

US EPA ARCHIVE DOCUMENT

has not taken "significant action to assure adequate administration and enforcement of the program" within 90 days after the date of a notice of deficiency, EPA may withdraw approval of the permitting authority's program, apply either of the sanctions specified in section 179(b) of the Act, or promulgate, administer, and enforce a Federal title V program. 40 CFR 70.10(b)(2). Section 70.10(b)(3) provides that if a permitting authority has not corrected the deficiency within 18 months of the finding of deficiency, EPA will apply the sanctions under section 179(b) of the Act, in accordance with section 179(a) of the Act.<sup>7</sup> In addition, section 70.10(b)(4) provides that, if the permitting authority has not corrected the deficiency within 18 months after the date of notice of deficiency, EPA must promulgate, administer, and enforce a whole or partial program within 2 years of the date of the finding.

This document is not a proposal to withdraw approval of Maricopa County's title V program. Consistent with 40 CFR 70.10(b)(2), EPA will wait at least 90 days before determining whether Maricopa County has taken significant action to correct the deficiencies outlined in this notice.

#### IV. Administrative Requirements

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of today's action may be filed in the United States Court of Appeals for the appropriate circuit within 60 days of June 2, 2005.

#### List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: May 17, 2005.

**Wayne Nastri,**

*Regional Administrator, Region 9.*

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<sup>7</sup> Section 179(a) provides that unless such deficiency has been corrected within 18 months after the finding, one of the sanctions in section 179(b) of the Act shall apply as selected by the Administrator. If the Administrator has selected one of the sanctions and the deficiency has not been corrected within 6 months thereafter, then sanctions under both sections 179(b)(1) and 179(b)(2) shall apply until the Administrator determines that the permitting authority has come into compliance.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7920-6]

### Alabama: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Immediate final rule.

**SUMMARY:** Alabama has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Alabama's changes to its hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

**DATES:** This final authorization will become effective on August 1, 2005 unless EPA receives adverse written comments by July 5, 2005. If EPA receives such comments, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

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

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *E-mail:* [middlebrooks.gail@epa.gov](mailto:middlebrooks.gail@epa.gov).
- *Fax:* (404) 562-8439 (prior to faxing, please notify the EPA contact listed below).
- *Mail:* Send written comments to Gail Middlebrooks at the address listed below.

**Instructions:** Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The *Federal regulations.gov* Web site 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 comments. 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.

You can view and copy Alabama's application from 8 a.m. to 5 p.m. at the following addresses: Alabama Department of Environmental Management, 1400 Coliseum Blvd., Montgomery, Alabama 36130-1463; (334) 271-7700 and EPA Region 4, Library, 9th Floor, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8190.

**FOR FURTHER INFORMATION CONTACT:** Gail Middlebrooks, RCRA Services Section, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8494.

#### SUPPLEMENTARY INFORMATION:

#### A. Why Are Revisions to State Programs Necessary?

States which 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 ask 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.

#### B. What Decisions Have We Made in This Rule?

We conclude that Alabama's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Alabama Final authorization to operate its hazardous waste program with the changes described in the authorization application. Alabama has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the

limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Alabama, including issuing permits, until the State is granted authorization to do so.

**C. What Is the Effect of Today’s Authorization Decision?**

The effect of this decision is that a facility in Alabama subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Alabama has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports.
- Enforce RCRA requirements and suspend or revoke permits.
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Alabama is being authorized by today’s action are already effective, and are not changed by today’s action.

**D. Why Wasn’t There a Proposed Rule Before Today’s Rule?**

EPA did not publish a proposal before today’s rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today’s **Federal Register**, we are publishing a separate document that proposes to authorize the State program changes.

**E. What Happens if EPA Receives Comments That Oppose This Action?**

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

**F. What Has Alabama Previously Been Authorized for?**

Alabama initially received final authorization on December 8, 1987, effective December 22, 1987, (52 FR 46466) to implement the RCRA hazardous waste management program. We granted authorization for changes to Alabama’s program on November 29, 1991, effective January 28, 1992 (56 FR 60926), May 13, 1992, effective July 12, 1992 (57 FR 20422), October 21, 1992, effective December 21, 1992 (57 FR 47996), March 17, 1993, effective May 17, 1993 (58 FR 20422), September 24, 1993 effective November 23, 1993 (58 FR 49932), February 1, 1994, effective April 4, 1994 (59 FR 4594), November 14, 1994, effective January 13, 1995 (59 FR 56407), August 14, 1995, effective October 13, 1995 (60 FR 41818), February 14, 1996, effective April 15, 1996 (61 FR 5718), April 25, 1996, effective June 24, 1996 (61 FR 5718), November 21, 1997 effective February 10, 1998 (62 FR 62262), and on December 20, 2000 effective February 20, 2001 (65 FR 79769).

**G. What Changes Are We Authorizing With Today’s Action?**

On April 6, 2005, Alabama submitted final complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of comments that oppose this action, that Alabama’s hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Therefore, we grant final authorization for the following program changes:

Description of Federal Requirement (revision checklist)	Federal Register date and page	Analogous state authority <sup>1</sup>
Checklist 200, Zinc Fertilizers Made from Recycled Hazardous Secondary Materials .....	7/24/02, 67 FR 48393 ....	335-14-2-.01, 335-14-7-03, 335-14-9-.04(1)
Checklist 201, Land Disposal Restrictions: National Treatment Variance To Designate new Treatment Subcategories for Radioactively Contaminated Cadmium, Mercury, and Silver-Containing Batteries.	10/7/02, 67 FR 62618 ....	335-14-9-.04(1)
Checklist 202, NESHAP: Standards for Hazardous Air Pollutants for Hazardous Waste Combustors-Corrections.	12/19/02, 67 FR 77687 ..	335-14-8-.02(10)(e), 335-14-8-.02(13), 335-14-8-.06(2), 335-14-8-.06(5)

<sup>1</sup> Alabama Department of Environmental Administrative Code, Division 335-14, Hazardous Waste Program Regulations effective April 2, 1999, March 31, 2000, April 13, 2001, March 15, 2002, April 17, 2003, and May 27, 2004.

**H. Where Are the Revised State Rules Different From the Federal Rules?**

Alabama’s analog, 335-14-1-.02(1), to 40 CFR 260.10, includes the definition for “Corrective action management unit (CAMU)” which has been moved to 40 CFR 265.552(a) under the Federal rules.

**I. Who Handles Permits After the Authorization Takes Effect?**

Alabama 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 we issued prior to the effective date of this authorization. At the time the State program is approved, EPA will suspend issuance of Federal permits in the State. EPA will transfer any pending permit applications, completed permits or

pertinent file information to the State within thirty days of the approval of the State program. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Alabama is not yet authorized.

#### **J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Alabama?**

The State of Alabama's Hazardous Waste Program is not being authorized to operate in Indian Country.

#### **K. What Is Codification and Is EPA Codifying Alabama's Hazardous Waste Program as Authorized in This Rule?**

Codification is the process of placing the State's statutes and regulations that comprise the 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. We reserve the amendment of 40 CFR part 272, subpart B for this authorization of Alabama's program changes until a later date.

#### **L. Administrative Requirements**

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). 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.

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 the rule 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 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 action will be effective August 1, 2005.

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

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous material 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, and 6974(b).

Dated: May 11, 2005.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 05-10993 Filed 6-1-05; 8:45 am]

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## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Part 25**

**[IB Docket No. 00-248; CC Docket No. 86-496; FCC 05-63]**

#### **Satellite Licensing Procedures**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission adopts new procedures for non-routine earth station applications, and relaxes certain other earth station requirements. These actions are necessary to expedite the licensing of earth stations often used to provide satellite-based broadband Internet access services.

**DATES:** Effective July 5, 2005, except for the amendments to §§ 25.115, 25.130, 25.131, 25.132, 25.133, 25.134, 25.151, 25.154, 25.209, 25.211, 25.212, 25.220, and 25.277, which contain information requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date for these rules.

**FOR FURTHER INFORMATION CONTACT:** Steven Spaeth, Satellite Division, International Bureau, telephone (202) 418-1539 or via the Internet at [steven.spaeth@fcc.gov](mailto:steven.spaeth@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This summary of the Commission's *Fifth Report and Order*, IB Docket No. 00-248 and *Third Report and Order*, CC Docket No. 86-496, FCC 05-63, adopted March 10, 2005, and released on March 15, 2005. The complete text of this *Fifth Report and Order* and *Third Report and*