

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 271**

[FRL-7442-8]

**Ohio: Final Authorization of State Hazardous Waste Management Program Revision****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The EPA is granting Ohio final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA published a proposed rule on October 21, 2002, and provided an opportunity for public comment. The public comment period ended on December 5, 2002. EPA received no comments. No further opportunity for public comment will be provided. EPA has determined that Ohio's revisions satisfy all requirements necessary for final authorization and is authorizing Ohio's revised program through this final action.

**EFFECTIVE DATE:** Final authorization for revisions to Ohio's hazardous waste management program will become effective on January 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy Feigler, Ohio Regulatory Specialist, U.S. Environmental Protection Agency, Waste, Pesticides and Toxics Division (DM-7J), 77 W. Jackson Blvd., Chicago, Illinois 60604, phone number: (312) 886-4179.

**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 which is equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, states must revise their programs and ask EPA to authorize the revisions. Revisions 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 revise 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 Were the Comments and Responses to EPA's Proposal?**

On October 21, 2002, EPA published a proposed rule (see 67 FR 64594). In

the rule, EPA proposed granting authorization of revisions to Ohio's hazardous waste program and provided an opportunity for public comment. EPA received no comments on the proposal.

**C. What Decisions Have We Made in This Rule?**

EPA has determined that Ohio's revisions to its authorized program meet all the statutory and regulatory requirements established by RCRA. Therefore, EPA grants Ohio final authorization to operate its hazardous waste program with the revisions described in the authorization application. Ohio now 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 promulgated by EPA under the authority of HSWA take effect in authorized states before the states are authorized for the requirements. Thus, EPA implements those requirements and prohibitions in Ohio, including issuing permits, until Ohio is granted authorization to do so.

**D. What Revisions Are We Authorizing With Today's Action?**

On June 25, 2002, Ohio submitted a complete program revision application, seeking authorization of its revisions in accordance with 40 CFR 271.21. EPA now makes a final decision that Ohio's hazardous waste management program, as revised, satisfies all requirements under RCRA necessary to qualify for final authorization. Therefore, EPA grants Ohio final authorization for the program revisions described in the October 21, 2002, proposed rule (67 FR 64594). For further details, see the October 21, 2002 proposed rule.

**E. What Is the Effect of Today's Authorization Decision?**

The effect of this decision is that a facility in Ohio that is subject to RCRA will now have to comply with the authorized state requirements in lieu of the corresponding federal requirements in order to comply with RCRA. Such facilities must also comply with any applicable federally-issued requirements, such as, for example, HSWA regulations issued by EPA for which Ohio has not received authorization, and RCRA requirements that are not supplanted by authorized

state-issued requirements. Ohio will issue permits for all provisions for which it is authorized and will administer the permits that it issues. Ohio continues to have enforcement responsibility under its state hazardous waste management program for violations of that program, but EPA retains authority under RCRA sections 3007, 3008, 3013 and 7003 (42 U.S.C. 6927, 6928, 6934 and 6973) which includes, among others, the authority to:

- Conduct inspections and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement action regardless of whether Ohio has taken its own actions.

Today's action to approve these revisions does not impose additional requirements on the regulated community because the regulations included in the program revisions affected by this authorization decision are already effective under state law and are not changed by today's action.

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

Ohio will issue permits for all provisions for which it is authorized and will administer the permits that it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that EPA issued prior to the effective date of this authorization, until they expire or are terminated. EPA will not issue any more new permits or new portions of permits for the provisions for which Ohio is authorized after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Ohio is not yet authorized.

**G. What Has Ohio Previously Been Authorized for?**

Ohio initially received final authorization effective June 30, 1989 (54 FR 27170-27174, June 28, 1989) to implement the RCRA hazardous waste management program. We granted authorization for changes to Ohio's program effective June 7, 1991 (56 FR 14203, April 8, 1991), as corrected June 7, 1991 (56 FR 28808, June 19, 1991); effective September 25, 1995 (60 FR 51244, July 27, 1995); and effective December 23, 1996 (61 FR 54950, October 23, 1996).

**H. What Is the Effect of Authorizing Ohio for These Revisions on Indian Country (18 U.S.C. 1151) in Ohio?**

Ohio is not authorized to carry out its hazardous waste program in "Indian