



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R05-RCRA-2025-1675; FRL 12244-02-R5]

Ohio: Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final authorization.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is granting Ohio final authorization for changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Agency published a proposed rule on November 18, 2025, and provided for public comment. Ten substantive comments were received on Ohio's proposed revisions. These comments are addressed in this Final Authorization.

DATES: The final authorization is effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-RCRA-2025-1675. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

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SUPPLEMENTARY INFORMATION:

A. What changes to Ohio’s hazardous waste program are EPA authorizing with this action?

On June 27, 2023, Ohio submitted a final complete program revision application, seeking authorization of changes to its hazardous waste management program in accordance with 40 CFR § 271.21. EPA reviewed Ohio’s application, determined that these changes satisfied all requirements needed to qualify for final authorization, and on November 18, 2025, proposed to authorize the State’s changes. 90 FR 51525 (Nov. 18, 2025) (the “Authorization Proposal Notice”). EPA now makes a final decision that Ohio’s hazardous waste program revisions that are being authorized 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. For a list of State rules being authorized with this final authorization, please see Table 1 and Table 2 in Section B.9. of this notice, below.

B. What comments were received on Ohio’s proposed authorization and how is EPA responding to these comments?

EPA received ten comments on its November 18, 2025 Authorization Proposal Notice: two from nonprofit organizations questioning the completeness of the docket and requesting more time for meaningful comment; one from an industry group supporting authorization of Ohio’s revisions but questioning EPA’s disclosure of exchanges with the Ohio Environmental Protection Agency (Ohio EPA) on its application; two individuals claiming the action was contrary to the Supremacy Clause of the Constitution; one concerned with the impact of the action on interstate waters; one concerned with Ohio EPA actions regarding his facility and the State litigation that

addressed his dispute; one concerned with the impact of Per- and polyfluoroalkyl substances (PFAS); and one who did not support authorizing states to implement federal statutes that may have “interstate implications in water pollution.” EPA also received a comment from Ohio EPA on revisions that were not captured in the proposal. These comments are provided in the docket for today’s final action. See Docket ID No. EPA-R05-RCRA-2025-1675 at <https://www.regulations.gov>.

1. Comment submitted by Citizens Rulemaking Alliance, EPA-R05-RCRA-2025-1675-0012

Comment: One comment from Citizens Rulemaking Alliance questioned whether EPA disclosed and made available the technical and legal basis for proposed actions under the Administrative Procedure Act so that interested persons may provide informed comments. These comments alleged that EPA did not permit enough time and information for public comment; considered EPA’s Regulatory Flexibility Act (RFA) certification conclusory and unsupported; sought clarification on the Unfunded Mandates Reform Act (UMRA) and the Paperwork Reduction Act (PRA); and said EPA should clearly distinguish “broader-in-scope” versus “more stringent” provisions and explain enforceability. The comment requested that EPA place certain materials in the public docket; provide explanations for its equivalency determinations; extend the public comment period; and make statements regarding the RFA, UMRA, and PRA.

EPA response: We first address the request for extension and addition to the docket. The docket available at the time the proposal went out for public comment on November 18, 2025, included Ohio EPA’s application for the revision to its authorized program, the State regulations, a list of the checklists for which Ohio was seeking authorization, the Attorney General statements, letters EPA exchanged with Ohio EPA on its application, and the existing 2006 Memorandum of Agreement (MOA). EPA also

provided additional information in the November 18, 2025, Authorization Proposal Notice, describing the rules, citing to the federal notices that promulgated the federal rules for which the State seeks authorization, describing those rules, providing the State citations, and discussing differences between the federal rules and the State rules, which were in the docket. *See* 90 FR 51625, 51627-29. The commenters did not specify concerns with specific state rules. EPA initially provided 30 days for public comment, and later extended the public comment period until January 23, 2026, providing a total of 65 days to comment.

EPA is not extending the public comment period further. As described in more detail below, the information in the docket and the Federal Register notice did summarize the rules and the proposal to authorize them, providing information that allowed for meaningful comment. The Checklist numbers for the particular requirements EPA is authorizing reference checklists that provide specific language describing each federal requirement which the State rules were to replace.¹ The Authorization Proposal Notice, in Section G, further identified which State provisions were different. *See* 90 FR 51625, 51628-29. At Section F, it told the public that EPA was proposing to determine that Ohio'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. *See id.* at 51627. The Authorization Proposal Notice also included a table that identified each federal rule for which the State was seeking authorization, cited the *Federal Register* notice that promulgated the rule, and listed the State analogues to each rule and their effective dates. *See id.* at 51627-28. Those State regulations were in the docket. The

¹ See checklists at <https://www.epa.gov/rcra/rule-checklists-applications-state-authorization-under-resource-conservation-and-recovery-act#list>

correspondence and the *Federal Register* notice available during the comment period also discussed anticipated updates to the MOA. *See id.* at 51626 and the correspondence with Ohio EPA in the docket.

At Section B, the Authorization Proposal Notice stated that Ohio's revision application 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. The statute and regulations identify the terms EPA referenced in EPA's authorization analysis, and there is also guidance online on those terms.² Assessing equivalency under Section 3006(b) of RCRA, 42 U.S.C. § 6926, and stringency under Section 3009 of RCRA, 42 U.S.C. § 6929, involves comparing the State regulations to the federal regulations and/or checklists. Consistency is defined at 40 CFR § 271.4, and the criteria for adequate enforcement authority is set forth at 40 CFR § 271.16. As noted above, EPA cited checklists with the regulatory wording; provided a table citing and summarizing the *Federal Register* promulgating the federal regulations and identified differences.

With respect to the RFA, EPA certified in the Authorization Proposal Notice 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.*). At this point, EPA is authorizing State requirements already in place and enforceable under State law.

For the same reason, this action does not contain an unfunded mandate as described in the UMRA, 2 U.S.C. §§ 1531–1538 and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

² See the September 7, 2005 “Memorandum on Determining Equivalency of State RCRA Hazardous Waste Programs” at <https://rcregpublic.epa.gov/files/14782.pdf> and the December 23, 2014 “Memoranda on Determining Whether State Program Requirements are More Stringent or Broader in Scope than the Federal RCRA Program” at <https://rcregpublic.epa.gov/files/14848.pdf>

A more detailed analysis under the RFA and UMRA can be found in the *Federal Register* notices cited in the Authorization Proposal Notice. It was in those earlier promulgations that EPA imposed the RCRA obligations for which it is authorizing equivalent State analogues. The State also would have promulgated its equivalent state regulations in accordance with state law.

The Authorization Proposal Notice also indicated that 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.*). It references the definition of “Burden” at 5 CFR § 1320.3(b), which at (b)(3) clarifies that collection of information conducted or sponsored by a Federal agency that is also conducted or sponsored by a unit of State, local, or tribal government is presumed to impose a Federal burden except to the extent that the agency shows that such State, local, or tribal requirement would be imposed even in the absence of a Federal requirement.

EPA observes that the PRA does not apply to all Agency actions. That statute imposes requirements when EPA conducts or sponsors a collection of information using identical questions posed to, or reporting or recordkeeping requirements imposed on, ten or more persons; and also provides exemptions. For example, EPA’s enforcement action information collections are exempt from PRA requirements. The State enforces its regulations, including its information collection provisions, pursuant to State law. This authorization action itself is not a collection of information as defined by 44 U.S.C. § 3502(3).

EPA has followed the Administrative Procedure Act requirements for rulemakings. Under the Administrative Procedure Act, an agency promulgating rules by notice and comment rule-making must provide “a concise general statement of (the rules’) basis and purpose” 5 U.S.C. § 553(c). This statement need not be

comprehensive, but it must indicate sufficiently the agency's reasons for the rules selected, so that the reviewing court is not faced with the task of "rummaging" through the record to elicit a rationale on its own. *Connecticut Light & Power Co. v. Nuclear Regulatory Com.*, 673 F.2d 525, 534-535 (D.C. Cir. 1982). For proposed rules, the APA requires either the terms or substance of the proposed rule or a description of the subjects and issues involved. See 5 U.S.C. § 553(b)(3). EPA provided its legal authority and a description of the subjects and issues involved, and summarized its proposed action as discussed above.

As discussed above, EPA is authorizing revisions to the authorized State program on the basis that the revisions are equivalent to the federal revisions EPA previously adopted after notice and comment; the State has adequate authority to enforce the revised program; and the requirements are consistent with the Federal program and applicable programs in other States. The State rules were also previously adopted by the State under its laws, including Ohio's own Administrative Procedure Act at Ohio Rev. Code Chapter 119, and are already enforceable under State law. Upon authorization, EPA can enforce them as well, in lieu of the federal regulations cited, under RCRA section 3006(b). As mentioned in Section K of the Authorization Proposal Notice, this action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law.

Please note that while EPA followed the rulemaking³ provisions of the Administrative Procedure Act, any appeal of this RCRA section 3006 authorization action must be brought under Section 7006(b) of RCRA, 42 U.S.C. § 6976(b), as provided by the RCRA statute. Under RCRA section 7006(b), any judicial review shall be in accordance

³ We note RCRA section 7006 addresses authorizations at subsection (b), separately from rulemakings and adjudications, which are addressed in (a).

with 5 U.S.C. §§ 701 – 706.

2. Comment submitted by Chad Hughes, Environmental Law & Policy Center, and Nathan Johnson, Ohio Environmental Council, EPA-R05-RCRA-2025-1675-0018

Comment: One joint comment from two environmental organizations makes the claim that EPA's decision to authorize Ohio EPA's program is premature. It cites the failure to finalize changes to the MOA as the reason EPA has failed to provide interested parties with meaningful notice of the proposed revisions and ensure that programs are at least as stringent as federal law, and says this is arbitrary and capricious and otherwise unlawful because it deprives the public of adequate notice, conflicts with EPA's regulations and fails to ensure that Ohio programs meet minimum federal standards.

EPA response: EPA and Ohio EPA have since executed an updated MOA on February 26, 2026. That MOA has been placed in the Docket, No. EPA-R05-RCRA-2025-1675-0021. EPA provided an explanation of anticipated changes to the MOA in the Notice of Proposed Action and the correspondence in the docket. Thus, the public, including these commenters, had an opportunity to comment on the changes or the changes needed. The final MOA reflects those changes described in the proposed rule, so there is no procedural error as asserted in the comment. Notably, the commenter does not propose edits to the existing MOA that was in the docket at the time the comment period started or identify substantive concerns about the updated MOA that is now in effect.

EPA has followed its public comment procedures at 40 CFR § 271.21, which governs procedures for revision of State hazardous waste programs, provides that EPA's public notice shall summarize the State program revision, indicate whether EPA intends

to approve or disapprove the revision, and provide for an opportunity to comment for a period of 30 days.

Based on the application submissions and Ohio's commitments to address concerns regarding the use of exemptions and variances for RCRA permits, EPA has determined that Ohio's application for program revision meets the standards for approval. While EPA did not require the updated MOA before authorization approval, EPA and Ohio did indeed negotiate an updated MOA memorializing the Agencies' commitments. See the February 26, 2026 MOA in the Docket No. EPA-R05-RCRA-2025-1675-0021. That update is a logical outgrowth of the discussion in the proposal regarding Ohio EPA's commitments to ensure common understanding and efficient coordination for any future proposal to issue an exemption or variance and that we would be memorializing those commitments in an MOA. At the time the proposal was published, on November 18, 2025, the docket included the then-existing MOA, the letters exchanged with Ohio on its application and the background discussion in the Authorization Approval Notice itself, letting the public know that Ohio EPA had made commitments to EPA and agreed to revise its MOA to address exemptions. EPA appreciates Ohio EPA's investment and cooperation towards negotiating an updated MOU prior to authorization.

The comment reads the provision in 40 CFR § 271.21(b)(1) that the State shall submit a modified program description, Attorney General's statement, Memorandum of Agreement, or such other documents as EPA determines to be necessary under the circumstances, to require all of those documents in every circumstance; but the use of "or" in the phrase "or such other documents as EPA determines to be necessary" gives EPA the discretion to determine what is needed for each revision application. This can vary with the extent and substance of the revisions. EPA placed in the docket the then-

existing MOA and identified potential changes to that document that were subsequently memorialized in an updated MOA.

The response to comment 1 above summarizes information in the docket and reflects that EPA is not extending the comment period further.

3. Comment submitted by Ohio Environmental Service Industries, EPA-R05-RCRA-2025-1675-0016

Comment: One comment expressed dissatisfaction with the tone of portions of the proposed rule, particularly Section B, “What decisions has EPA made in this proposed rule?”, as well as EPA’s decision to include background documents in the public docket (for example, EPA-R05-RCRA-2025-1675-0006, EPA-R05-RCRA-2025-1675-0007, and EPA-R05-RCRA-2025-1675-0008), which the commenter considered unnecessary and unrelated. The comment interpreted EPA’s inclusion of this information to have been adversarial and requested clarification that EPA is committed to cooperation with State agencies.

EPA response: EPA regrets any misunderstanding its description and documentation of its review of Ohio’s RCRA program revisions created. EPA is strongly committed to cooperative federalism and supports Ohio EPA’s implementation of its authorized RCRA program. EPA is taking final action to authorize Ohio’s RCRA program revisions and will continue to work cooperatively with Ohio as it implements the newly approved provisions. The background discussion in Section B of the proposed rule summarized for the public a topic to be addressed in the new MOA, and the inclusion of official correspondence on this matter shows how Ohio EPA has been working with EPA to address comments on the State’s application. As noted, EPA appreciates Ohio EPA’s diligence in addressing questions and comments on its authorization revision application, as well as our joint efforts to negotiate an updated MOA. EPA’s decision to

include this description and materials in the proposal was to provide this context and transparency.

With respect to the alleged sharing of inter-agency documents, EPA notes the term Inter-agency is confined to federal agencies for purposes of the Freedom of Information Act, which defines “agency” to mean each authority of the Government of the United States at 5 U.S.C. § 551(1). For example, the Sixth Circuit held that “[t]o be inter-agency memorandums or letters, RFAs must have been sent from an authority of the Government of the United States to an authority of the Government of the United States,” in *Lucaj v. FBI*, 852 F.3d 541, 547 (6th Cir. 2017). Further, the correspondence in the file became final when it was signed.

4. Anonymous comment, EPA-R05-RCRA-2025-1675-0014, and comment submitted by Grace Jennings, EPA-R05-RCRA-2025-1675-0015

Comment: Two comments claimed EPA’s action would be unconstitutional under the Supremacy Clause of the U.S. Constitution by allowing a state program to operate in contravention of Federal law. These comments claimed that this authorization would permit Ohio to have lower standards than the Federal RCRA program, and additionally that this authorization would permit releases of hazardous waste into the Ohio River watershed.

EPA response: EPA does not agree with comments stating that this authorization violates the Supremacy Clause of the U.S. Constitution by allowing a state program to operate or that this is in contravention of Federal law. As stated previously, a hallmark of the Federal hazardous waste program centers on the idea that a partnership between federal, state, and local governments will have the most impactful results and that regulating hazardous waste is the prerogative of state and local governments in accordance with federal standards. However, a state’s authority to operate a hazardous

waste program in lieu of the Federal program requires a state's successful application for such authority, which is to be granted when a state shows that it is prepared to implement and capable of implementing a program that meets or exceeds the standards of the Federal program. The federal RCRA statute provides for authorization of state programs when standards are met, and EPA finds that Ohio's application has met the standards for approval, will meet or exceed the same requirements of the Federal program, and is therefore not contrary to law.

Concerning the risk of hazardous waste pollution of the Ohio River watershed, neither the Federal RCRA program nor State authorized programs allow for unmanaged disposal of waste. RCRA outlines a "cradle to grave" management system, strictly regulating hazardous waste from the point of generation to its final disposal. These standards are designed to minimize, not allow, the release of hazardous waste into the environment and clean up such releases should they occur. Permits issued by EPA or an authorized State agency come with strict regulatory requirements that facilities must comply with in order to treat, store, or dispose of hazardous waste.

5. Comment submitted by Jesser Gandoul, EPA-R05-RCRA-2025-1675-0020

Comment: One comment expressed concern that the Federal government was ceding its authority to regulate interstate commerce to a State and claimed that this action would have implications in potential interstate water pollution.

EPA response: In this action, EPA is making a determination on whether to authorize revisions to Ohio's authorized hazardous waste program under Section 3006(b) of RCRA, and has considered the equivalence, adequate enforcement, and consistency of the State's program, as required by RCRA. RCRA regulates the generation, transport, and treatment, storage and disposal (TSD) of hazardous waste and the permitting of hazardous waste TSD facilities. It authorizes imposing requirements on

such facilities necessary to protect human health and the environment. *See* RCRA section 3005(c)(3), 42 U.S.C. § 6925(c)(3).

Congress explicitly provided for the authorization of State RCRA programs.

Section 3006(b) of RCRA says states are authorized to carry out their program in lieu of the Federal program under Subtitle C of RCRA and to issue and enforce permits for the storage, treatment, or disposal of hazardous waste unless EPA notifies such State that such program may not be authorized based on findings that:

(1) such State program is not equivalent to the Federal program, (2) such program is not consistent with the Federal or State programs applicable in other States, or (3) such program does not provide adequate enforcement of compliance with the requirements of this subchapter.

42 U.S.C. § 6926(b). As noted in the *Federal Register* Notice for the Proposed Authorization, Ohio was authorized to administer the RCRA program in Ohio effective June 30, 1989, and has applied for authorization of revisions to that program that would implement requirements EPA has added to the federal RCRA Program. *See* 90 FR 51625, 51626-28.

This comment, like the previous comment, appears to focus on the impact of the authorization on water pollution. It is the Clean Water Act (CWA), rather than RCRA, that governs permits for discharges to Waters of the United States. While multiple rivers do cross through and out of Ohio, the authorized State RCRA program generally regulates hazardous waste facilities located “in such State” as discussed at Section 3006(b) of RCRA, 42 U.S.C. § 6926(b). The comment does not explain why Ohio’s increased regulation of hazardous waste facilities located within the State would hurt interstate waters. RCRA permits do not authorize discharges into rivers. A comment must provide enough facts and reasoning to show the agency what the issue is and how it is relevant to the agency's aims. *See Oakbrook Land Holdings, LLC v. Comm'r*, 28 F.4th

700, 714 (6th Cir. 2022) (quoting *Vermont Yankee*, 435 U.S. at 553; *Home Box Office, Inc.*, 567 F.2d at 35 n.58.). EPA's aim is to determine if Ohio's revised program meets RCRA requirements.

Furthermore, EPA's authorization of the revisions to Ohio's existing authorized RCRA program will not only give Ohio a greater role in administering RCRA permitting at facilities in Ohio, as contemplated by Section 3006(b) of RCRA, but also allow EPA to enforce more RCRA requirements in the State of Ohio. RCRA provisions not promulgated under the Hazardous and Solid Waste Amendments (HSWA) of 1984 do not go into effect in an authorized State until EPA authorizes a State for their equivalent analogues. Section 3006(g)(1) of RCRA only authorizes requirements imposed pursuant to HSWA to take effect in authorized States on the same date as they take effect in states that are not authorized (*e.g.*, Iowa). After EPA authorizes the State for non-HSWA provisions, EPA, as well as the State, will be able to enforce such provisions in Ohio. EPA retains its enforcement authorities at 3007 and 3008 of RCRA when it authorizes a State, although it would be enforcing the authorized State requirements under 3008(a). EPA has found the State provisions it is authorizing in this action to be equivalent to and no less stringent than their federal counterparts, and also that the State has adequate enforcement authority to enforce the State requirements. This action increases RCRA regulation of hazardous waste facilities in Ohio.

This action also effectively allows regulated entities to be covered under a single RCRA permit in Ohio, because EPA has had to issue a separate subpart AA, BB, and CC component of RCRA permits since those are HSWA provisions for which EPA carries out such requirements under 3006(g)(1) until the State is authorized for them. Having all RCRA requirements contained in a single permit facilitates compliance.

With respect to releases from TSD facilities, Ohio EPA was authorized for the

HSWA Corrective Action requirements effective December 23, 1996. *See* 61 FR 64950 (Oct. 23, 1996). Ohio already administers those requirements in its RCRA permits. EPA retains its authority to require corrective action at interim status facilities under RCRA section 3008(h). In this authorization, Ohio and EPA have updated the MOA to include more information on coordinating corrective action activities. Among other things, the State has agreed to promote rapid achievement of cleanups while protecting human health and the environment; and EPA has agreed to provide appropriate and relevant support to the State. *See* 2026 MOA at pp. 19 – 20, in Docket No. EPA-R05-RCRA-2025-1675-0021. The 2006 MOA did not provide as much detail on corrective action. This action could thus enhance corrective action.

Furthermore, EPA does consider the effect of authorization on interstate commerce when it evaluates the requirement that the State program be consistent with the Federal or State programs applicable in other states, pursuant to RCRA section 3006(b). 40 CFR § 271.4, which governs consistency, places limits on a State program's ability to restrict or impede the movement of hazardous waste across state lines or to ban a type of treatment, storage or disposal of hazardous waste.

As discussed above, EPA has considered whether the authorized program is consistent with the Federal or State programs applicable in other states. Furthermore, neither this authorization nor the requirements EPA is authorizing endanger interstate waters.

6. Comment submitted by Ed McCabe, McCabe Engineering & Consulting, EPA-R05-RCRA-2025-1675-0009

Comment: Ed McCabe of McCabe Engineering & Consulting made claims about Ohio EPA's implementation of its authorized program, referring to specific alleged fraud in specific cases and at a specific facility. The comment also refers to Ohio EPA making

unsatisfactory state-initiated changes to its Voluntary Action Program (VAP) rules.

As a supplement, Mr. McCabe provided an email dated November 19, 2025, to EPA forwarding an email he sent to someone at *kent.edu*, requesting that EPA add that email to the comments he submitted. That email has been added to the record and appears to concern a private contract and State enforcement of a closure plan for the commenter's facility, arguing that Ohio EPA had made misrepresentations of fact in this prior case.

EPA Response: While this comment makes broad allegations, it does not provide details to support those allegations. The commenter seems to be referring to allegations to which EPA responded as far back as 2012, regarding the commenter's acquisition of a RCRA facility on Irwin Street in Dayton, Ohio, in 1997, from Republic Environmental Systems Inc. (Republic), a 1999 release of excess funds from a closure trust fund set up by the Republic, State enforcement of a closure plan approved in 1998, and litigation between Mr. McCabe and Ohio EPA in *State ex rel. Rogers v. Rep. Env'tl. Sys.*, Docket Nos. 23513, 23644, 23723, 2010 Ohio App. LEXIS 4656 (Ohio Ct. App. Nov. 12, 2010); *McCabe Corp. v. Ohio EPA*, Docket No. 2009-01476, 2012 Ohio Misc. LEXIS 89 (Ohio Ct. Claims Feb. 3, 2012); *McCabe Corp. v. Ohio EPA*, Docket No. 12AP-204, 2012 Ohio App. LEXIS 5406 (Ohio Ct. App. Dec. 31, 2012), *State ex rel. DeWine v. Republic Env'tl. Sys.*, 943 N.E.2d 573 (Ohio 2011); and more recently in *State v. Republic Env'tl. Sys.*, Docket No. 26492, 2015 Ohio App. LEXIS 4049 (Ohio Ct. App. Sep. 30, 2015). EPA is including its correspondence in the record and citing to State court decisions that already have ruled on Mr. McCabe's allegations against the State. EPA did not find violations of State program requirements in its 2012 review of this matter.

The comment also includes allegations unrelated to EPA's Action. Mr. McCabe has also added a reference to rule changes in Ohio's VAP rules (at Ohio Administrative

Code chapter 3745-300) but does not explain what the changes were or how they affect Ohio's RCRA program. Moreover, EPA has not authorized the Ohio VAP as part of Ohio's authorized RCRA program and is not authorizing VAP provisions in this authorization. Most of Mr. McCabe's allegations have been addressed or are being addressed in the State court system before judges who apply the rules of evidence in evaluating the relevance, reliability and admissibility of such evidence.

As discussed above, our aim in this action is to determine whether Ohio's revision application meets the requirements for authorization set forth at RCRA section 3006 and 40 CFR Part 271. EPA previously looked into the allegations regarding Mr. McCabe's transactions from the 1990s that were referenced in the comment and the related court decisions and previously responded to the commenter. EPA did not find violations of RCRA State program requirements.

The commenter was not denied an opportunity to challenge the State action or to appeal the adverse decision which the trial court rendered in his case. The dispute has already been litigated in the State courts. The State Supreme court issued a ruling in 2011, 15 years ago. The State courts are the appropriate forum to hear this commenter's allegations, and while the decisions issued may not have been favorable to the commenter, his allegations have been heard and considered in appeals through the State court system. EPA's authorization of a State program revision does not create a new avenue for appeal of State court decisions in the commenter's cases.

In this action, EPA is determining whether the State's revised program meets the requirements for authorization under RCRA. While EPA would look at how a state implements its program and whether it has adequate authority to enforce the requirements of that program, allegations that the state lacks such authority or otherwise is failing to implement its hazardous waste program need to be substantiated.

Furthermore, this comment does not specify any authorization requirements for state programs in RCRA or the regulations at 40 CFR Part 271 that were violated. While EPA looked at the impact of cases on State authorities, the State court decisions here did not strike down, or limit Ohio EPA's authorities as described in 40 CFR § 271.22(a)(1)(ii). In fact, they upheld State authority. Nor does the comment allege that Ohio EPA failed to enforce the requirements of its hazardous waste program. Moreover, the comment does not explain how Ohio's current revised program fails to meet the requirements for State authorization. The State program revisions are equivalent to and as stringent as EPA's analogous federal requirements, the State has adequate authority to enforce those requirements, and the State program is consistent as defined in 40 CFR § 271.4. EPA has determined that Ohio's revised RCRA program meets the requirements for authorization.

7. Comment submitted by Julia Dyjak, EPA-R05-RCRA-2025-1675-0017

Comment: One comment was concerned about the potential for release of PFAS into groundwater. The commenter worried that regulated entities might dilute certain substances as a method of disposal or a substitute for treatment.

EPA response: This comment is concerned with releases into groundwater and PFAS. As a preliminary matter, RCRA is an existing law, and EPA is implementing RCRA section 3006 and its regulations at 40 CFR Part 271 in authorizing a state program. As discussed above, RCRA imposes requirements on the management of hazardous waste to protect human health and the environment. This law does not encourage dilution nor allow dilution as a substitute for treatment; rather, dilution is expressly prohibited as a substitute for treatment by the Federal program at 40 CFR § 268.3 and Ohio EPA has been authorized for its prohibition of impermissible dilution at OAC 3745-270-03 since January 20, 2006. *See* 71 FR 3220. Ohio EPA regulates hazardous waste and owners and

operators of hazardous waste facilities. As mentioned in the response to comment 5, authorizing the State's revised hazardous waste program would enhance both the State's and EPA's ability to enforce requirements and require corrective action for releases of hazardous waste and hazardous waste constituents at RCRA regulated facilities.

Further, this authorization action does not address the regulation of PFAS, nor does it enact any new laws related to PFAS or dilution.⁴

8. Anonymous comment, EPA-R05-RCRA-2025-1675-0013

Comment: One anonymous public comment expressed a desire for hazardous waste management to be a Federal-only program, worrying about transparency and accountability.

EPA response: RCRA was enacted in 1976 by Congress to address the problems the nation faced from the growing volume of municipal and industrial waste, which had become an increasing threat to human health and the environment.

Even before Congress undertook legislation aimed at regulating solid waste in RCRA, the Federal government was aware that localized resources would be critical in implementing laws aimed at reducing the negative impacts of pollution and industrial waste. In 1965, President Lyndon B. Johnson remarked on the importance of partnerships between the Federal government and local entities, including states, in this regard. Under RCRA, Congress further stated that while the Federal government had an interest in waste disposal, which had become a national issue, the collection and disposal of solid waste was primarily a function of State, regional and local agencies.

Codified at 42 U.S.C. § 6926, RCRA's provisions for authorized state hazardous

⁴ Thus, we do not find the commenter's concerns relevant to this action such that the Agency should deny authorization for the revision to Ohio's program. To learn about EPA's work to study and address PFAS, please visit <https://www.epa.gov/pfas>.

waste programs require that the Administrator of the EPA promulgate guidelines to assist states in developing their own state hazardous waste programs. Under paragraph (b) of that section, states may submit an application to the EPA Administrator to carry out their own hazardous waste program in lieu of the Federal program if the state program: 1) is equivalent to the Federal program, 2) is consistent with the Federal program and applicable programs in other states, and 3) provides adequate enforcement of compliance with the requirements of RCRA. These requirements ensure that states' hazardous waste programs implementing the provisions of RCRA are protective of human health and the environment to at least the same extent as they would be by the federal government.

Concerning issues of transparency and accountability, Sections 3007 and 3008 of RCRA, 42 U.S.C. §§ 6927 and 6928, provide EPA with the authority to enter, inspect, and order compliance at all RCRA-regulated facilities that fall under the authority of a state's hazardous waste program. EPA takes an active role in the oversight of state-permitted facilities. RCRA also provides for oversight of state programs. Section 6926(e) of RCRA authorizes EPA to withdraw a state program whenever it determines, after public hearing, notification of the state and an opportunity to take corrective action, that a state is not administering and enforcing an authorized program in accordance with requirements of Section 3006. *See* 42 U.S.C. § 6926(e). EPA has promulgated standards for state programs at 40 CFR Part 271. Additionally, RCRA requires public participation in multiple aspects of the administration of the state RCRA program, and there is an online, publicly available compendium of hazardous waste rules and a database of all permitted facilities on the State of Ohio website. RCRA provides for public participation at 42 U.S.C. § 6974. Ohio's program is required to comply with the Part 124 public participation requirements set forth at 40 CFR § 271.14, and to provide for public

participation in enforcement proceedings as set forth in 40 CFR § 271.16(d). This authorization does not change those requirements; rather, it only adds provisions for which Ohio's program is to be authorized.

9. Comment submitted by Ohio EPA, EPA-R05-RCRA-2025-1675-0019

Comment: EPA received a lengthy comment from Ohio EPA, the applicant in this action. Ohio EPA's comment indicated that the proposed rule made twelve errors and misconstrued parts of Ohio EPA's original application for authorization.

EPA response: EPA agrees that in some instances the proposed rule does not correctly match parts of the State's application for authorization, particularly the program description (docket ID EPA-R05-RCRA-2025-1675-0004). This final rule reflects the corrections requested by Ohio EPA.

C. What has Ohio previously been authorized for?

Ohio initially received final authorization on June 28, 1989, effective June 30, 1989 ([54 FR 27170](#), June 28, 1989) to implement the RCRA hazardous waste management program. Subsequently, the EPA granted authorization for changes to the Ohio program effective June 7, 1991 ([56 FR 14203](#), April 8, 1991) supplemented June 19, 1991, effective August 19, 1991 ([56 FR 28088](#)); effective September 25, 1995 ([60 FR 38502](#), July 27, 1995); effective December 23, 1996 ([61 FR 54950](#), October 23, 1996); effective January 24, 2003 ([68 FR 3429](#), January 24, 2003); effective January 20, 2006 ([71 FR 3220](#), January 20, 2006); effective October 29, 2007 ([72 FR 61063](#), October 29, 2007); effective March 19, 2012 ([77 FR 15966](#), March 19, 2012); effective February 12, 2018 ([83 FR 5948](#), February 12, 2018); and effective September 26, 2019 ([84 FR 50766](#), September 26, 2019).

D. What changes are we finalizing with this action?

Table 1 – Ohio's Analog to the Federal Requirements

Rule checklist	Description of Federal requirement	<i>Federal Register</i> date and page (and/or RCRA statutory authority)	Analogous State Authority (Ohio Administrative Code) rules, and the rule effective date being authorized
79	Hazardous Waste Treatment, Storage, and Disposal Facilities-- Organic Air Emission Standards for Process Vents and Equipment Leaks (subparts AA, BB)	55 FR 25454; June 21, 1990	3745-50-11, 3745-50-44, 3745-51-06 ^g , 3745-54-13, 3745-54-15, 3745-54-73, 3745-54-77, 3745-65-13, 3745-65-15, 3745-65-73, 3745-65-77, 3745-205-30, 3745-205-31, 3745-205-32, 3745-205-33, 3745-205-34, 3745-205-35, 3745-205-36, 3745-205-50, 3745-205-52, 3745-205-53, 3745-205-54, 3745-205-55, 3745-205-56, 3745-205-57, 3745-205-58, 3745-205-59, 3745-205-60, 3745-205-61, 3745-205-62, 3745-205-63, 3745-205-64, 3745-205-65, 3745-256-30, 3745-256-32, 3745-256-33, 3745-256-34, 3745-256-35, 3745-256-50, 3745-256-52, 3745-256-53, 3745-256-54, 3745-256-55, 3745-256-56, 3745-256-57, 3745-256-58, 3745-256-59, 3745-256-60, 3745-256-61, 3745-256-62, 3745-256-63, 3745-256-64; effective June 12, 2023
87	Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment	56 FR 19290; April 26, 1991	3745-50-44, 3745-65-13, 3745-65-73, 3745-205-30, 3745-205-33, 3745-205-35, 3745-205-52, 3745-256-30, 3745-256-34, 3745-256-35, 3745-256-52, 3745-256-64; effective June 12, 2023
154	Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and	61 FR 59931; November 25, 1996	3745-50-11, 3745-50-44, 3745-51-06 ^g , 3745-54-13, 3745-54-15, 3745-54-73, 3745-54-77, 3745-55-79, 3745-55-100, 3745-56-32, 3745-57-91, 3745-65-01 ^g , 3745-65-13, 3745-65-15, 3745-65-73, 3745-65-77,

	Containers (subpart CC)		3745-66-78, 3745-66-102, 3745-67-31, 3745-205-33, 3745-205-34, 3745-205-35, 3745-205-50, 3745-205-55, 3745-205-58, 3745-205-80, 3745-205-82, 3745-205-83, 3745-205-84, 3745-205-85, 3745-205-86, 3745-205-87, 3745-205-88, 3745-205-89, 3745-205-90, 3745-256-30, 3745-256-33, 3745-256-34, 3745-256-35, 3745-256-50, 3745-256-55, 3745-256-58, 3745-256-64, 3745-256-80, 3745-256-81, 3745-256-82, 3745-256-83, 3745-256-84, 3745-256-85, 3745-256-86, 3745-256-87, 3745-256-88, 3745-256-89, 3745-256-90; effective June 12, 2023
163	Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Amendments	62 FR 64635; December 8, 1997	3745-50-44, 3745-54-15, 3745-54-73, 3745-65-15, 3745-65-73, 3745-205-30, 3745-205-31, 3745-205-33, 3745-205-50, 3745-205-60, 3745-205-62, 3745-205-64, 3745-205-80, 3745-205-82, 3745-205-83, 3745-205-84, 3745-205-85, 3745-205-86, 3745-205-87, 3745-205-89, 3745-256-30, 3745-256-33, 3745-256-50, 3745-256-60, 3745-256-62, 3745-256-64, 3745-256-80, 3745-256-81, 3745-256-82, 3745-256-83, 3745-256-84, 3745-256-85, 3745-256-86, 3745-256-87, 3745-256-88, 3745-256-90; effective June 12, 2023
177	Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and	64 FR 3381; January 21, 1999	3745-205-31, 3745-205-80, 3745-205-83, 3745-205-84, 3745-205-86, 3745-256-80, 3745-256-84, 3745-256-85, 3745-256-87; effective June 12, 2023

	Containers; Final Rule		
205	National Emission Standards for Hazardous Air Pollutants (NESHAP): Surface Coating of Automobiles and Light-Duty Trucks	69 FR 22601; April 26, 2004	3745-205-50, 3745-256-50; effective June 12, 2023
219	Definition of Solid Waste (DSW) rule	73 FR 64667; October 30, 2008	3745-50-10 ^g , 3745-50-15, 3745-50-16, 3745-50-17, 3745-50-23, 3745-50-26, 3745-50-51, 3745-51-01, 3745-51-02, 3745-51-04, 3745-51-140, 3745-51-142, 3745-51-143, 3745-51-147, 3745-51-148, 3745-51-151; effective June 12, 2023
231	Hazardous Waste Manifest Revisions- Standards and Procedures for E-Manifests [phase 1]	79 FR 7518; February 7, 2014	3745-50-02, 3745-50-10 ^g , 3745-52-20, 3745-52-24, 3745-52-25, 3745-53-20 rescinded, 3745-53-20 new, 3745-53-25, 3745-54-71 rescinded, 3745-54-71 new, 3745-65-71 rescinded, 3745-65-71 new; effective October 5, 2020
233 A	Revisions to the Definition of Solid Waste: Changes Affecting All Non-Waste Determinations and Variances	80 FR 1694; January 13, 2015	3745-50-16, 3745-50-24, 3745-50-26; effective June 12, 2023
233 B	Revisions to the Definition of Solid Waste: Legitimacy-Related Provisions, Including Prohibition of Sham Recycling, Definition of "Legitimacy," Definition of "Contained"	80 FR 1694; January 13, 2015 and 83 FR 24664; May 30, 2018	3745-50-10 ^g , 3745-50-17, 3745-51-02; effective June 12, 2023
233 C	Revisions to the Definition of Solid Waste: Speculative Accumulation	80 FR 1694; January 12, 2015	3745-51-01; effective June 12, 2023
233 D2	Revisions to the Definition of Solid Waste: Exclusions and Non-Waste Determinations	80 FR 1694; January 13, 2015 and 83 FR 24664; May 30, 2018	3745-50-10 ^g , 3745-50-15, 3745-50-23, 3745-50-24, 3745-50-26, 3745-50-51, 3745-51-01, 3745-51-02, 3745-51-04, 3745-51-140, 3745-51-142, 3745-51-143, 3745-51-147, 3745-51-148, 3745-51-151, 3745-51-400, 3745-51-410, 3745-51-411,

			3745-51-420; effective June 12, 2023
233 E	Revisions to the Definition of Solid Waste: Remanufacturing Exclusion	80 FR 1694; January 13, 2015	3745-50-10 ^e , 3745-51-02, 3745-51-04, 3745-51-170, 3745-51-190, 3745-51-191, 3745-51-193, 3745-51-194, 3745-51-196, 3745-51-197, 3745-51-198, 3745-51-199, 3745-51-200, 3745-51-730, 3745-51-731, 3745-51-732, 3745-51-733, 3745-51-734, 3745-51-735, 3745-51-750, 3745-51-752, 3745-51-753, 3745-51-754, 3745-51-755, 3745-51-756, 3745-51-757, 3745-51-758, 3745-51-759, 3745-51-760, 3745-51-761, 3745-51-762, 3745-51-763, 3745-51-764, 3745-51-780, 3745-51-781, 3745-51-782, 3745-51-783, 3745-51-784, 3745-51-786, 3745-51-787, 3745-51-788, 3745-51-789; effective June 12, 2023
235	Disposal Of Coal Combustion Residuals from Electric Utilities (Hazardous Waste CCR Rule)	80 FR 21302; April 17, 2015	3745-51-04; effective October 5, 2020
238 A	Confidentiality Determinations for Hazardous Waste Export and Import Documents	82 FR 60894; December 26, 2017	3745-50-02; effective October 5, 2020
240	Safe Management of Recalled Airbags	83 FR 61552; November 30, 2018	3745-50-10 ^e , 3745-51-04, 3745-52-14; effective October 5, 2020
241	Management Standards for Hazardous Waste Pharmaceuticals, and Amendment to the P075 Listing for Nicotine	84 FR 5816; February 22, 2019	3745-50-10 ^e , 3745-50-11, 3745-50-45 ^e , 3745-51-04, 3745-51-07, 3745-51-33, 3745-52-10 rescinded, 3745-52-10 new, 3745-52-13, 3745-52-14, 3745-54-01 ^e , 3745-65-01 ^e , 3745-266-500, 3745-266-501, 3745-266-502, 3745-266-503, 3745-266-504, 3745-266-505, 3745-266-506, 3745-266-507, 3745-266-508, 3745-266-509, 3745-266-510, 3745-270-07, 3745-270-50, 3745-273-80; effective October 5, 2020

242	Universal Waste Regulations: Addition of Aerosol Cans	84 FR 67202; December 9, 2019	3745-50-10 ^g , 3745-50-45 ^g , 3745-51-09 ^g , 3745-54-01 ^g , 3745-65-01 ^g , 3745-270-01 ^g , 3745-273-01 ^g , 3745-273-03, 3745-273-06, 3745-273-09 ^g , 3745-273-13 ^g , 3745-273-14 ^g , 3745-273-32 ^g , 3745-273-33 ^g , 3745-273-34 ^g ; effective October 23, 2022
243	Modernizing Ignitable Liquids Determinations	85 FR 40594; July 7, 2020	3745-50-11, 3745-51-21; effective October 23, 2022

Table 2 – Ohio-Initiated Substantive and Non-Substantive Rule Amendments, and Statutory Amendments

Rule checklist	Description of Federal requirement	Federal Register date and page (and/or RCRA statutory authority)	Analogous State Authority (Ohio Administrative Code) rules, and the rule effective date being authorized
158 B ^a	Hazardous Waste Management System; Testing and Monitoring Activities	62 FR 32452; June 13, 1997	3745-205-34, 3745-205-63, 3745-256-34, 3745-256-63; effective June 12, 2023
208 B ^a	Testing and Monitoring Activities; Methods Innovation Rule and SW-846 Update (Organic Air provisions)	70 FR 34536; June 14, 2005	3745-205-34, 3745-205-63, 3745-256-34, 3745-256-63, 3745-256-81, 3745-256-84, 3745-266-100, 3745-266-102, 3745-266-106, 3745-266-112; effective June 12, 2023
212 B ^a	National Emission Standards for Hazardous Air Pollutants (NESHAP): Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) (Organic Air provisions)	70 FR 59401; October 12, 2005	3745-50-44; effective June 12, 2023
213 C ^a	Burden Reduction Initiative (Organic Air provisions)	71 FR 16861; April 4, 2006	3745-205-61, 3745-205-62, 3745-256-61, 3745-256-62, 3745-266-102; effective June 12, 2023
214 D ^a	Hazardous Waste and Used Oil; Corrections to	71 FR 40254; July 14, 2006	3745-205-30, 3745-205-33, 3745-205-34, 3745-205-35,

	the Code of Federal Regulations (Organic Air provisions)		3745-205-50, 3745-205-58, 3745-205-64, 3745-205-80, 3745-205-90, 3745-256-33, 3745-256-35, 3745-256-63, 3745-256-80, 3745-256-84, 3745-256-85, 3745-256-87, 3745-256-90, 3745-266-102; effective June 12, 2023
223 B ^{a, b}	Hazardous Waste Technical Corrections and Clarifications (Organic Air provisions)	75 FR 12989; March 18, 2010	3745-50-10, 3745-50-49, 3745-51-01, 3745-51-02, 3745-51-04, 3745-51-06, 3745-266-22, 3745-266-80; effective June 12, 2023
223 F	Partial Withdrawal of Hazardous Waste Technical Corrections and Clarifications	75 FR 31716; June 4, 2010	Ohio EPA is not seeking authorization of this portion of CL 223, since these provisions were over-written by amendments on Checklists in Ohio's Generator Improvement rules package, which are addressed elsewhere in this ARA.
Procedural A	Revisions to Procedural Rules to Clarify Practices and Procedures Applicable in Permit Appeals Pending Before the Environmental Appeals Board (Organic Air and General provisions)	78 FR 5288; January 25, 2013	3745-50-51; effective September 29, 2021
No CL	Waste Management System; Testing and Monitoring Activities; Notice of Availability of Final Update V of SW-846 c	80 FR 48522; August 13, 2015	3745-50-11; effective June 12, 2023
236 A ^d	Hazardous Waste Export-Import Revisions Rule	81 FR 85696; November 28, 2016	3745-50-10 ^g , 3745-50-11, 3745-51-04, 3745-51-06 ^g , 3745-52-10 rescinded, 3745-52-10 new, 3745-52-12 rescinded, 3745-52-41 rescinded, 3745-52-41 new, 3745-52-50 rescinded, 3745-52-60 rescinded, 3745-52-80, 3745-53-10, 3745-53-20

			<p>rescinded, 3745-53-20 new, 3745-54-12 rescinded, 3745-54-12 new, 3745-54-71 rescinded, 3745-54-71 new, 3745-65-12 rescinded, 3745-65-12 new, 3745-65-71 rescinded, 3745-65-71 new, 3745-266-70, 3745-266-80, 3745-273-39, 3745-273-62; effective October 5, 2020</p>
236 A.1 ^e (on 236 A)	Hazardous Waste Export-Import Revisions: AES Compliance Date in 260.10 Definition of “AES Filing Compliance Date” and “Electronic Import-Export Reporting Compliance Date” Must Be December 31, 2017	81 FR 85696; November 28, 2016	3745-50-10 ^g ; effective October 5, 2020
237 A	Hazardous Waste Generator Improvements Rule (non-Organic Air provisions)	81 FR 85732; November 28, 2016	<p>3745-50-03, 3745-50-10^g, 3745-50-11, 3745-50-45^g, 3745-50-51, 3745-51-01, 3745-51-04, 3745-51-05 rescinded, 3745-51-06^g, 3745-51-33, 3745-52-01, 3745-52-10 rescinded, 3745-52-10 new, 3745-52-11 rescinded, 3745-52-11 new, 3745-52-12 rescinded, 3745-52-13, 3745-52-14, 3745-52-15, 3745-52-16, 3745-52-17, 3745-52-18, 3745-52-32, 3745-52-34 rescinded, 3745-52-35, 3745-52-40, 3745-52-41 rescinded, 3745-52-41 new, 3745-52-44 rescinded, 3745-52-44 new, 3745-52-200, 3745-52-201, 3745-52-202, 3745-52-203, 3745-52-204, 3745-52-207, 3745-52-208, 3745-52-209, 3745-52-210, 3745-52-211, 3745-52-212, 3745-52-213, 3745-52-214, 3745-52-216, 3745-52-230, 3745-52-231, 3745-52-232, 3745-52-233, 3745-52-250, 3745-52-251, 3745-52-252, 3745-52-253, 3745-52-254,</p>

			3745-52-255, 3745-52-256, 3745-52-260, 3745-52-261, 3745-52-262, 3745-52-263, 3745-52-264, 3745-52-265, 3745-53-12 rescinded, 3745-53-12 new, 3745-54-01 ^g , 3745-54-15, 3745-54-71 rescinded, 3745-54-71 new, 3745-54-75 rescinded, 3745-54-75 new, 3745-55-70, 3745-55-74, 3745-55-91, 3745-65-01 ^g , 3745-65-15, 3745-65-71 rescinded, 3745-65-71 new, 3745-65-75 rescinded, 3745-65-75 new, 3745-66-74, 3745-66-101 rescinded, 3745-266-80, 3745-266-255, 3745-270-01 ^g , 3745-270-07, 3745-270-50, 3745-273-08, 3745-273-81, 3745-279-10; effective October 5, 2020
237 B	Hazardous Waste Generator Improvements Rule (Housekeeping for this FR only)	No FR	3745-50-10 ^g , 3745-50-11, 3745-50-28, 3745-50-51, 3745-51-11, 3745-51-30, 3745-52-40, 3745-52-41 new, 3745-52-42, 3745-52-203, 3745-52-204, 3745-52-207, 3745-52-211, 3745-54-15, 3745-55-74, 3745-55-75, 3745-55-91, 3745-57-43, 3745-66-18, 3745-66-74, 3745-66-90, 3745-66-93, 3745-69-01, 3745-256-200, 3745-266-108, 3745-266-111, 3745-270-02, 3745-273-08, 3745-273-13 ^g , 3745-273-33 ^g , 3745-273-81; effective October 5, 2020
237 D ^a	Hazardous Waste Generator Improvements Rule (Organic Air provisions)	81 FR 85732; November 28, 2016	3745-51-420, 3745-205-30, 3745-205-50, 3745-256-30, 3745-256-50; effective June 12, 2023
SIC-HB49 ^f	HB49: Amendments to Ohio Revised Code 3734.15, Transporter Registration Concepts, 132nd General Assembly]	No FR; bill effective September 29, 2017	3745-53-11; effective October 5, 2020
239 A	User Fees for the Electronic Hazardous Waste Manifest System	83 FR 420; January 3, 2018	3745-50-04, 3745-50-05, 3745-52-20, 3745-52-24, 3745-53-20 rescinded,

	and Amendments to Manifest Regulations (E-manifest Phase 2) (non-Organic Air provisions)		3745-53-20 new, 3745-53-21, 3745-54-71 rescinded, 3745-54-71 new; 3745-65-71 rescinded, 3745-65-71 new; effective October 5, 2020
239 B ^a	User Fees for the E-manifest System (aka E-manifest Phase 2) (Organic Air provisions)	83 FR 420; January 3, 2018	3745-205-86, 3745-256-87; effective June 12, 2023
233 A.1	DSW # 4: Response to Court's Vacature of Certain Provisions of the Definition of Solid Waste Rule; Changes Affecting All Non-Waste Determinations and Variances	83 FR 24664; May 30, 2018	3745-50-16; effective June 12, 2023
233 B.1	DSW # 4: Legitimacy-Related Provisions, Including Prohibition of Sham Recycling, Definition of Legitimacy, Definition of "Contained"	83 FR 24664; May 30, 2018	3745-50-17; effective June 12, 2023
233 D2.1	DSW # 4: Exclusions and Non-Waste Determinations	83 FR 24664; May 30, 2018	3745-50-23, 3745-51-04; effective June 12, 2023
SICs-GI	State-Initiated Changes in 2020 in the Generator Improvement rules package	No FR	3745-50-10 ^g , 3745-50-11, 3745-50-28, 3745-50-45 ^g , 3745-51-01, 3745-51-04, 3745-51-06 ^g , 3745-51-11, 3745-51-30, 3745-51-33, 3745-51-39, 3745-52-11 rescinded, 3745-52-11 new, 3745-52-20, 3745-52-32, 3745-52-40, 3745-52-41 rescinded, 3745-52-41 new, 3745-52-42, 3745-52-44 rescinded, 3745-52-44 new, 3745-52-202, 3745-52-203, 3745-52-204, 3745-52-207, 3745-52-208, 3745-52-209, 3745-52-210, 3745-52-211, 3745-52-212, 3745-52-213, 3745-52-214, 3745-52-216, 3745-53-12 rescinded, 3745-53-12 new, 3745-53-21, 3745-54-01 ^g , 3745-54-12 rescinded, 3745-54-12 new, 3745-54-15, 3745-54-75 rescinded, 3745-54-75 new, 3745-55-70, 3745-55-74, 3745-55-75, 3745-55-91, 3745-57-

			43, 3745-65-75 rescinded, 3745-65-75 new, 3745-66-18, 3745-66-74, 3745-66-90, 3745-66-93, 3745-69-01, 3745-256-200, 3745-266-108, 3745-266-111, 3745-266-255, 3745-270-01 ^g , 3745-270-02, 3745-270-07, 3745-270-50, 3745-273-03, 3745-273-08, 3745-273-13 ^g , 3745-273-33 ^g , 3745-273-81, 3745-279-10; effective October 5, 2020 ^g
SICs- Rev2020	State-Initiated Changes in 2021 in the Review 2020 rules package	No FR	3745-50-11, 3745-50-20, 3745-50-21, 3745-50-23, 3745-50-40, 3745-50-42, 3745-50-44, 3745-50-51, 3745-50-52, 3745-50-62, 3745-50-66, 3745-50-235, 3745-51-04, 3745-51-06 ^g , 3745-51-08, 3745-51-10, 3745-51-20, 3745-51-21, 3745-51-22, 3745-51-24, 3745-52-21, 3745-52-42, 3745-52-43, 3745-52-206, 3745-53-30, 3745-54-13, 3745-54-15, 3745-54-18, 3745-54-53, 3745-54-54, 3745-54-56, 3745-54-72, 3745-54-73, 3745-55-18, 3745-55-42, 3745-55-43, 3745-55-44, 3745-55-45, 3745-55-47, 3745-55-75, 3745-55-96, 3745-57-43, 3745-57-72, 3745-65-13, 3745-65-15, 3745-65-19, 3745-65-53, 3745-65-56, 3745-65-72, 3745-65-73, 3745-66-18, 3745-66-42, 3745-66-43, 3745-66-44, 3745-66-45, 3745-66-47, 3745-66-93, 3745-66-95, 3745-66-96, 3745-205-100, 3745-205-101, 3745-256-100, 3745-256-101, 3745-266-23, 3745-266-100, 3745-266-101, 3745-266-102, 3745-266-103, 3745-266-104, 3745-266-105, 3745-266-106, 3745-266-107, 3745-266-111, 3745-266-201, 3745-266-202,

			3745-266-203, 3745-266-205, 3745-266-206, 3745-266-210, 3745-266-240, 3745-266-260, 3745-270-02, 3745-270-03, 3745-270-04, 3745-270-31, 3745-270-40, 3745-273-03, 3745-279-42, 3745-279-43, 3745-279-51, 3745-279-52, 3745-279-62, 3745-279-73; effective September 29, 2021 ^g
SICs-Rev2021	State-initiated changes in 2022 in the Review 2021 rules package	No FR	3745-50-03, 3745-50-10 ^g , 3745-50-11, 3745-50-39, 3745-50-41, 3745-50-43, 3745-50-45 ^g , 3745-50-46, 3745-50-48, 3745-50-53, 3745-50-58, 3745-51-02, 3745-51-03, 3745-51-06 ^g , 3745-51-09 ^g , 3745-51-21, 3745-51-31, 3745-51-32, 3745-52-11, 3745-52-13, 3745-52-215, 3745-52-265, 3745-54-01 ^g , 3745-54-16, 3745-54-77, 3745-54-93, 3745-54-94, 3745-55-12, 3745-55-73, 3745-55-95, 3745-55-98, 3745-57-74, 3745-57-83, 3745-57-91, 3745-65-01 ^g , 3745-65-14, 3745-65-16, 3745-65-33, 3745-65-77, 3745-65-90, 3745-65-92, 3745-65-93, 3745-66-12, 3745-66-19, 3745-66-73, 3745-66-92, 3745-66-98, 3745-67-24, 3745-67-59, 3745-68-03, 3745-69-30 rescinded, 3745-69-30 new, 3745-69-45, 3745-270-01 ^g , 3745-270-09, 3745-270-42, 3745-273-03, 3745-273-06, 3745-273-09 ^g , 3745-273-13 ^g , 3745-273-14 ^g , 3745-273-15, 3745-273-17, 3745-273-20, 3745-273-32 ^g , 3745-273-33 ^g , 3745-273-34 ^g , 3745-273-35, 3745-273-37, 3745-273-39, 3745-273-40, 3745-273-54, 3745-273-56, 3745-273-60, 3745-273-62, 3745-273-70; effective October 23, 2022

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SICs- OrgAirDSW	State-Initiated Changes in 2023 in the Organic Air and DSW rules package	No FR	3745-50-10 ^g , 3745-50-11, 3745-50-44, 3745-50-49, 3745-51-04, 3745-51-06 ^g , 3745-52-17, 3745-54-01 ^g , 3745-54-10, 3745-54-77, 3745-55-17, 3745-55-18, 3745-55-70, 3745-55-90, 3745-56-20, 3745-57-40, 3745-57-91, 3745-65-77, 3745-66-17, 3745-66-18, 3745-66-70, 3745-66-90, 3745-66-93, 3745-67-20, 3745-68-40, 3745-69-01, 3745-205-200, 3745-256-200, 3745-266-22, 3745-266-80, 3745-266-100, 3745-266-103; 3745-266-111, 3745-270-42, 3745-273-13 ^g , 3745-273-33 ^g ; effective June 12, 2023 ^g
Footnotes to Tables 1 and 2			
a	Other portions of this FR, those not related to Organic Air Emissions, were authorized in a prior ARA. In ARA 11, Ohio is seeking authorization for only the Organic Air Emissions provisions of this FR.		
b	Ohio EPA did not adopt some portions of this FR for which amendments to Ohio rules are not necessary. Accordingly, EPA is not authorizing these parts of the state program.		
c	This FR updates federal guidance and includes no federal rule changes but prompts an update to Ohio Administrative Code (OAC) rule 3745-50-11.		
d	Ohio EPA did not adopt, and is not seeking authorization at this time, for the Standardized Permits (mostly 40 CFR Part 267 and portions of Part 124) provisions in new or existing rules. Accordingly, EPA is not authorizing the state program for these provisions.		
e	The AES compliance date that should be added to 40 CFR 261.39(a)(5)(v)(B) and 262.83(a)(6)(i) per this announcement FR are not in the Ohio rules on this Ohio rule effective date. The other location of this compliance date should be 40 CFR 260.10 [2 definitions], which is addressed in OAC rule 3745-50-10.		
f	Hazardous waste rules did not change per this state statute change, but for compliance assistance to Ohio's regulated community, rule 3745-53-11 adds a comment that references Ohio Revised Code (ORC 3734.15).		

g	<p>Ohio is not seeking authorization for the Ohio-specific universal waste provisions, and other state-specific provisions, in rules that were amended for other reasons on the effective dates shown here. The specific provisions for which Ohio is not requesting authorization are:</p> <ul style="list-style-type: none"> • 3745-50-10: definition of “antifreeze”; in definition of “destination facility” the phrases “and (E), (F), and (G)” of rule 3745-273-13, and “and (E), (F), and (G)” of rule 3745-273-33; in definition of “large quantity handler of universal waste” the phrase “antifreeze, or paint or paint-related waste,”; definition of “paint”; definition of “paint-related waste”; in definition of “small quantity handler of universal waste” the phrase “antifreeze, or paint or paint-related waste,”; in definition of “universal waste” paragraph (f); in the definition of “universal waste handler” paragraph (b)(i) the phrases “or (E), (F), or (G)” of rule 3745-273-13, and “or (E), (F), or (G)” of rule 3745-273-33; as effective 06/12/2023; (see 40 CFR 260.10 and 270.2); • 3745-50-45 (C)(8)(f) as effective 10/23/2022; [see 40 CFR 270.1 (c)-(c)(7)]; • 3745-51-06 (A)(3)(e)-(A)(3)(e)(viii)[Comment]; as effective 06/12/2023; These are the wiper/apparel Ohio-specific provisions. (see 40 CFR 21.6); • 3745-51-09 (F) as effective 10/23/2022; (see 40 CFR 261.9); • 3745-54-01 in (G)(11) the phrase “and (G)(11)(f)”; (G)(11)(f); as effective 06/12/2023; (see 40 CFR 264.1); • 3745-65-01 (C)(14)(f) as effective 06/12/2023; (see 40 CFR 265.1); • 3745-270-01 (F)(6) as effective 10/23/2022; (see 40 CFR 268.1); • 3745-273-01 (A)(6) as effective 10/23/2022; (see 40 CFR 273.1); • 3745-273-09 (D) "Destination facility" the phrases “and (F) and (G)” of rule 3745-273-13,” and “and (F) and (G)” of rule 3745-273-33;” as effective 10/23/2022 (see 40 CFR 273.9); • 3745-273-13 (F)-(F)(11), (G)-(G)(14)(e) as effective 10/05/2020, 10/23/2022, and 06/12/2023 (see 40 CFR 273.13); • 3745-273-14 (G), (H)-(H)(2) as effective 10/23/2022; (see 40 CFR 273.14); • 3745-273-32 (B)(4) at the reference to “antifreeze, or paint or paint-related wastes” as effective 10/23/2022; (see 40 CFR 273.32); • 3745-273-33 (F)-(F)(11), (G)-(G)(14)(e) as effective 10/05/2020, 10/23/2022, and 6/12/2023; (see 40 CFR 273.33); • 3745-273-34 (G), (H)-(H)(2) as effective 10/23/2022; (see 40 CFR 273.34). <p>Accordingly, EPA is not authorizing the state program for these provisions.</p>
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E. Which revised State rules are different from the Federal rules?

In Ohio Administrative Code 3745-50-10(C)(10)(a), Ohio includes a parenthetical description of the word “permit” as “such as a permit to discharge water or air”. This differs from the Code of Federal Regulations which, in 40 CFR 260.10 “Contained”, adds the word “to”, using the phrase “such as a permit to discharge to water or air.” Despite being in the “definitions” section of the Code, this parenthetical does not have an effect on the definition of “permit” and the retention of “such as” does not allow this change

to affect the definition of “contained”. The EPA considers Ohio's change to be identical in substance to the Federal program.

In the submitted copy of Ohio Administrative Code 3745-51-147(G)(2)(b)(ii), a citation is made to the nonexistent rule 3745-51-151(H)(2), which EPA has deemed a mistake intended to cite 3745-51-151(G)(2). Since submission of the state's application for authorization, the state promulgated a correction to its rule, effective March 7, 2025, which removes this error. The EPA considers this typographical error to make Ohio's program no less stringent than the Federal program.

In the submitted copy of Ohio Administrative Code 3745-51-147(F)(3)(c), Ohio requires a second copy of an independent certified public accountant's report rather than the special report intended to address discrepancies in the preceding two subparagraphs found in 40 CFR 261.147(f)(3)(iii). The EPA has deemed this to be a mistaken duplication of 3745-51-147(F)(3)(b). Since submission of the state's application for authorization, the state promulgated a correction to its rule, effective March 7, 2025, which removes this error. The EPA considers this typographical error to make Ohio's program no less stringent than the Federal program.

In the submitted copy of Ohio Administrative Code 3745-51-783(C)(4), a citation is made to the nonexistent rule 3745-51-785, which EPA has deemed a mistake intended to cite 3745-51-784(B)(1)(a). Since submission of the state's application for authorization, the state promulgated a correction to its rule, effective March 7, 2025, which removes this error. The EPA considers this typographical error to make Ohio's program no less stringent than the Federal program.

In the submitted copy of Ohio Administrative Code 3745-51-789(A), a citation is made to the nonexistent rule 3745-51-780(B)(7), which EPA has deemed a mistake intended to cite 3745-51-780. Since submission of the state's application for

authorization, the state promulgated a correction to its rule, effective March 7, 2025, which removes this error. The EPA considers this typographical error to make Ohio's program no less stringent than the Federal program.

In Ohio Administrative Code 3745-65-73(B)(9) through (15), Ohio requires certain interim status treatment, storage, and disposal facilities to include “the certification if applicable” in their operating records. This differs from the Code of Federal Regulations, which at 40 CFR 265.73(b)(9) through (15) require inclusion of “the certification and demonstration if applicable” in said facilities' operating records. As described at 61 FR 15588 (April 30, 2021), treatment standards for all scheduled wastes were promulgated in the Third Third rule (55 FR 22520, June 1, 1990); as such, the 40 CFR 268.8 “soft hammer” requirements are no longer necessary. Facilities no longer have a need to produce or retain demonstrations for this purpose, and so EPA considers Ohio's change to be identical in substance to the Federal program.

In Ohio Administrative Code 3745-66-43(D)(8)(b), Ohio requires closure insurance policies to remain in place at interim standards facilities after “a permit is revoked or terminated”. This differs from the Code of Federal Regulations, which at 40 CFR 265.143(d)(8)(ii) applies this to when “interim status is terminated or revoked”. Because interim status facilities do not, by definition, have permits that can be revoked, EPA deems this to be a difference in language that does not change the overall meaning or intent of the paragraph. Should interim status be revoked from a facility, it should be considered equivalent to revocation of a permit. The EPA considers this difference in language to make Ohio's program no less stringent than the Federal program.

In Ohio Administrative Code 3745-205-33(L)(2)(b), Ohio requires treatment, storage, and disposal facilities with low-pressure closed-vent systems to perform inspections of said systems “once every calendar year”. This differs from the Code of

Federal Regulations, which at 40 CFR 264.1033(l)(2)(ii) requires an inspection frequency of “once every year”. The EPA considers Ohio's change to be identical in substance to the Federal program.

In Ohio Administrative Code 3745-205-30(C), 3745-205-50(C), and 3745-205-80(C), Ohio requires the air emission standards to be incorporated into certain treatment, storage, and disposal facility permits when said permits are “modified or reissued” where 40 CFR 264.1030(c), 40 CFR 264.1050(c), and 40 CFR 264.1080(c), respectfully, use the term “reissued”. The EPA has received a satisfactory explanation from the Ohio Attorney General that these are identical in substance to the Federal program.

In Ohio Administrative Code 3745-256-84(C)(3)(b)(iv), Ohio incorporates by reference ASTM method “ASTM Method D2879-10”. This differs from the Code of Federal Regulations, which at 40 CFR 265.1084(c)(3)(ii)(D) incorporates “ASTM Method 2879-92”. Ohio's reference is to a more recently-adopted version of the same test method, so EPA considers Ohio's change to be identical in substance to the Federal program.

In Ohio Administrative Code 3745-256-87(H)(1), a citation is made to “method 27 of 40 CFR part 60 appendix”. This differs from the Code of Federal Regulations, which at 40 CFR 265.1087(h)(1) makes reference to “Method 27 of 40 CFR part 60, appendix A”. No other appendix of 40 CFR part 60 contains a Method 27, so the ambiguity in Ohio's reference is unlikely to cause confusion. The EPA considers this typographical error to make Ohio's program no less stringent than the Federal program.

F. What is codification and is EPA codifying Ohio’s hazardous waste program as authorized in this rule?

Codification is the process of placing a state’s statutes and regulations that

comprise a state's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized state rules in 40 CFR part 272. The EPA is not codifying the authorization of Ohio's changes at this time. However, EPA reserves the ability to amend 40 CFR part 272, subpart KK for the authorization of Ohio's program changes at a later date.

G. 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 enacted 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 this authorization of Ohio'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 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 an unfunded mandate as described in UMRA, 2 U.S.C. §§ 1531–1538 and does not significantly or uniquely affect small governments. 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), 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 issuing 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).

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. 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 OF PUBLICATION IN THE FEDERAL REGISTER].

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Dated: March 20, 2026.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

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