010 and 30.1010 that an LQH designation is retained until such time as a change of status request is received by MassDEP, and through the end of the calendar year in which the change of status request was received. This additional step to notify MassDEP of a change in UW handler status, also discussed in the Massachusetts UW notification requirements at 310 CMR 30.1043(3), is more stringent than the EPA UW definitions and notification requirements in 40 CFR part 273.

### **I. Who handles permits after the authorization takes effect?**

Massachusetts will continue to issue permits covering all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer and enforce any RCRA and HSWA permits or portions of permits that the EPA issued prior to the

effective date of this authorization in accordance with the signed Memorandum of Agreement, dated September 30, 2021, which was included in the docket for the authorization effective March 7, 2022 (87 FR 194). Until such time as formal transfer of the EPA permit responsibility to Massachusetts occurs and the EPA terminates its permit, the EPA and Massachusetts agree to coordinate the administration of permits in order to maintain consistency. The EPA will not issue any new permits or new portions of permits for the provisions listed in Section G after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Massachusetts is not yet authorized.

**J. How would this action affect Indian Country (18 U.S.C. 115) in Massachusetts?**

Massachusetts has not applied for and is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the land of the Wampanoag tribe. 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.

**K. What is codification and will the EPA codify Massachusetts' 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 Massachusetts' revisions at this time. However, the EPA reserves the ability to amend 40 CFR part 272, subpart W for the authorization of Massachusetts' program at a later date.

**L. 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 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 an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as today's authorization of Massachusetts' 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 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 taking 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.*). “Burden” is defined at 5 CFR 1320.3(b).

#### **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, 6974(b).

Dated: August 13, 2025.

Mark Sanborn,  
Regional Administrator,  
U.S. EPA Region I.

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