

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[FRL-7875-7]

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

SUMMARY: Mississippi 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 Mississippi'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 April 25, 2005, unless EPA receives adverse written comments by March 25, 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.
- 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 Mississippi's applications from 8 a.m. to 4:30 p.m. at the following addresses: Mississippi Department of Environment Quality, Hazardous Waste Division, 101 W. Capital, Suite 100, Jackson, Mississippi 39201; 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 Mississippi's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Mississippi Final authorization to operate its hazardous waste program with the changes described in the authorization application. Mississippi 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 Mississippi, 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 Mississippi 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. Mississippi 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 Mississippi 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 Mississippi Previously Been Authorized for?

Mississippi initially received final authorization on June 13, 1984, effective

June 27, 1984 (49 FR 24377) to implement the RCRA hazardous waste management program. We granted authorization for changes to Mississippi's program on August 17, 1988, effective October 17, 1988 (53 FR 31000), August 10, 1990, effective October 9, 1990 (55 FR 32624), March 29, 1991, effective May 28, 1991 (56 FR 13079), June 28, 1991, effective August 27, 1991 (56 FR 29589), May 11, 1992 effective July 10, 1992 (57 FR 20056), on April 8, 1993, effective June 7, 1993 (58 FR 18162), on October 20, 1993, effective December 20, 1993 (58 FR 54044), on March 18, 1994, effective May 17, 1994 (59 FR 12857), on June 1, 1995, effective July 31, 1995 (60 FR 28539), and on August 30, 1995,

effective October 30, 1995 (60 FR 45071).

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

On March 26, 1996, and June 1, 2004, Mississippi submitted final complete program revision applications, 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 Mississippi'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
Checklist 126, Testing and Monitoring Activities	9/19/94, 59 FR 46040.
Checklist 128, Wastes from the Use of Chlorophenolic Formulations in Wood Surface Protection	1/4/94, 59 FR 458.
Checklist 129, Revision of Conditional Exemption for Small Scale Treatability Studies	2/18/94, 59 FR 8362.
Checklist 130, Recycled Used Oil Management Standards; Technical Amendments and Corrections II	3/4/94, 59 FR 10550.
Checklist 131, Recordkeeping Instructions; Technical Amendment	3/24/94, 59 FR 13891.
Checklist 132, Wood Surface Protection; Correction	6/2/94, 59 FR 28484.
Checklist 133, Letter of Credit Revision	6/10/94, 59 FR 29958.
Checklist 134, Correction of Beryllium Powder (PO15) Listing	6/20/94, 59 FR 31551.
Checklist 135, Recovered Oil Exclusion	7/28/94, 59 FR 38536.
Checklist 136, Removal of the Conditional Exemption for Certain Slag Residues	8/24/94, 59 FR 43496.
Checklist 137, Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes.	9/19/94, 59 FR 47982.
Checklist 139, Testing and Monitoring Activities Amendment I	1/13/95, 60 FR 3089.
Checklist 140, Carbamate Production Identification and Listing of Hazardous Waste	2/9/95, 60 FR 7824.
Checklist 141, Testing and Monitoring Activities Amendment II	4/4/95, 60 FR 17001.
Checklist 142A, Universal Waste: General Provisions	5/11/95, 60 FR 25492.
Checklist 142B, Universal Waste Rule: Specific Provisions for Batteries	5/11/95, 60 FR 25492.
Checklist 142C, Universal Waste Rule: Specific Provisions for Pesticides	5/11/95, 60 FR 25492.
Checklist 142E, Universal Waste Rule: Petition Provisions to Add a New Universal Waste	5/11/95, 60 FR 25492.
Checklist 144, Removal of Legally Obsolete Rules	6/29/95, 60 FR 33912.
Checklist 145, Liquids in Landfills III	7/11/95, 60 FR 35703.
Checklist 148, RCRA Expanded Public Participation	12/11/95, 60 FR 63417.
Checklist 150, Amendments to the Definition of Solid Waste; Amendment II	3/26/96, 61 FR 13103.
Checklist 151, Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners.	4/8/96, 61 FR 15566.
Checklist 153, Conditionally Exempt Small Quantity Generator Disposal Options Under Subtitle D	7/1/96, 61 FR 34252.
Checklist 154, Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers	11/25/96, 59 FR 59932.
Checklist 155, Land Disposal Restrictions Phase III—Emergency Extension of the KO88 Capacity Variance	1/14/97, 62 FR 1992.
Checklist 156, Military Munitions Rule: Hazardous Waste Identification and Management: Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of Ways on Contiguous Properties.	2/12/97, 62 FR 6622.
Checklist 157, Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions.	5/12/97, 62 FR 25998.
Checklist 158, Testing and Monitoring Activities Amendment III	6/13/97, 62 FR 32452.
Checklist 159, Conformance With the Carbamate Vactur	6/17/97, 62 FR 32974.
Checklist 160, Land Disposal Restrictions Phase III—Emergency Extension of the KO88 National Capacity Variance, Amendment.	7/14/97, 62 FR 37694.
Checklist 161, Emergency Revision of the Carbamate Land Disposal Restrictions	8/28/97, 62 FR 45568.
Checklist 162, Clarification of Standards for Hazardous Waste LDR Treatment Variances	12/5/97, 62 FR 64504.
Checklist 163, Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment.	12/8/97, 62 FR 64636.
Checklist 164, Kraft Mill Steam Stripper Condensate Exclusion	4/15/98, 63 FR 18504.
Checklist 166, Recycled Used Oil Management Standards; Technical Correction and Clarification	5/6/98, 63 FR 24963; 7/14/98, 63 FR 37780.
Checklist 167A, Land Disposal Restrictions Phase IV—Treatment Standards for metal Wastes and Mineral Processing Wastes.	5/26/98, 63 FR 28556.
Checklist 167B, Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions	5/26/98, 63 FR 29556.
Checklist 167C, Land Disposal Restrictions Phase IV—Corrections	5/26/98, 63 FR 28556.
Checklist 167F, Exclusion of Recycled Wood Preserving Wastewaters	5/26/98, 63 FR 28556.

Description of Federal requirement (revision checklist)	Federal Register date and page
Checklist 168, Hazardous Waste Combustors; Revised Standards	6/19/98, 63 FR 33782.
Checklist 169, Petroleum Refining Process Wastes	8/6/98, 63 FR 42110.
Checklist 170, Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizers, Amendment	8/31/98, 63 FR 46332.
Checklist 171, Emergency Revision of the Land Disposal Restrictions Treatment Standards for Listed hazardous Wastes from Carbamate Production.	9/4/98, 63 FR 47410.
Checklist 174, Post-Closure Permit Requirement and Closure Process	10/22/98, 63 FR 56710.
Checklist 175, HWIR—Media	11/3/98, 63 FR 65874.
Checklist 176, Universal Rule—Technical Amendments	12/24/98, 63 FR 71225.
Checklist 177, Organic Air Emission Standards; Clarification and Technical Amendments	1/21/99, 64 FR 3382.
Checklist 178, Petroleum Refining Process Wastes—Leachate Exemption	2/11/99, 64 FR 6806.
Checklist 179, Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards	5/11/99, 64 FR 25408.
Checklist 180, Test Procedures for the Analysis of Oil and Grease and Non-Polar Material	5/14/99, 64 FR 26315.
Checklist 181, Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps	7/6/99, 64 FR 36466.
Checklist 182, Hazardous Air Pollutant Standards for Combustors	9/30/99, 64 FR 52828; 11/19/99, 64 FR 63209.
Checklist 183, Land Disposal Restrictions Phase IV—Technical Corrections	10/20/99, 64 FR 56469.
Checklist 184, Accumulation Time for Waste Water Treatment Sludges	3/8/00, 65 FR 12378.
Checklist 185, Organobromine Production Wastes Vacatur	3/17/00, 65 FR 14472.
Checklist 187, Petroleum Refining Process Wastes—Clarification	6/8/00, 64 FR 36365.

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

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Mississippi 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 Mississippi is not yet authorized.

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

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

K. What Is Codification and Is EPA Codifying Mississippi'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 RR for this authorization of Mississippi'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 April 25, 2005.

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: February 2, 2005.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 194

[Docket No. RSPA-03-16560; Amdt. No. 194-4]

RIN 2137-AC30

Pipeline Safety: Response Plans for Onshore Transportation-Related Oil Pipelines

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: On January 5, 1993, the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety

Administration, Office of Pipeline Safety (OPS) issued an interim final rule establishing oil spill response planning requirements for onshore oil pipelines (49 CFR Part 194). These regulations were issued pursuant to section 1321(j)(5) of the Federal Water Pollution Control Act (FWPCA), as amended by the Oil Pollution Act of 1990 (OPA 90). OPS is now adopting the interim rule as a final rule. This final rule makes minor amendments to some of the regulations in response to the written public comments received after issuance of the interim final rule and at a public meeting held in 1997 in New Orleans, LA. The amendments also reflect the experience that OPS has gained in implementing the rule; leading spill response exercises; and, responding to actual spills and harmonizes certain OPS requirements with related oil spill response regulations developed by the U.S. Coast Guard. The amendments are generally technical in nature and do not involve additional costs to pipeline operators or the public.

DATES: This rule is effective March 25, 2005.

FOR FURTHER INFORMATION CONTACT: L.E. Herrick, (202) 366-5523, U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Room 2103, 400 Seventh Street, SW., Washington, DC 20590-0001, on the contents of this final rule, or the Dockets Facility, <http://dms.dot.gov>, (202) 366-1918, U.S. Department of Transportation, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001, for copies of this final rule or other information in the docket. General information about OPS programs is on our Internet home page at <http://ops.dot.gov>. For information on OPA 90, first click on the "Initiatives," then on "OPA Initiatives."

SUPPLEMENTARY INFORMATION:

Background

Section 1321(j)(5) of the FWPCA (33 U.S.C. 1251 *et seq.*), as amended by OPA 90 (Pub. L. 101-380, 104 Stat. 484), requires an operator of an onshore pipeline facility to prepare and submit an oil spill response plan when, because of its location, the facility could reasonably be expected to cause substantial harm to the environment if it were to discharge oil into navigable waters or adjoining shorelines.

On January 5, 1993, OPS published an interim final rule (58 FR 244) that created part 194 of Title 49 of the Code of Federal Regulations. The interim final rule implemented the requirements of OPA 90 and required all onshore oil

pipeline operators to submit response plans for pipelines located where they could reasonably be expected to cause substantial harm or significant and substantial harm to the environment by discharging oil.

Under part 194, each response plan must include a core plan that provides an information summary (e.g., operator address; description of response zones; contact information for designated spill response manager), and additional detail on immediate notification procedures; spill detection and mitigation procedures; the applicable response organization; response activities and response resources; government agencies that will provide support; training procedures; equipment testing; drill types, schedules, and procedures; and plan review and update procedures. In addition, each response plan must be consistent with the National Contingency Plan (NCP) (40 CFR part 300) and each applicable Area Contingency Plan (ACP).

Part 194 also requires each operator to identify and ensure, by contract or other approved means, the resources necessary to respond, to the maximum extent practicable, to a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of a worst case discharge.

Furthermore, the part 194 requires each operator to conduct specialized training for its personnel, particularly those responsible for reporting and responding to spills. Each response plan also must address equipment testing and provide for periodic unannounced drills. Operators must participate in any unannounced drills conducted by Federal officials, including activation of the appropriate oil spill removal organization and spill management team identified in the response plan. Since 1993 OPS has led over 100 exercises.

Pipeline facilities subject to part 194 include those that transport any of the following products: crude oil; refined petroleum products (e.g., gasoline, diesel fuel, heating and fuel oils, kerosene, and jet fuel); vegetable and animal oil; sludge; oil refuse; and/or oil mixed with wastes other than dredged spoil. To date, 367 onshore pipeline facilities have submitted response plans in compliance with the interim final rule that established part 194.

There are two categories of onshore pipeline response plans, those involving pipelines capable of causing "substantial" harm to the environment and those capable of causing "significant and substantial" harm to the environment. OPA 90 does not define substantial harm or significant