

confirming that Wisconsin has acceptable and enforceable annual emission statement regulations for the 2015 ozone standard.

### VIII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone NAAQS in tribal lands.

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

##### 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: January 25, 2022.

**Debra Shore,**

*Regional Administrator, Region 5.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

**[EPA-R05-RCRA-2021-0374; FRL-9466-01-R5]**

#### Illinois: Proposed Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Proposed rule.

**SUMMARY:** Illinois has applied to the Environmental Protection Agency (EPA) for final authorization of changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. EPA has reviewed Illinois' application and has

determined that these changes satisfy all requirements needed to qualify for final authorization. Therefore, we are proposing to authorize the State's changes. EPA seeks public comment prior to taking final action.

**DATES:** Comments on this proposed rule must be received by March 18, 2022.

**ADDRESSES:** Submit your comments by one of the following methods:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Email:* [Gonzalez.norberto@epa.gov](mailto:Gonzalez.norberto@epa.gov).

EPA must receive your comments by March 18, 2022. Direct your comments to Docket ID Number EPA-R05-RCRA-2021-0374. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov), or email. The Federal [www.regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional submission methods, the full EPA public comment policy, information about CBI or multi-media submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

*Docket:* All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly

available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically in [www.regulations.gov](http://www.regulations.gov). For alternative access to docket materials, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Norberto Gonzalez, RCRA C and D Section, Land, Chemicals and Redevelopment Division, LL-17J, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Norberto Gonzalez can be reached by telephone at (312) 353-1612 or via email at [Gonzalez.norberto@epa.gov](mailto:Gonzalez.norberto@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Why are revisions to state programs necessary?**

States that have received final authorization from 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 request 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 EPA’s regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

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

**B. What decisions have we made in this rule?**

On June 21, 2021, Illinois submitted a complete program revision application seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated between December 5, 1997, and April 17, 2015. EPA concludes that Illinois’ application to revise its authorized program meets all the statutory and regulatory requirements established under RCRA, as set forth in RCRA Section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, EPA proposes to grant Illinois final authorization to operate its hazardous waste program with the changes described in the authorization application, and as outlined below in Section G of this document.

Illinois 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 revised program application, subject to the limitations of HSWA, as discussed above.

**C. What will be the effect if Illinois is authorized for these changes?**

If Illinois is authorized for the changes described in Illinois’ authorization application, these changes will become a part of the authorized State hazardous waste program and will therefore be federally enforceable. Illinois will continue to have primary enforcement authority and responsibility for its State hazardous waste program. 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 EPA is proposing to authorize Illinois are already effective under state law and are not changed by this proposed action.

**D. What happens if EPA receives adverse comments on this action?**

If EPA receives comments on this proposed action, we will address all such comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you should do so at this time.

**E. What has Illinois previously been authorized for?**

Illinois initially received Final Authorization on October 16, 1986, effective October 30, 1986 (51 FR 36804), to implement the RCRA hazardous waste management program. EPA granted authorization for changes to Illinois’ program on the following dates: March 5, 1988 (53 FR 126, January 5, 1988); April 30, 1990 (55 FR 7320, March 1, 1990); June 3, 1991 (56 FR 13595, April 3, 1991); August 15, 1994 (59 FR 30525, June 14, 1994); May 14, 1996, (61 FR 10684, March 15, 1996); October 4, 1996 (61 FR 40520, August 5, 1996); March 10, 2017 (82 FR 13256, March 10, 2017); and on February 9, 2021 (86 FR 8713, February 9, 2021).

**F. What changes are we proposing with this action?**

On June 21, 2021, Illinois 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 proposes to determine, subject to receipt of written comments that oppose this action, that Illinois’ 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, EPA is proposing to authorize Illinois for the following program changes:

TABLE 1—ILLINOIS’ ANALOGS TO THE FEDERAL REQUIREMENTS

Rule checklist	Description of Federal requirement	Federal Register and date	Analogous state authority: Subtitle G: Waste Disposal, 35 Ill. Adm. Code (IAC)
162 .....	Clarification of Standards for Hazardous Waste LDR Treatment Variances.	62 FR 64504, December 5, 1997	728.144 Effective January 1, 1999.
181 .....	Universal Waste Rule .....	64 FR 36466, July 6, 1999 .....	720.110, 721.109, 724.101, 725.101, 728.101, 703.123, 733.101, 733.102, 733.103, 733.104, 733.105, 733.106, 733.107, 733.108, 733.109, 733.110, 733.113, 733.114, 733.130, 733.132, 733.133, 733.134, 733.150, 733.160, 733.181. Effective June 20, 2000.
200 .....	Zinc Fertilizer Rule .....	67 FR 48393, July 24, 2002 .....	721.104, 726.120, 728.140. Effective July 17, 2003.
203 .....	Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Used Oil Management Standards.	68 FR 44659, July 30, 2003 .....	721.105, 739.110, 739.174. Effective July 19, 2004.

TABLE 1—ILLINOIS’ ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Rule checklist	Description of Federal requirement	Federal Register and date	Analogous state authority: Subtitle G: Waste Disposal, 35 Ill. Adm. Code (IAC)
208 and 208.1 ...	Methods Innovation Rule and SW-846 Final Update III B .....	70 FR 34538, June 14, 2005 as amended 70 FR 44150, August 1, 2005.	720.111, 720.121, 720.122, 721.103, 721.121, 721.122, 721.135, 721.138, 721 Appendix A, B, and C, 724.290, 724.414, 724.934, 724.963, 724 Appendix I, 725.290, 725.414, 725.934, 725.935, 725.963, 725.981, 725.984, 726.200, 726.202, 726.206, 726.212, 726 Appendix I, 728.140, 728.148 Table U, 728 Appendix I, 703.205, 703.223, 703.232, 739.110, 739.144, 739.153, 739.163. Effective February 23, 2006.
209 .....	Universal Waste Rule: Specific Provisions for Mercury Containing Equipment.	70 FR 45508, August 5, 2005 .....	720.110, 721.109, 724.101, 725.101, 728.101, 703.101, 733.101, 733.104, 733.109, 733.113, 733.114, 733.132, 733.133, 733.134. Effective December 20, 2006.
211 .....	Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures.	70 FR 57769, October 4, 2005 .....	721.103. Effective December 20, 2006.
213 .....	Burden Reduction Initiative .....	71 FR 16862, April 4, 2006 .....	720.110, 720.131, 721.104, 724.115, 724.116, 724.152, 724.156, 724.173, 724.198, 724.199, 724.200, 724.113, 724.215, 724.220, 724.243, 724.245, 724.247, 724.274, 724.291, 724.292, 724.293, 724.295, 724.296, 724.351, 724.380, 724.414, 724.443, 724.447, 724.654, 724.671, 724.673, 724.674, 724.1161, 724.1162, 724.1200, 724.1201, 725.115, 725.116, 725.152, 725.156, 725.173, 725.190, 725.193, 725.213, 725.215, 725.220, 725.243, 725.245, 724.247, 725.274, 725.291, 725.292, 725.293, 725.295, 725.296, 725.301, 725.321, 725.324, 725.359, 725.380, 725.401, 725.403, 725.414, 725.541, 725.543, 725.544, 725.2061, 725.2062, 725.1200, 725.1201, 726.202, 726.203, 728.107, 728.109, 703.114, 703.116, 703.126, 703.142, 703.142 Appendix I. Effective July 14, 2008.
215 .....	Cathode Ray Tubes Rule .....	71 FR 42928, July 28, 2006 .....	720.110, 721.104, 721.138, 721.139, 721.140, 721.141. Effective July 14, 2008.
217 .....	NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments.	73 FR 18970, April 8, 2008 .....	724.440, 726.200. Effective December 30, 2008.
218 .....	F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes.	73 FR 31756, June 4, 2008 .....	721.131, 721.131 Table. Effective December 30, 2008.
222 .....	OECD Requirements; Export Shipments of Spent Lead Acid Batteries.	75 FR 01236, January 8, 2010 .....	722.110, 722.155, 722.158, 722.180, 722.181, 722.182, 722.183, 722.184, 722.185, 722.186, 722.187, 722, 188, 722.189, 723.110, 724.112, 724.171, 725.112, 725.171, 726.180 (a) Table. Effective October 14, 2011.
223 .....	Hazardous Waste Technical Corrections and Clarifications .....	75 FR 12989, March 18, 2010 75 FR 31716, June 4, 2010.	720.110, 720 Appendix I, 721.101, 721.102 (c) Table 1, 721.104, 721.105, 721.106, 721.107, 721.123, 721.130, 721.131, 721.132 (a) Table, 721.133, 721 Appendix VII, 722.110, 722.111, 722.123, 722.134, 722.141, 722.142, 722.160, 723.112, 724.152, 724.156, 724.172, 724.414, 724.416, 724.652, 725.152, 725.156, 725.172, 725.414, 725.416, 726.120, 726.122, 726.170, 726.180, 726.201, 728.140 Table, 728.148, 702.181. Effective October 14, 2011.
224 .....	Withdrawal of the Emissions Comparable Fuel Exclusion .....	75 FR 33712, June 15, 2010 .....	721.104, 721.138. Effective October 14, 2011.
225 .....	Removal of Saccharin and Its Salts from the List of Hazardous Constituents, Hazardous Wastes and Hazardous Substances.	75 FR 78918, December 17, 2010.	721.111, 721.133, 728.140. Effective October 14, 2011.
227 .....	Revisions of the Land Disposal Treatment Standards for Carimate Wastes.	76 FR 34147, June 13, 2011 .....	728.140 Table, 728.148 Table. Effective June 4, 2012.
228 .....	Hazardous Waste Technical Corrections and Clarifications Rule .....	77 FR 22229, April 13, 2012 .....	721.132, 726.120. Effective March 4, 2013.
229 .....	Conditional Exclusions for Solvent Contaminated Wipes .....	78 FR 46448, July 31, 2013 .....	720.110, 721.104. Effective May 27, 2014.
230 .....	Conditional Exclusions for Carbon Dioxide (CO2) Streams in Geologic Sequestration Activities.	79 FR 00350, January 3, 2014 .....	720.110, 721.104. Effective May 27, 2014.
231 .....	Hazardous Waste Electronic Manifest System .....	79 FR 07518, February 7, 2014 ..	720.110, 722.120, 722.124, 722.125, 723.120, 723.125, 724.171, 725.171. Effective January 12, 2015.
232 .....	Revisions to the Export Provisions of the Cathode Ray Tube Rule ..	79 FR 36220, June 26, 2014 .....	720.110, 721.139, 721.141. Effective January 12, 2015.
234 .....	Vacatur of the Comparable Fuels and the Gasification Rule .....	80 FR 18777, April 8, 2015 .....	720.110, 721.104, 721.138. Effective August 9, 2016.
235 .....	Disposal of Coal Combustion Residuals from Electric Utilities .....	80 FR 21302, April 17, 2015 .....	721.104. Effective August 9, 2016.

**G. 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, EPA determines whether the state rules are equivalent to, more stringent than, or broader in scope than the Federal program. Pursuant to Section 3009 of RCRA, 42 U.S.C. 6929, state programs may contain requirements that are more stringent than the Federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable. Although the statute does not prevent states from adopting regulations that are broader in scope than the Federal program, states cannot receive Federal authorization for such regulations, and they are not federally enforceable.

*More Stringent Rules*

EPA considers the following state requirements to be more stringent than the federal requirements:

- 35 IAC 722.141, because Illinois requires an annual report instead of the biennial report required in 40 CFR 262.22, 264.75, and 265.75.
- 35 IAC 724.156(i), because Illinois has added this provision to facilitate state notification.
- 35 IAC 725.414, because Illinois prohibits all liquids in landfills; where the Federal rules allow for exceptions in 40 CFR 265.314(f)(1) and (2).

These requirements would become part of Illinois’ authorized program and would be federally enforceable.

*Broader in Scope Rules*

EPA also considers the following state requirements to go beyond the scope of the Federal program:

- 35 IAC 721.103(g), because Illinois does not allow the exemption allowed in the Federal rules at 40 CFR 261.3(g)(4), for certain mixtures.

Broader-in-scope requirements do not become part of the authorized program and EPA cannot enforce them. Although regulated entities must comply with these requirements in accordance with state law, they are not RCRA requirements.

*Nondelegable Rules*

EPA cannot authorize the Federal requirements at 40 CFR 260.21, 268.5, 268.6, 268.42(b), and 268.44. Although Illinois has adopted these requirements

verbatim from the Federal regulations at 35 IAC 720.121, 728.105, 728.106, 728.142(b), and 728.144, EPA would continue to implement the Federal requirements.

#### *Universal Waste Lamps Rules Not Authorized*

Illinois allows Lamp Crushing under its current version of the Universal Waste Rule (35 IAC 733.105, 733.113(d), 733.133(d), and 733.134(e)), and has not applied for authorization of the Universal Waste Lamps Rule. In the future, EPA will determine whether to prohibit crushing of lamps, or decide under what conditions lamp crushing may be permitted. Until the issue is resolved, no state that allows crushing may be authorized for the Universal Waste Lamps Rule, and the Illinois version of the Universal Waste Lamps Rule is not part of the Illinois authorized program.

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

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

#### **I. How does proportionate share liability affect Illinois' RCRA program?**

Illinois' RCRA authorities are not impacted by the proportionate share liability (PSL) provision of the Illinois Environmental Protection Act, 415 ILCS 5/58.9(a)(1). Section 58.9(a)(1) provides, in pertinent part:

Notwithstanding any other provisions of this Act to the contrary, . . . in no event may the Agency, the State of Illinois, or any person bring an action pursuant to this Act or the Groundwater Protection Act to require any person to conduct remedial action or to seek recovery of costs for remedial activity conducted by the State of Illinois or any person beyond the remediation of releases of regulated substances that may be attributed to being proximately caused by such person's act of omission or beyond such person's proportionate degree of responsibility for costs of the remedial action of releases of regulated substances that were proximately

caused or contributed to by 2 or more persons.

Section 58.9 is part of Title XVII (Site Remediation Program) of the Illinois Environmental Protection Act. Title XVII does not apply to a particular site if “. . . (ii) the site is a treatment, storage, or disposal site for which a permit has been issued, or that is subject to closure requirements under Federal or state solid or hazardous waste laws” (415 ILCS 5/58.1(a)(2)(ii)). Hazardous waste treatment, storage, and disposal facilities under Subtitle C of RCRA fall within the exclusion at Section 58.1(a)(2)(ii). These facilities are subject to closure and post-closure care requirements under the Act (415 ILCS 5/22.17) and Illinois program rules that are identical in substance to Federal rules at 40 CFR part 264 (35 IAC 724). The Illinois Appellate Court has held that the PSL does not apply to sites that are outside the scope of Title XVII. *People of the State of Illinois v. State Oil*, 822 NE. 2d 876 (Ill. App. 2004). Therefore, the exclusion at Section 58.1(a)(2)(ii) renders Title XVII, including Section 58.9, inapplicable to sites upon which RCRA regulated facilities are located. Based on this exclusion, and as indicated by the Illinois Attorney General in the Attorney General Statement included in the State's October 19, 2015 final program revision application, the PSL provision does not impact the adequacy of Illinois' RCRA authorities.

#### **J. What is codification and is EPA codifying Illinois' hazardous waste program as proposed in this rule?**

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. EPA does this by adding those citations and references to the authorized state rules in 40 CFR part 272. EPA previously codified Illinois' authorized program in effect as of June 3, 1991, at 40 CFR part 272, subpart O (See 57 FR 3722, January 31, 1992). EPA is not proposing to codify the authorization of Illinois' changes at this time. However, EPA reserves the ability to amend 40 CFR part 272, subpart O for the authorization of Illinois' program changes at a later date.

#### **K. 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 proposes to authorize

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 this proposed authorization of Illinois' 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 proposes to authorize 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 proposes to authorize 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 proposing 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). Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this action proposes authorization of pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human

health or environmental effects, this proposed rule is not subject to Executive Order 12898.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-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: January 24, 2022.

**Debra Shore,**

*Regional Administrator, Region 5.*

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