



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R03-RCRA-2015-0674; FRL-9951-51-Region 3]

Maryland: Final Authorization of State Hazardous Waste Management Program

Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Maryland has applied to the United States Environmental Protection Agency (EPA) for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these revisions satisfy all requirements needed to qualify for final authorization and is authorizing Maryland's revisions through this direct 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 revisions. 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 Maryland's revisions 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 direct final rule before it takes effect and the separate

document in today's "Proposed Rules" section of this Federal Register will serve as the proposal to authorize the revisions.

DATES: This final authorization will become effective on *[insert date 60 days after the date of publication in the Federal Register]*, unless EPA receives adverse written comments by *[insert date 30 days after the date of publication in the Federal Register]*. If EPA receives any such comments, EPA will publish a timely withdrawal of this direct 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-R03-RCRA-2015-0674**, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. E-mail: pratt.stacie@epa.gov.
3. Mail: Stacie Pratt, Mailcode 3LC50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029.
4. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

You may inspect and copy Maryland's application from 8:00 a.m. to 4:30 p.m., Monday through Friday at the following locations: Maryland Department of the Environment, Land Management Administration, Resource Management Program, 1800 Washington Blvd., Suite 610, Baltimore, Maryland, 21230-1719, Phone number: (410) 537-3314, attn: Ed Hammerberg;

and EPA Region III, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103–2029, Phone number: (215) 814– 5254.

Instructions: Direct your comments to Docket ID No. **EPA-R03-RCRA-2015-0674**.

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, 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 <http://www.regulations.gov> or email. The Federal regulations website, <http://www.regulations.gov>, 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 <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).

Docket: All documents in the docket are listed in the <http://www.regulation.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 at <http://www.regulations.gov> or in hard copy.

FOR FURTHER INFORMATION CONTACT: Stacie Pratt, Mailcode 3L50, Office of State Programs, U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103-2029; Phone: 215-814-5173.

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 is revised to become more stringent or broader in scope, States must revise their programs and apply to EPA to authorize the revisions. Authorization of revisions to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other revisions occur. Most commonly, States must revise their programs because of revisions to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Has EPA Made in this Rule?

On July 31, 2015, Maryland submitted a final program revision application (with subsequent corrections) seeking authorization of revisions to its hazardous waste program that correspond to certain Federal rules promulgated between January 14, 1985 and August 5, 2005. EPA concludes that Maryland's application to revise its authorized program meets 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 Maryland final authorization to operate its hazardous waste program with the revisions described in its authorization application, and as outlined below in Section G of this document.

Maryland has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its 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 HSWA requirements and prohibitions for which Maryland has not been authorized, including issuing HSWA permits, until the State is granted authorization to do so.

C. What is the Effect of Today's Authorization Decision?

This action serves to authorize revisions to Maryland's authorized hazardous waste program. This action does not impose additional requirements on the regulated community because the regulations for which Maryland is being authorized by today's action are already effective and are not changed by today's action. Maryland has enforcement responsibilities under its state hazardous waste program for violations of its program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

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

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

Along with this direct 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 revisions. EPA did not publish a proposal before today's rule because EPA views this action as a routine program change and does not expect comments that oppose its 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 direct 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 Maryland's program revisions on the proposal mentioned in the previous section, after considering all comments received during the comment period. EPA will then 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 must do so at this time.

If EPA receives comments that oppose only the authorization of a particular revision to the State's hazardous waste program, EPA will withdraw that part of this rule, but the authorization of the program revisions 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 Maryland Previously Been Authorized for?

Maryland initially received final authorization effective February 11, 1985 (50 FR 3511; January 25, 1985) to implement its base hazardous waste management program. EPA granted authorization for revisions to Maryland's regulatory program on June 1, 2001, effective July 31, 2001 (66 FR 29712), and on July 26, 2004, effective September 24, 2004 (69 FR 44463).

G. What Revisions is EPA Authorizing With This Action?

On July 31 2015, Maryland submitted a final program revision application (with subsequent corrections), seeking authorization of additional revisions to its program in accordance with 40 CFR 271.21. Maryland's revision application includes various regulations that are equivalent to, and no less stringent than, selected Federal final hazardous waste rules, as published in the **Federal Register** between January 14, 1985 and August 5, 2005.

EPA now makes a direct final rule, subject to receipt of written comments that oppose this action, that Maryland's hazardous waste program revision application satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants Maryland final authorization for the following program revisions:

1. Program Revision Changes for Federal Rules

Maryland seeks authority to administer the Federal requirements that are listed in Table 1 below. This table lists the Maryland analogs that are being recognized as no less stringent than the analogous Federal requirements. Note that the Federal rules listed in Table 1 may include revisions related to the land disposal restriction (LDR) regulations. Maryland has not adopted, and is not seeking authorization for, the LDR regulations.

Maryland's regulatory references are to Title 26, Subtitle 13 of the Code of Maryland Regulations (COMAR), Chapters 01 through 10, as amended effective November 12, 2010. The State's statutory authority for its hazardous waste program is based on the Environment Article of the Annotated Code of Maryland (2013 Replacement Volume and 2014 Supplement), and the State Government Article of the Annotated Code of Maryland (2014 Replacement Volume). Maryland's application also includes a revised Program Description, which provides a description of the hazardous waste regulatory program in Maryland.

Table 1. Maryland's Analogs to the Federal Requirements

Description of Federal Requirement (Revision Checklists¹)	Federal Register	Analogous Maryland Authority
HSWA Cluster I		

Description of Federal Requirement (Revision Checklists ¹)	Federal Register	Analogous Maryland Authority
Dioxin Waste Listing and Management Standards, Revision Checklist 14	50 FR 1978, 1/14/85	COMAR 26.13.02.05C(1)*, .05C(2)* .05C(5)*, .05C(6)(a), .05C(7)*, .07B(1) introductory paragraph*, .07B(3) introductory paragraph*, .15E introductory paragraph, .15E(1), .16, .19G, .22 Table 1, .22 Table 3, .23, .24; 26.13.05.09H(4) introductory paragraph, .09H(5), .11K(1), .11K(2), .12J(1), .12J(2), .13N(1), .13N(2), .14P(1), .14P(2), .16F(1)(a) and 16F(1)(b); 26.13.06.01A(6), .23C, .24B(1); 26.13.07.02D(21), .02-3B(9), .02-4B(17), .02-5B(10), .02-7B(7), .02-8B(8). (More stringent provisions: 26.13.06.01A(6), .23C, .24B(1)). *Certain portions of the regulations are considered broader in scope; see discussion in Section H.1(a).
Location Standards for Salt Domes, Salt Beds, Underground Mines and Caves, Revision Checklist 17E	50 FR 28702, 7/15/85	COMAR 26.13.05.02-1F and 26.13.06.02G.
Ground-Water Monitoring, Revision Checklist 17I	50 FR 28702, 7/15/85	COMAR 26.13.05.06A(3), .11G(2)(b). (More stringent provisions 26.13.05.11(G)(4), .12.E(4)(b), .14C(2)(b)).
Pre-construction Ban, Revision Checklist 17M	50 FR 28702, 7/15/85	COMAR 26.13.07.01B. (More stringent provisions: 26.13.07.01B, no State analog to 40 CFR 270.10(f)(3)).
Permit Life, Revision Checklist 17N	50 FR 28702, 7/15/85	COMAR 26.13.07.06.A and .06C.

Description of Federal Requirement (Revision Checklists¹)	Federal Register	Analogous Maryland Authority
Research and Development Permits, Revision Checklist 17Q	50 FR 28702, 7/15/85	COMAR 26.13.07.02A and .19.
Exposure Information, Revision Checklist 17S	50 FR 28702, 7/15/85	COMAR 26.13.07.02C and .02D(37).
HSWA Cluster II		
Permit Modification, Revision Checklist 44D	52 FR 45788, 12/1/87	COMAR 26.13.07.11B(3).
Permit Conditions to Protect Human Health and the Environment, Revision Checklist 44F	52 FR 45788, 12/1/87	COMAR 26.13.07.02D(36).
Land Disposal Restrictions for Third Third Scheduled Wastes, Revision Checklist 78 ² (This checklist is HSWA Cluster II, with the exception of clarifying amendment to 261.33(c) which is in non-HSWA Cluster VI.)	55 FR 22520, 6/1/90	COMAR 26.13.02.10B, .11B, .12B, .13B, .14B, .16A/Table, .19C, .23/Table.
RCRA CLUSTER III		

Description of Federal Requirement (Revision Checklists¹)	Federal Register	Analogous Maryland Authority
Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris; Containment Buildings, Revision Checklist 109 ²	57 FR 37194, 8/18/92	COMAR 26.13.01.03.B(9-1), .03.B(53), and .03.B(63); 26.13.02.03.A(2)(c), .03.C-1(3) introductory paragraph through (3)(d), .03.C-1(3)(e)-(g), .03E introductory paragraph, .03E(1), and .03(E)(2); 26.13.03.05.E(1)(b)(iii), .05.E(1)(b)(iv), .05.E(1)(e), .05.E(1)(l)(i), .05.E(1)(l)(iii), .05.E(1)(m), .05.E(1)(n), .05.E(4); 26.13.05.07.A(2)(a)-(d), .07.B(3), .07.C(1)(b), .08.A, .18, .18-1, .18-2(A), .18-2(B), .18-2(C)(1)-(2), .18-2(D)-(F), .18-3; 26.13.06.12A(1)-(4), .07B(3), .08E(10), .16A, .29; 26.13.07.13-2A(12) and .23.C(3)(f). (More stringent provisions: 26.13.07.13-2A(12); no State analogs to 40 CFR 270.42(e)(iii)(B) and 270.42 Appendix I Item I(6).)
Toxicity Characteristic Amendment, Revision Checklist 117B	57 FR 23062, 6/1/92	COMAR 26.13.02.03A(2)(a) and .03A-1.
RCRA CLUSTER IV		
Revision of Conditional Exemption for Small Scale Treatability Studies, Revision Checklist 129	59 FR 8362, 2/18/94	COMAR 26.13.02.04-4B(1)-(2), .04-4C, .04-4D, .04-4E, .04-5A(3)-(5), and .04-5A(11)(b).
RCRA CLUSTER V		
Recovered Oil Exclusion, Revision Checklist 135 ³	59 FR 38536, 7/28/94	COMAR 26.13.02.03C-1(2), .04A(15) and (16), .06A-1(1)(c) and Agency Note, and .06A-1(2)(c)-(e).
Removal of the Conditional Exemption for Certain Slag Residues, Revision Checklist 136 ²	59 FR 43496, 8/24/94	COMAR 26.13.10.01A(4).

Description of Federal Requirement (Revision Checklists ¹)	Federal Register	Analogous Maryland Authority
Carbamate Production Identification and Listing of Hazardous Waste, Revision Checklist 140	60 FR 7824, 2/9/95; as amended at 60 FR 19165, 4/17/95, and at 60 FR 25619, 5/12/95	COMAR 26.13.02.03A-2(5)-(7), .03C-1(4), .17, .19E, .19G, .23 and .24.
RCRA CLUSTER VI		
RCRA Expanded Public Participation, Revision Checklist 148 ³	60 FR 63417, 12/11/95	COMAR 26.13.01.03B(23-1); 26.13.07.02D(39), .04N, .14A(5), .17B(7)-(12), .17D, .19-1, .19-2A, .19-2B, .20-2A(5)-(6), .20-2D(4), .20-2E(1)(d)-(f), .20-2F(1)(a), .20F(1)(d), .20F(1)(h), .20-2F(3) and .20-3. (More Stringent Provisions: COMAR 26.13.07.17B(12)(c), .20-2A(5)-(6), .20-2F(3), .20-3.)
Amendments to the Definition of Solid Waste; Amendment II, Revision Checklist 150	61 FR 13103, 3/26/96	COMAR 26.13.02.04A(15)-(16).
RCRA CLUSTER VII		
Military Munitions Rule, Revision Checklist 156	62 FR 6622, 2/12/97	COMAR 26.13.01.03B(2-1), .03B(5-1), .03B(22-2)-.03B(22-4), .03B(37-1), .03B(51-1), .03B(51-2), .03B(51-3), .03B(69-1), .03B(87-2); 26.13.02.02A(2)(c)-(d); 26.13.03.01J, .04A(6); 26.13.04.01A(4)-(5); 26.13.05.01A(2)(d)-(e), .01A(3)(h)(iv), .01D(5)-(6), .05A(2), .21; 26.13.06.01A(2)(d)-(e), .01A(4)(h)(iv), .01A(5)(b)-(c), .05A, .28; 26.13.07.01A, .13-1C; 26.13.10.27*, .10.28B-D, .10.29-.31. *Certain portions of the regulations are

Description of Federal Requirement (Revision Checklists¹)	Federal Register	Analogous Maryland Authority
		considered broader in scope; see discussion in Section H.1(b).
Land Disposal Restrictions Phase IV, Revision Checklist 157 ²	62 FR 25998, 5/12/97	COMAR 26.13.02.01C(3)(b)-(e), .02G/Table 1, .04A(11), .04A(12), .06A-1(2)(b).
Conformance With the Carbamate Vacatur, Revision Checklist 159 ²	62 FR 32974, 6/17/97	COMAR 26.13.02.17A/Table, .19G, .23/Table, and .24.
RCRA CLUSTER VIII		
Kraft Mill Steam Stripper Condensate Exclusion, Revision Checklist 164	63 FR 18504, 4/15/98	COMAR 26.13.02.04A(14).
RCRA CLUSTER IX		
Petroleum Refining Process Wastes, Revision Checklist 169 ^{2,3}	63 FR 42110, 8/6/98	COMAR 26.13.02.03A-2(3), .03C-1(2), .03C-1(5), .04A(15)-(18), .06A-1(2)(e), .16A, .17A/Table, and .23/Table.
Petroleum Refining Process Wastes -- Leachate Exemption, Revision Checklist 178	64 FR 6806, 2/11/99	COMAR 26.13.02.04-1A(16) introductory language and (a)-(e) and .02.04-1A-1.
RCRA CLUSTER X		
Land Disposal Restrictions Phase IV – Technical Corrections, Revision Checklist 183 ²	64 FR 56469, 10/20/99	COMAR 26.13.02.17A/Table.
Petroleum Refining Process Wastes Clarification, Revision Checklist 187 ²	65 FR 36365, 6/8/00	COMAR 26.13.02.16A/Table.
RCRA CLUSTER XI		
Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes, Revision Checklist 189 ²	65 FR 67068, 11/8/00	COMAR 26.13.02.17A/Table, .23/Table, and .24.

Description of Federal Requirement (Revision Checklists¹)	Federal Register	Analogous Maryland Authority
Mixture and Derived-From Rules Revisions, Revision Checklist 192A	66 FR 27266, 5/16/01	COMAR 26.13.02.03A(2)(c), .03A(2)(d), .03A-2, .03C(2)(a), .03F introductory language and (1)-(2). (More Stringent Provisions: COMAR 26.13.02.03C(2)(a).)
RCRA CLUSTER XII		
Mixture and Derived-From Rules Revision II, Revision Checklist 194	66 FR 50332, 10/3/01	COMAR 26.13.02.03A(2)(d), .03A-2, and .03F(3).
Inorganic Chemical Manufacturing Wastes Identification and Listing, Revision Checklist 195 ²	66 FR 58258, 11/20/01	COMAR 26.13.02.04-1A(16)(a)-(e), .04-1A-1, .17A/Table, and .23 Table.
Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use With MGP Waste, Revision Checklist 199	67 FR 11251, 3/13/02	COMAR 26.13.02.02C(3) and .14A.
RCRA CLUSTER XV		
Uniform Hazardous Waste Manifest Rule, Revision Checklist 207	70 FR 10776, 3/4/05; as amended 70 FR 35034, 6/16/05	COMAR 26.13.01.03B(12), .03B(50)-(51), .03B(55-1-1); 26.13.02.07B(1)(b)(i)-(ii); 26.13.03.04(A)(1), .04B(1)(b), .04B(1)(c)(i)-(ii), .04B(1)(d)-(e), .04B(2)(a)(ii), .04B(2)(b)-(d), .04B(3)-(6), .04C, .04D(2)(e), .04F(2)(a)-(b), .05C(2), .05D, .05E(4), .07-2A(3) and (5), .07-3B(3)-(4), .07-3C; 26.13.04.02A(1), .02A(7), .02B(2)-(4); 26.13.05.05A(2)-(3), .05B(1)(a)-(d) and (f)-(g), .05B(2)(d), .05B(5), .05C, .05G; 26.13.06.05A.

Description of Federal Requirement (Revision Checklists ¹)	Federal Register	Analogous Maryland Authority
RCRA CLUSTER XVI		
Universal Waste Rule: Specific Provisions for Mercury Containing Equipment, Revision Checklist 209 ²	70 FR 45508, 8/5/2005	26.13.01.03B(2-2), .03B(46-1), .03B(51-2), .03B(72-2), .03B(89-1); 26.13.02.07-1B(3); 26.13.05.01A(3); 26.13.06.01A(4)(j)(iii); 26.13.07.01A; 26.13.10.06B(3); 26.13.10.09, .14, .17A(2)(d), .17A(3), .19C(1)(a)(iv)-(v), .20C, and .21A

¹A Revision Checklist is a document that addresses the specific revisions made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal regulations. For more information see EPA's RCRA State Authorization web page at <http://www.epa.gov/osw/laws-regs/state/index.htm>.

²Maryland is not seeking authorization for the provisions related to the Land Disposal Restriction (LDR) regulations because Maryland has not adopted the LDR regulations.

³Maryland is not seeking authorization for the provisions related to the Boiler and Industrial Furnace (BIF) regulations because Maryland has not adopted these regulations.

2. State-Initiated Changes

Maryland's program revision application includes State-initiated changes that are not directly related to any of the Revision Checklists in Table 1. Each State-initiated change is related to one of the following: (1) the adoption of a provision that makes internal clarification and conforming changes to the State's regulations, (2) adoption of a provision that makes the State's regulations, which had been more stringent, now equivalent to the Federal hazardous waste regulations, or (3) correction of typographical errors. EPA has evaluated the changes and has determined that the State's regulations remain consistent with, and are no less stringent than, the corresponding Federal regulations. EPA grants Maryland final authorization for the State provisions listed in Table 2. These requirements are analogous to the indicated Federal RCRA regulations found at relevant or applicable 40 CFR sections as of July 1, 2005.

Table 2. Equivalent State-Initiated Changes

State Citation (COMAR)	Federal RCRA Citation (40 CFR)
26.13.02.05D(2)(c)(iv)	No direct Federal analog. Related to 40 CFR 261.5(g)(3)
26.13.02.11A(3), A(4), and C; 26.13.02.11-1	40 CFR 261.21(a)(3); No Federal analog to 26.13.02.11-1
26.13.02.13A(8) and C	40 CFR 261.23(a)(8)
26.13.03.07-5A(2)	262.58(a)
26.13.06.01A(4)(k)	265.1(c)(13)
26.13.07.20-2F(3)(e)	No Federal analog in 40 CFR 124.32
26.13.10.03A	266.70(a)
26.13.10.04C	266.80
26.13.10.26	No Federal analog in 40 CFR 273.

H. Where are the Revised Maryland Rules Different From the Federal Rules?

1. Maryland Requirements That Are Broader in Scope

The Maryland hazardous waste program contains certain provisions that are broader in scope than the Federal program. These broader in scope provisions are not part of the program being authorized by today's action. EPA cannot enforce requirements that are broader in scope, although compliance with such provisions is required by Maryland law. Examples of broader in scope provisions of Maryland's program include, but are not limited to, the following:

(a) COMAR 26.13.02.05C(1) and (2), .05C(5), .05C(6)(b), .05C(7), .07B(1) introductory paragraph, .07B(3) introductory paragraph, and .15E(2) (part of the State's analogs to 40 CFR 261.5(e), 261.7(b), and 261.30(d)) contain references to polychlorinated biphenyls (PCBs) and to State-only wastes listed at COMAR 26.13.02.17 (K991 through K999; military wastes), COMAR 26.13.02.18 (MD01: a type of Filter cake and chemical sludge) and COMAR 26.13.02.19.F (M001: PCBs above 500 parts per million (ppm), which is regulated under the Toxic Substances and Control Act (TSCA)). The portions of these provisions that are associated with the State-only wastes and the PCBs above 500 ppm go beyond the scope of the Federal program because PCBs and the State-only wastes are not Federal hazardous wastes and, thus, are not part of the program being authorized by today's action.

(b) At COMAR 26.13.10.27B(3)(a)-(b), Maryland has included as solid wastes those unused military munitions that have been abandoned by being treated ((3)(a)(v)) or removed

from storage and treated ((3)(b)(iii)). The Federal analogs at 40 CFR 266.202(b)(1) and (2) do not include treatment alone as a requirement for becoming a solid waste. Instead, treatment is used in the context of the step prior to disposal (see 56 FR 6626). As such, Maryland's requirements at COMAR 26.13.10.27B(3)(a)(v) and 26.13.10.27B(3)(b)(iii) are broader in scope than the Federal program, where an unused munition that is subject to chemical treatment without disposal would not be regulated as a solid waste.

(c) Maryland has not adopted the mixed waste rule (66 FR 27218). Therefore, Maryland does not have an analog to 40 CFR 261.3(h), which exempts eligible radioactive mixed waste from regulation as a hazardous waste. As a result, Maryland's regulations is broader in scope than the Federal program because eligible radioactive mixed wastes are not Federal hazardous wastes and, thus, are not part of the program being authorized by today's action.

(d) Maryland has not adopted the vacatur of mineral processing spent materials being reclaimed as solid wastes. Therefore, Maryland does not have an analog to 40 CFR 261.4(a)(17). By regulating these materials, Maryland's program is broader in scope than the Federal program because these materials are not Federal solid wastes and, thus, are not part of the program being authorized by today's action.

2. Maryland Requirements That Are More Stringent Than the Federal Program

Maryland's hazardous waste program contains several provisions that are more stringent than the RCRA program. The more stringent provisions are part of a Federally-authorized program and are, therefore, Federally-enforceable. The specific more stringent provisions are also noted in Table 1 and in Maryland's authorization application. They include, but are not

limited to, the following:

(a) Maryland has not adopted analogs to the Federal provisions at 40 CFR 265.1(d)(1)(iv)-(v), which allow dioxin wastes to be burned in certain incinerators and facilities that thermally treat the waste in other devices. Maryland has replaced these provisions with a provision at COMAR 26.13.06.01.A(6)(d) that allows dioxin wastes to be managed at a permitted facility, thus making Maryland's regulations more stringent.

(b) The Federal regulations at 40 CFR 265.352 and 265.383 allow owners and operators of incinerators and thermal treatment devices who have received the required certification to burn EPA hazardous wastes F020, F021, F022, F023, F026, or F027. However, Maryland's regulations at COMAR 26.13.06.23C and .24.B(1) prohibit the burning of such wastes, thus making Maryland's regulations more stringent.

(c) Maryland did not adopt an analog to the Federal provision at 40 CFR 270.10(f)(3), which was removed by the July 15, 1985 rule (50 FR 28702), nor has Maryland adopted the optional provision introduced by the July 15, 1985 rule at 40 CFR 270.10(f)(3). As a result, COMAR 26.13.07.01B, which is Maryland's analog to 40 CFR 270.10(f)(1), does not include the phrase analogous to "except as provided in paragraph (f)(3) of this section." The Federal provision at 40 CFR 270.10(f)(3) allows a person to construct a facility for the incineration of PCBs without a RCRA permit if an approval has been issued under TSCA. Without this exemption, Maryland's regulations are more stringent.

(d) Certain provisions of Maryland's regulations pertaining to containment buildings are considered more stringent than the Federal requirements. These provisions include:

- Maryland has not adopted an analog to 40 CFR 270.42(e), which allows the Director to grant a permittee a temporary authorization without prior public notice and comment. Maryland's regulations are considered more stringent because it does not provide for temporary authorizations.
- The Federal regulations at 40 CFR 270.42 Appendix I classify the conversion of an enclosed waste pile to a containment building as a Class 2 modification. Unlike the Federal regulations, which have three classes of permit modifications, Maryland only lists minor modifications in COMAR 26.13.07.13-2. Any modification not listed in COMAR 26.13.07.13-2 is a major modification in Maryland. Maryland's regulations are more stringent because it treats this Class 2 modification in the Federal regulations as a major modification.
- Maryland has adopted the Federal Class 1 modifications of 40 CFR 270.42 Appendix I as part of its minor modifications. Maryland's regulations are more stringent because it treats the Federal Class 2 and 3 permit modifications for containment buildings as major modifications.

(e) Maryland has several additional requirements for public participation in the hazardous waste program permitting process, which make the State's regulations more stringent. The requirements include, but are not limited to, the following:

- Maryland's regulations at COMAR 26.13.07.17B(12)(c) provides a specific number of days (30) rather than requiring "a reasonable period of time," as found in the Federal regulations. Therefore, Maryland's regulations are considered more stringent.

- Maryland's requirements at COMAR 26.13.07.20-2A(5) and (6) are more stringent because public notice must also be given of receipt of an application for a permit modification and of receipt of an application for post-closure activities.
- Maryland's regulations at COMAR 26.13.07.20-2F(3)(e) require that the public notice include information on how to request that an informational meeting be held. This requirement is an additional requirement making Maryland's regulations more stringent.
- Maryland's regulations at COMAR 26.13.07.20-3 require the Director to hold informational meetings under specific conditions, which is considered more stringent than the Federal regulations.

(f) Maryland has not adopted the mixed waste rule (66 FR 27218). Therefore, Maryland's regulation at COMAR 26.13.02.03C(2) is more stringent than the Federal requirements because the Maryland regulation does not include all of the exceptions found in the analogous Federal regulation at 40 CFR 261.3(c)(2)(i).

3. Federal Requirements for which Maryland is not Seeking Authorization

Maryland is not seeking authorization for the land disposal restriction (40 CFR 268), used oil standards (40 CFR 279), boiler and industrial furnace standards (40 CFR 266, Subpart H), air emission standards (40 CFR 264 and 265, Subparts AA, BB, and CC), or HSWA corrective action requirements.

I. Who Handles Permits After the Authorization Takes Effect?

After this authorization revision, Maryland will issue permits covering all the provisions for which it is authorized and will administer all such permits. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that it issued prior to the effective date of this authorization until the timing and process for effective transfer to the State are mutually agreed upon. Until such time, as EPA formally transfers responsibility for a permit to Maryland and EPA terminates its permit, EPA and Maryland agree to coordinate the administration of such permit in order to maintain consistency. EPA will not issue any more new permits or new portions of permits for the provisions listed in Section G after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Maryland is not yet authorized.

J. How Does This Action Affect Indian Country (18 U.S.C. 115) in Maryland?

Maryland is not seeking authority to operate the program on Indian lands, since there are no Federally-recognized Indian Lands in Maryland.

K. What Is Codification and Is EPA Codifying Maryland'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 action by referencing the authorized State rules in 40 CFR part 272. EPA reserves the amendment of 40 CFR part 272, subpart V, for this authorization of Maryland's program

revisions until a later date.

L. Administrative Requirements

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). Therefore, this action is not subject to review by OMB. This action authorizes State requirements pursuant to 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 13175 (65 FR 67249, November 9, 2000). In any case, Executive Order 13175 does not apply to this rule since there are no Federally recognized tribes in Maryland.

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 concern environmental health or safety risks that may disproportionately affect children. 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 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 satisfies the requirements of RCRA. Thus, the requirements of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 3701, et seq.) 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 18, 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.). 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 rule authorizes 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, the rule is not subject to Executive Order 12898.

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**].

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, 6974(b).

Dated: August 12, 2016.

Shawn M. Garvin

Regional Administrator, EPA Region III

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