



**6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

**[EPA-R04-RCRA-2012-0179; FRL – 9917-53-Region-4]**

**Florida: Final Authorization of State Hazardous Waste Management Program Revisions**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Immediate final rule.

**SUMMARY:** Florida 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). 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 rule. In the "Proposed Rules" section of today's **Federal Register**, EPA is also publishing a separate document that serves as the proposal to authorize these changes. EPA believes this action is not controversial and does not expect comments that oppose it. Unless EPA receives written comments that oppose this authorization during the comment period, the decision to authorize Florida's changes to its hazardous waste program will take effect. If EPA receives comments that oppose this action, EPA will publish a document in the **Federal Register** withdrawing today's immediate final rule before it takes effect, and the separate document published in today's "Proposed Rules" section of this **Federal Register** will serve as the

proposal to authorize the changes.

**DATES:** This final authorization will become effective on *[insert date 60 days after publication in the Federal Register]* unless EPA receives adverse written comment by *[insert date 30 days after publication in the Federal Register]*. If EPA receives such comment, EPA 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, identified by Docket ID No. **EPA-R04-RCRA-2012-0179**, by one of the following methods:

- Federal eRulemaking Portal: [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
- E-mail: [shipleyanita@epa.gov](mailto:shipleyanita@epa.gov)
- Fax: (404) 562-9964 (prior to faxing, please notify the EPA contact listed below).
- Mail: Send written comments to Anita K. Shipley, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
- Hand Delivery or Courier: Deliver your comments to Anita K. Shipley, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: EPA must receive your comments by *[insert date 30 days after the date of publication]*. Direct your comments to Docket ID No. **EPA-R04-RCRA-2012-0179**. 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 e-mail. The [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 e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail 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 information about EPA’s public docket, visit the EPA Docket Center homepage at [www.epa.gov/epahome/dockets.htm](http://www.epa.gov/epahome/dockets.htm)).

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 either electronically in [www.regulations.gov](http://www.regulations.gov), or in hard copy.

You may view and copy Florida’s applications and associated publicly available materials from 8:00 a.m. to 4:00 p.m. at the following locations: EPA, Region 4, RCRA Division, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960;

telephone number: (404) 562-8466; and the Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; telephone number: (850) 245-8713. Interested persons wanting to examine these documents should make an appointment with the office at least a week in advance.

**FOR FURTHER INFORMATION CONTACT:** Anita K. Shipley, Permits and State Programs Section, RCRA Programs and Materials Management Branch, RCRA Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960; telephone number: (404) 562-8466; fax number: (404) 562-9964; e-mail address: [shipley.anita@epa.gov](mailto:shipley.anita@epa.gov).

**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 268, 270, 273, and 279.

New Federal requirements and prohibitions imposed by Federal regulations that EPA

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

**B. What decisions has EPA made in this rule?**

On August 10, 2009, July 1, 2010, and August 30, 2012, Florida submitted final complete program revision applications, seeking authorization of changes to its hazardous waste program that correspond to certain Federal rules promulgated between July 1, 2007 and June 30, 2009, and July 1, 2010 and June 30, 2011 (also known as RCRA Clusters XVIII, XIX, and XXI). EPA concludes that Florida's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR Part 271. Therefore, EPA grants Florida final authorization to operate its hazardous waste program with the changes described in the authorization applications, and as outlined below in Section G of this document.

Florida has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program applications, subject to the limitations of HSWA, as discussed above.

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

The effect of this decision is that the changes described in Florida's authorization

applications will become part of the authorized State hazardous waste program, and will therefore be federally enforceable. Florida will continue to have primary enforcement authority and responsibility for its State hazardous waste program. EPA retains its authorities under RCRA sections 3007, 3008, 3013, and 7003, including its authority to:

- Conduct inspections, and require monitoring, tests, analyses, or 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 does not impose additional requirements on the regulated community because the regulations for which Florida is being authorized by today's action are already effective, and enforceable requirements under State law, and are not changed by today's action.

**D. Why wasn't there a proposed rule before today's rule?**

Along with this immediate final rule, EPA is publishing a separate document in the "Proposed Rules" section of today's **Federal Register** that serves as the proposal to authorize these State program changes. EPA did not publish a proposed rule before today because EPA views this as a routine program change and does not expect comments that oppose this approval. EPA is providing an opportunity for public comment now, as described in Section E of this document.

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

If EPA receives comments that oppose this authorization, EPA will withdraw today's

immediate final 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 proposed rule mentioned in the previous section, after considering all comments received during the comment period, and will address all such comments in a later final rule. You may not have another opportunity to comment on these State program changes. If you want to comment on this authorization, you must do so at this time.

If EPA receives comments that oppose only the authorization of a particular change to the State hazardous waste program, EPA will withdraw that part of today's immediate final 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 Florida previously been authorized for?**

Florida initially received Final authorization on January 29, 1985, effective February 12, 1985 (50 FR 3908), to implement a RCRA hazardous waste management program. EPA granted authorization for changes to Florida's program on December 1, 1987, effective March 3, 1988 (52 FR 45634); December 16, 1988, effective January 3, 1989 (53 FR 50529); December 14, 1990, effective February 12, 1991 (55 FR 51416); February 5, 1992, effective April 6, 1992 (57 FR 4371); February 7, 1992, effective April 7, 1992 (57 FR 4738); May 20, 1992, effective July 20, 1992 (57 FR 21351); November 9, 1993, effective January 10, 1994 (58 FR 59367); July 11, 1994, effective September 9, 1994 (59 FR 35266); April 16, 1994, effective October 17, 1994 (59 FR 41979); October 26, 1994, effective December 27, 1994 (59 FR 53753); April 1,

1997, effective June 2, 1997 (62 FR 15407); September 18, 2000, effective November 18, 2000 (65 FR 56256); August 23, 2001, effective October 22, 2001 (66 FR 44307); August 20, 2002, effective October 21, 2002 (67 FR 53886 and 67 FR 53889); October 14, 2004, effective December 13, 2004 (69 FR 60964); August 10, 2007, effective October 9, 2007 (72 FR 44973); and February 7, 2011, effective April 8, 2011 (76 FR 6564). The authorized Florida program, through RCRA Cluster IV, was incorporated by reference into the CFR on January 20, 1998, effective March 23, 1998 (63 FR 2896).

**G. What changes is EPA authorizing with this action?**

On August 10, 2009, July 1, 2010, and August 30, 2012, Florida submitted final complete program revision applications seeking authorization of its changes in accordance with 40 CFR 271.21. EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Florida’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. Therefore, EPA grants Florida final authorization for the following program changes:

<b>Description of Federal Requirement</b>	<b><u>Federal Register</u> Date and Page</b>	<b>Analogous State Authority<sup>1</sup></b>
216 – Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas	73 FR 57 01/02/08	F.A.C. 62-730.020(1) and F.A.C. 62-730.030(1)

217 – NESHAP: Final Standards for Hazardous Waste Combusters (Phase I Final Replacement Standards and Phase II) Amendments	73 FR 18970 04/08/08	F.A.C. 62-730.180(1) and F.A.C. 62-730.181(1)
220 – Academic Laboratories Generator Standards	73 FR 72912 12/01/08	F.A.C. 62-730.030(1) and F.A.C. 62-730.160(1)
225 – Removal of Saccharin and its Salts from the Lists of Hazardous Wastes	75 FR 78918 12/17/10	F.A.C. 62-730.030(1) and F.A.C. 62-183
226 – Corrections to the Academic Laboratories Generator Standards	75 FR 79304 10/20/10	F.A.C. 62-730.160(1)
227 – Revision of the Land Disposal Treatment Standards for Carbamate Wastes	76 FR 34147 06/13/11	F.A.C. 62-730.183

<sup>1</sup>The Florida provisions for RCRA Cluster XVIII (Checklists 216-217) are from Florida Administrative Code (F.A.C.) Chapter 62-730, effective May 8, 2009. The Florida provisions for RCRA Cluster XIX (Checklist 220) are from F.A.C. Chapter 62-730, effective June 8, 2010. The Florida provisions for RCRA Cluster XXI (Checklists 225-227) are from F.A.C. Chapter 62-730, effective June 29, 2012.

**H. Where are the revised State rules different from the Federal rules?**

There are no State requirements in the authorized program revisions listed above that are considered to be more stringent or broader in scope than the Federal requirements. However, Florida has made several State-initiated changes to its regulations that the EPA considers to be beyond the scope of the Federal program. These broader-in-scope requirements include the following:

- Form 8700-12F, to the extent that it requires notification for used oil filter transporters, transfer facilities, processors, and end users.
- F.A.C. 62-730.171(3)(a)(1), which requires that a transfer facility’s initial

notification include a certification that the proposed location of the transfer facility satisfies the criteria of F.S. 403.7211(2).

- F.A.C. 62-730.182, which adds criteria to determine whether changes at a hazardous waste facility constitute a “substantial modification” for purposes of the location standards of F.S. 403.7211.

Broader-in-scope requirements are not part of the State’s authorized program and EPA cannot enforce them. Although these requirements must be complied with in accordance with State law, they are not RCRA requirements.

With this immediate final rule, EPA is also correcting an error that appeared in the February 7, 2011, **Federal Register** document authorizing certain other changes to Florida’s hazardous waste program. At that time, EPA concluded that Florida’s universal pharmaceutical waste rule, F.A.C. 62-730.186, was broader in scope than the Federal program. This determination was in error. Florida was previously authorized on April 1, 1997, 62 FR 15407, for its universal waste rules, F.A.C. 62-730.185, which allow the State to add additional wastes to its list of universal wastes. As a result, Florida’s addition of hazardous pharmaceutical waste to its universal waste rules is appropriate and consistent with 40 CFR part 273, subpart G. Therefore, at this time, EPA is authorizing the specific management requirements for universal pharmaceutical waste as set forth at F.A.C. 62-730.186, as revised on April 23, 2013. These requirements are different, but equivalent to, the Federal program.

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

Florida 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 issued prior to the effective date of this authorization until they expire or are terminated. EPA will not issue any more 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 Florida is not authorized.

**J. How does today's action affect Indian Country (18 U.S.C. 1151) in Florida?**

Florida is not authorized to carry out its hazardous waste program in Indian Country within the State, which includes the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida. EPA will continue to implement and administer the RCRA program in these lands.

**K. What is codification and is EPA codifying Florida'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. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA is not codifying the authorization of Florida's changes at this time. However, EPA reserves the amendment of 40 CFR part 272, subpart K, for the authorization of Florida's program changes at 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 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 (Public Law 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 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 rule 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 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 [*Insert date 60 days after publication in the Federal Register*], unless objections to this authorization are received.

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

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

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b), of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: August 27, 2014.

Heather McTeer Toney,  
Regional Administrator,  
Region 4.

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