

Ashland, Lexington-Fayette, Louisville, Owensboro, and Paducah areas shall be considered maintenance for the one (1) hour national ambient air quality standards for the purposes of 40 CFR part 51, subpart X.” The corresponding table for the 1971 O<sub>3</sub> standard was removed.

Table (2) was added to reflect the attainment status designation of areas in the Commonwealth of Kentucky for the 1997 eight-hour (8-hour) primary and secondary O<sub>3</sub> NAAQS.

Table (3) was added to reflect the attainment status designation of areas for the 2008 8-hour primary and secondary O<sub>3</sub> NAAQS.

#### Section 8.—Attainment Status Designations for PM<sub>2.5</sub>

Table (1) was added to reflect the attainment status of areas in the Commonwealth of Kentucky for the 1997 annual primary and secondary PM<sub>2.5</sub> NAAQS.

Table (2) was added to reflect the attainment status of areas for the 2012 annual PM<sub>2.5</sub> primary NAAQS.

Table (3) was added to reflect the attainment status of areas for the 1997 twenty-four hour (24-hour) primary and secondary PM<sub>2.5</sub> NAAQS.

Table (4) was added to reflect the attainment status of areas for the 2006 24-hour primary and secondary PM<sub>2.5</sub> NAAQS.

#### Section 10.—Attainment Status Designations for Total Suspended Particulates (TSP)

The attainment status designation table for TSP was amended to reflect the attainment status of areas in the Commonwealth of Kentucky for the 1971 TSP NAAQS.

EPA has reviewed these changes to the Kentucky regulations for attainment status designations and is proposing to find that these changes are consistent with federal regulations, specifically 40 CFR 81.318.

In addition to the revision of attainment status designations in Sections 4 through 8 and Section 10 of Regulation 401 KAR 51:010, the SIP submittal includes minor textual modifications to the NECESSITY, FUNCTION, AND CONFORMITY section and Section 1 (Definitions) and Section 2 (Attainment Status Designations). EPA is proposing to find that these are administrative changes that are consistent with the requirements of the CAA.

### III. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by

reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference Kentucky Regulation 401 KAR 51:010, *Attainment status designations*, effective October 6, 2016, which was revised to be consistent with the federal attainment status designations for the areas within the Commonwealth.<sup>4</sup> EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### IV. Proposed Action

EPA is proposing to approve the Commonwealth of Kentucky December 13, 2016, SIP revisions identified in section II above, because these changes are consistent with the CAA and EPA regulations.

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This action merely proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);

<sup>4</sup> The incorporation by reference will not include Section 9 of 401 KAR 51:010, as EPA is not acting on Section 9 in this action.

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: September 10, 2018.

**Onis “Trey” Glenn, III,**  
*Regional Administrator, Region 4.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[EPA-R04-RCRA-2018-0527; FRL-9984-12—Region 4]

### Kentucky: Proposed Authorization of State Hazardous Waste Management Program Revisions

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

**ACTION:** Proposed rule.

**SUMMARY:** Kentucky 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), as amended. EPA has reviewed Kentucky's application and has determined that these changes satisfy all requirements needed to qualify for final authorization.

Therefore, we are proposing to authorize the State's changes. EPA seeks public comment prior to taking final action.

**DATES:** Comments must be received on or before October 22, 2018.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-RCRA-2018-0527, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](http://www.regulations.gov). EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Audrey Baker, Materials and Waste Management Branch, RCR Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303-8960; telephone number: (404) 562-8483; fax number: (404) 562-9964; email address: [baker.audrey@epa.gov](mailto:baker.audrey@epa.gov).

**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 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, including revisions to state programs initiated by the states. 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 implements those requirements and prohibitions in the states, including the issuance of new permits implementing those requirements, until the states are granted authorization to do so.

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

On April 13, 2018, Kentucky submitted a program revision application seeking authorization of changes to its hazardous waste program in accordance with 40 CFR 271.21. In particular, Kentucky is seeking authorization for updated State regulations addressing all federal RCRA regulations through June 30, 2017. EPA concludes that Kentucky'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 proposes to grant Kentucky final authorization to operate its hazardous waste program with the changes described in its authorization application, and as outlined below in Section F of this document.

Kentucky currently has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of HSWA. Upon authorization of the changes contained in Kentucky's program revision application, Kentucky will gain permitting responsibility for the additional HSWA requirements contained in its application as discussed in Section C below.

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

If Kentucky is authorized for the changes described in Kentucky's authorization application, these changes will become part of the authorized State

hazardous waste program, and therefore will be federally enforceable. Kentucky will continue to have primary enforcement authority and responsibility for its State hazardous waste program. Upon authorization for certain HSWA provisions included in Kentucky's application, including organic air emissions standards, boiler and industrial furnace requirements, and land disposal restrictions, Kentucky will assume permitting responsibility for these portions of the RCRA program from EPA. EPA and the State will coordinate the transfer of permitting responsibility for any existing federal permits from EPA to the State upon final authorization.

EPA will retain 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 will not impose additional requirements on the regulated community because the regulations for which EPA is proposing to authorize Kentucky are already effective, and are not changed by today's proposed action.

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

EPA will evaluate any comments received on this proposed action and will make a final decision on approval or disapproval of Kentucky's proposed authorization. Our decision will be published in the **Federal Register**. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

**E. What has Kentucky previously been authorized for?**

Kentucky initially received final authorization on January 17, 1985, effective January 31, 1985 (50 FR 2550), to implement the RCRA hazardous waste management program. EPA granted authorization for changes to Kentucky's program on the following dates: October 20, 1988, effective December 19, 1988 (53 FR 41164); January 18, 1989, effective March 20, 1989 (54 FR 1940); March 16, 1989, effective May 15, 1989 (54 FR 10986); October 30, 1992, effective December 29, 1992 (57 FR 49140); January 10, 1995, effective March 13, 1995 (60 FR 2534); April 26, 1996, effective June 25, 1996 (61 FR 18504); May 23, 1996,

effective July 22, 1996 (61 FR 25799); and December 26, 2001, effective February 25, 2002 (66 FR 66340).

**F. What changes are we proposing with today's action?**

Kentucky's hazardous waste program was previously codified in 166 regulations set forth at Title 401 of the Kentucky Administrative Regulations (KAR) Chapters 31 through 39, 43, and 44. Kentucky promulgated revised hazardous waste regulations, effective on December 7, 2017, which condensed these former hazardous waste regulations into five regulations found at 401 KAR Chapter 39. Kentucky's regulations at 401 KAR Chapter 39 adopt the majority of Title 40 of the Code of Federal Regulations, parts 260 through 270, 273, and 279, via incorporation by reference. The Kentucky regulations and associated

federal analogs are: 401 KAR 39:005 (40 CFR 260.10); 401 KAR 39:060, Section 2 (40 CFR part 260); 401 KAR 39:060, Section 3 (40 CFR part 261); 401 KAR 39:060, Section 4 (40 CFR part 268); 401 KAR 39:060, Section 5 (40 CFR parts 124 and 270); 401 KAR 39:080, Section 1 (40 CFR part 262); 401 KAR 39:080, Section 2 (40 CFR part 263); 401 KAR 39:080, Section 3 (40 CFR part 273); 401 KAR 39:080, Section 4 (40 CFR part 279); 401 KAR 39:090, Section 1 (40 CFR part 264); 401 KAR 39:090, Section 2 (40 CFR part 265); 401 KAR 39:090, Section 3 (40 CFR part 266); and 401 KAR 39:090, Section 4 (40 CFR part 267).

On April 13, 2018, Kentucky submitted a program revision application, seeking authorization of its newly condensed hazardous waste regulations. The additions to the Kentucky program include older federal

rules not previously adopted and/or authorized, as well as newly promulgated federal rules. EPA proposes to determine, subject to receipt of written comments that oppose this action, that Kentucky'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. EPA's approval of the revised format of the regulations at 401 KAR Chapter 39 does not impact EPA's prior authorization decisions, and all previously authorized federal rules remain federally authorized.

EPA is proposing to authorize Kentucky for the federal regulations listed in Table 1 below. The State regulations which EPA is proposing to authorize are included in Table 2, along with their federal analogs.

TABLE 1

Description of Federal requirement	Federal Register date and page
Checklist <sup>1</sup> SI: Sharing of Information with ATSDR <sup>2</sup> .....	7/15/1985.
Checklist 24.1: Closure/Post-Closure and Financial Responsibility Requirements (Correction 1)	53 FR 7740, 3/10/1988.
Checklist 24A: Financial Responsibility; Settlement Agreement (Amendment to Checklist 24's Optional Designation of 264.113 and 265.113).	55 FR 25976, 6/26/1990.
Checklist 27: Liability Coverage; Corporate Guarantee .....	51 FR 25350, 7/11/1986.
Checklists 28H and 28H.1: Standards for Hazardous Waste Storage and Treatment Tank Systems and Correction 1 (HSWA Provisions).	51 FR 25422, 7/14/1986; 51 FR 29430, 8/15/1986.
Checklist 38.1: Development of Corrective Action Programs After Permitting Hazardous Waste Land Disposal Facilities (Correction 1).	52 FR 33936, 9/9/1987.
Checklists 39 and 39.1: California List Waste Land Disposal Restrictions and Correction 1 .....	52 FR 25760, 7/8/1987; 52 FR 41295, 10/27/1987.
Checklist 47: Technical Correction to Checklist 23, Small Quantity Generators .....	53 FR 27162, 7/19/1988.
Checklist 48: Farmer Exemptions; Technical Corrections .....	53 FR 27164, 7/19/1988.
Checklists 50 and 50.1: Land Disposal Restrictions for First Third Scheduled Wastes and Correction 1.	53 FR 31138, 8/17/1988; 54 FR 8264, 2/27/1989.
Checklist 52H: Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems (Revision to Checklist 28) (HSWA Provisions).	53 FR 34079, 9/2/1988.
Checklist 58: <sup>3</sup> Standards for Generators of Hazardous Waste; Manifest Renewal .....	53 FR 45089, 11/8/1988.
Checklist 62: Land Disposal Restriction Amendments to First Third Scheduled Wastes (Technical Correction to Checklist 50).	54 FR 18836, 5/2/1989.
Checklist 63: Land Disposal Restrictions for Second Third Scheduled Wastes .....	54 FR 26594, 6/23/1989.
Checklist 64: Delay of Closure Period for Hazardous Waste Management Facilities .....	54 FR 33376, 8/14/1989.
Checklist 65: Mining Waste Exclusion I .....	54 FR 36492, 9/1/1989.
Checklists 66 and 66.1: Land Disposal Restrictions; Correction to the First Third Scheduled Wastes (Correction to Checklist 50).	54 FR 36967, 9/6/1989; 55 FR 23935, 6/13/1990.
Checklist 69: Reportable Quantity Adjustment (F024 and F025) .....	54 FR 50968, 12/11/1989.
Checklist 70: Changes to Part 124 Not Accounted for by Present Checklists .....	54 FR 246, 1/4/1989.
Checklist 71: Mining Waste Exclusion II .....	55 FR 2322, 1/23/1990.
Checklists 78H and 78N: Land Disposal Restrictions for Third Third Scheduled Wastes (HSWA and Non-HSWA Provisions).	55 FR 22520, 6/1/1990.
Checklist 79: Organic Air Emission Standards for Process Vents and Equipment Leaks .....	55 FR 25454, 6/21/1990.
Checklist 82: Wood Preserving Listings (HSWA/Non-HSWA) .....	55 FR 50450, 12/6/1990.
Checklist 83: Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendment (HSWA).	56 FR 3864, 1/31/1991.
Checklist 85: Burning of Hazardous Waste in Boilers and Industrial Furnaces (HSWA/Non-HSWA).	56 FR 7134, 2/21/1991.
Checklist 87: Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment (HSWA).	56 FR 19290, 4/26/1991.
Checklist 90: Mining Exclusion III (Non-HSWA) .....	56 FR 27300, 6/13/1991.
Checklist 92: Wood Preserving Listing; Technical Correction (HSWA/Non-HSWA) .....	56 FR 30192, 7/1/1991.
Checklist 94: Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I (HSWA/Non-HSWA).	56 FR 32688, 7/17/1991.
Checklist 95: Land Disposal Restrictions for Electric Arc Furnace Dust (K061) (HSWA) .....	56 FR 41164, 8/19/1991.

TABLE 1—Continued

Description of Federal requirement	Federal Register date and page
Checklist 96: Burning of Hazardous Waste in Boilers and Industrial Furnaces: Technical Amendments II (HSWA/Non-HSWA).	56 FR 42504, 8/27/1991.
Checklist 100: Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units ..	57 FR 3462, 1/29/1992.
Checklist 102: Second Correction to the Third Third Land Disposal Restrictions .....	57 FR 8086, 3/6/1992.
Checklist 103: <sup>4</sup> Hazardous Debris Case-by-Case Capacity Variance .....	57 FR 28628, 6/26/1992.
Checklist 106: Lead-Bearing Hazardous Materials Case-by-Case Capacity Variance .....	57 FR 28628, 6/26/1992.
Checklist 107: Used Oil Filter Exclusion; Technical Correction .....	57 FR 29220, 7/1/1992.
Checklist 108: Toxicity Characteristics Revision; Technical Corrections .....	57 FR 30657, 7/10/1992.
Checklist 109: Land Disposal Restrictions for Newly Listed Wastes and Hazardous Debris .....	57 FR 37194, 8/18/1992.
Checklist 110: Coke By-Product Listings .....	57 FR 37284, 8/18/1992.
Checklist 111: Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III.	57 FR 38558, 8/25/1992.
Checklist 112: Recycled Used Oil Management Standards .....	57 FR 41566, 9/10/1992.
Checklists 113, 113.1 and 113.2: Consolidated Liability Requirements .....	57 FR 33938, 9/1/88; 56 FR 30200, 7/1/1991; 57 FR 42832, 9/16/1992.
Checklist 114: Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment IV.	57 FR 44999, 9/30/1992.
Checklist 115: Chlorinated Toluene Production Waste Listing .....	57 FR 47376, 10/15/1992.
Checklist 116: Hazardous Soil Case-by-Case Capacity Variance .....	57 FR 47772, 10/20/1992.
Checklists 117A, 117A.1, and 117A.2: <sup>5</sup> Reissuance of the Mixture and Derived-From Rules .....	57 FR 7628, 3/3/1992; 57 FR 23062, 6/1/1992; 57 FR 49278, 10/20/1992.
Checklist 117B: Toxicity Characteristic Revision .....	57 FR 23062, 6/1/1992.
Checklist 118: Liquids in Landfills II .....	57 FR 54452, 11/18/1992.
Checklists 119 and 119.1: Toxicity Characteristic Revision; TCLP Correction .....	57 FR 55114, 11/24/1992; 58 FR 6854, 2/2/1993.
Checklist 120: Wood Preserving; Amendments to Listings and Technical Requirements .....	57 FR 61492, 12/24/1992.
Checklist 121: Corrective Action Management Units and Temporary Units .....	58 FR 8658, 2/16/1993.
Checklists 122 and 122.1: Recycled Used Oil Management Standards; Technical Amendments and Corrections I.	58 FR 26420, 5/3/1993; 58 FR 33341, 6/17/1993.
Checklist 123: Land Disposal Restrictions; Renewal of the Hazardous Debris Case-by-Case Capacity Variance.	58 FR 28506, 5/14/1993.
Checklist 124: Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated.	58 FR 29860, 5/24/1993.
Checklist 125: Boilers and Industrial Furnaces; Changes for Consistency with New Air Regulations.	58 FR 38816, 7/20/1993.
Checklists 126 and 126.1: Testing and Monitoring Activities .....	58 FR 46040, 8/31/1993; 59 FR 47980, 9/19/1994.
Checklist 127: Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues.	58 FR 59598, 11/9/1993.
Checklist 128: Wastes from the Use of Chlorophenolic Formulations in Wood Surface Protection.	59 FR 458, 1/4/1994.
Checklist 129: Revision of Conditional Exemption for Small Scale Treatability Studies .....	59 FR 8362, 2/18/1994.
Checklist 130: Recycled Used Oil Management Standards; Technical Amendments and Corrections II.	59 FR 10550, 3/4/1994.
Checklist 131: Recordkeeping Instructions; Technical Amendment .....	59 FR 13891, 3/24/1994.
Checklist 132: Wood Surface Protection; Correction .....	59 FR 28484, 6/2/1994.
Checklist 133: Letter of Credit Revision .....	59 FR 29958, 6/10/1994.
Checklist 134: Correction of Beryllium Powder (P015) Listing .....	59 FR 38536, 7/28/1994.
Checklist 135: Recovered Oil Exclusion .....	59 FR 38536, 7/28/1994.
Checklist 136: Removal of the Conditional Exemption for Certain Slag Residues .....	59 FR 43496, 8/24/1994.
Checklists 137 and 137.1: Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes.	59 FR 47982, 9/19/1994; 60 FR 242, 1/3/1995.
Checklist 139: Testing and Monitoring Activities Amendment 1 .....	60 FR 3089, 1/13/1995.
Checklists 140, 140.1, and 140.2: Carbamate Production Identification and Listing of Hazardous Waste.	60 FR 7824, 2/9/1995; 60 FR 19165, 4/17/1995, 60 FR 25619, 5/12/1995.
Checklist 141: Hazardous Waste Management System: Testing and Monitoring Activities, Amendment 2.	60 FR 17001, 4/4/1995.
Checklists 142A–142E: Universal Waste Rule: .....	60 FR 25492, 5/11/1995.
Checklist 142A: General Provisions; Checklist 142B: Specific Provisions for Batteries;	
Checklist 142C: Specific Provisions for Pesticides; Checklist 142D: Specific Provisions for Thermostats; Checklist 142E: Petitions to Add a New Universal Waste.	
Checklist 144: Removal of Legally Obsolete Rules .....	60 FR 33912, 6/29/1995.
Checklist 145: Liquids in Landfills III .....	60 FR 35703, 7/11/1995.
Checklist 148: RCRA Expanded Public Participation .....	60 FR 63417, 12/11/1995.
Checklist 150: Recovered Oil Exclusion; Correction .....	61 FR 13103, 3/26/1996.
Checklists 151, 151.1, 151.2, 151.3, 151.4, 151.5, and 151.6: Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners.	61 FR 15566, 4/8/1996; 61 FR 15660, 4/8/1996; 61 FR 19117, 4/30/1996; 61 FR 33680, 6/28/1996; 61 FR 36419, 7/10/1996;
	61 FR 43924, 8/26/1996; 62 FR 7502, 2/19/1997.

TABLE 1—Continued

Description of Federal requirement	Federal Register date and page
Checklist 152: Imports and Exports of Hazardous Waste; Implementation of OECD Council Decision.	61 FR 16289, 4/12/1996.
Checklist 153: Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D.	61 FR 34252, 7/1/1996.
Checklists 154, 154.1, 154.2, 154.3, 154.4, 154.5, and 154.6: Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers.	61 FR 59931, 11/25/1996; 59 FR 62896, 12/6/1994; 60 FR 26828, 5/19/1995; 60 FR 50426, 9/29/1995; 60 FR 56952, 11/13/1995; 61 FR 4903, 2/9/1996; 61 FR 28508, 6/5/1996.
Checklist 155: Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance.	62 FR 1992, 1/14/1997.
Checklist 156: Military Munitions Rule .....	62 FR 6622, 2/12/1997.
Checklist 157: Land Disposal Restrictions—Phase IV .....	62 FR 25998, 5/12/1997.
Checklist 158: Testing and Monitoring Activities Amendment III .....	62 FR 32452, 6/13/1997.
Checklist 159: Compliance with the Carbamate Vacatur .....	62 FR 32974, 6/17/1997.
Checklist 160: Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance, Amendment.	62 FR 37694, 7/14/1997.
Checklist 161: Emergency Revision of the Carbamate Land Disposal Restrictions .....	62 FR 45568, 8/28/1997.
Checklist 162: Clarification of Standards for Hazardous Waste LDR Treatment Variances .....	62 FR 64504, 12/5/1997.
Checklist 163: Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment.	62 FR 64636, 12/8/1997.
Checklist 164: Kraft Mill Steam Stripper Condensate Exclusion .....	63 FR 18504, 4/15/1998.
Checklists 166 and 166.1: Recycled Used Oil Management Standards; Technical Correction and Clarification.	63 FR 24963, 5/6/1998; 63 FR 37780, 7/14/1998.
Checklist 167A: Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes.	63 FR 28556, 5/26/1998.
Checklist 167B: Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions; Checklists 167C and 167C.1: Land Disposal Restrictions Phase IV—Corrections; Checklist 167D: Mineral Processing Secondary Materials Exclusion; Checklist 167E: Bevill Exclusion Revisions and Clarification; Checklist 167F: Exclusion of Recycled Wood Preserving Wastewaters.	63 FR 31266, 6/8/1998.
Checklist 169: Petroleum Refining Process Wastes .....	63 FR 42110, 8/6/1998; 63 FR 54356, 10/9/1998.
Checklist 170: Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizers, Administrative Stay.	63 FR 46332, 8/31/1998.
Checklist 171: Emergency Revisions of LDR Treatment Standards for Listed Hazardous Wastes from Carbamate Production.	63 FR 47409, 9/4/1998.
Checklist 172: Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags.	63 FR 48124, 9/9/1998.
Checklist 173: Land Disposal Restrictions—Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); Final Rule.	63 FR 51254, 9/24/1998.
Checklist 174: Post-Closure Requirements and Closure Process .....	63 FR 56710, 10/22/1998.
Checklist 175: HWIR-Media .....	63 FR 65874, 11/30/1998.
Checklist 176: Universal Waste Rule—Technical Amendments .....	63 FR 71225, 12/24/1998.
Checklist 177: Organic Air Emission Standards; Clarification and Technical Amendments .....	64 FR 3381, 1/21/1999.
Checklist 178: Petroleum Refining Process Wastes—Leachate Exemption .....	64 FR 6806, 2/11/1999.
Checklist 179: Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards.	64 FR 25408, 5/11/1999.
Checklist 180: Test Procedures for the Analysis of Oil and Grease and Non-Polar Material .....	64 FR 26315, 5/14/1999.
Checklist 181: Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps .....	64 FR 36466, 7/6/1999.
Checklists 182 and 182.1: Hazardous Air Pollutant Standards for Combustors, Miscellaneous Units, and Secondary Lead Smelters; Clarification of BIF Requirements; Technical Correction to Fast-track Rule.	64 FR 52827, 9/30/1999; 64 FR 63209, 11/19/1999.
Checklist 183: Land Disposal Restrictions Phase IV—Technical Corrections .....	64 FR 56469, 10/20/1999.
Checklist 184: Waste Water Treatment Sludges from Metal Finishing Industry; 180-Day Accumulation Time.	65 FR 12378, 3/8/2000.
Checklist 187: Petroleum Refining Process Wastes—Clarification .....	65 FR 36365, 6/8/2000.
Checklists 188, 188.1 and 188.2: Hazardous Air Pollutant Standards; Technical Corrections .....	65 FR 42292, 7/10/2000; 66 FR 24270, 5/14/2001; 66 FR 35087, 7/3/2001.
Checklist 189: Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes .....	65 FR 67068, 11/8/2000.
Checklist 190: Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil .....	65 FR 81373, 12/26/2000.
Checklist 191: Mixed Waste Rule .....	66 FR 27218, 5/16/2001.
Checklist 192A: Mixture and Derived-From Rule Revisions; Checklist 192B: Land Disposal Restrictions Correction.	66 FR 27266, 5/16/2001.
Checklist 193: Change of Official EPA Mailing Address .....	66 FR 34374, 6/28/2001.
Checklist 194: Mixture and Derived-From Rules Revision II .....	66 FR 50332, 10/3/2001.
Checklists 195 and 195.1: Inorganic Chemical Manufacturing Wastes Identification and Listing	66 FR 58258, 11/20/2001; 67 FR 17119, 4/9/2002.
Checklist 196: CAMU Amendments .....	67 FR 2962, 1/22/2002.
Checklist 197: Hazardous Air Pollutant Standards for Combustors: Interim Standards .....	67 FR 6792, 2/13/2002.
Checklist 198: Hazardous Air Pollutant Standards for Combustors: Corrections .....	67 FR 6968, 2/14/2002.

TABLE 1—Continued

Description of Federal requirement	Federal Register date and page
Checklist 199: Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste.	67 FR 11251, 3/13/2002.
Checklist 200: Zinc Fertilizer Rule .....	67 FR 48393, 7/24/2002.
Checklist 201: Treatment Variance for Radioactively Contaminated Batteries .....	67 FR 62618, 11/21/2002.
Checklist 202: Hazardous Air Pollutant Standards for Combustors—Corrections 2 .....	67 FR 77687, 12/19/2002.
Checklist 203: Recycled Used Oil Management Standards; Clarification .....	68 FR 44659, 7/30/2003.
Checklist 205: NESHAP—Surface Coating of Automobiles and Light-Duty Trucks .....	69 FR 22601, 4/26/2004.
Checklists 206 and 206.1: Non-Wastewaters from Dyes and Pigments .....	70 FR 9138, 2/24/2005; 70 FR 35032, 6/13/2005.
Checklists 207 and 207.1: Uniform Hazardous Waste Manifest Rule .....	70 FR 10776, 3/4/2005; 70 FR 35034, 6/16/2005.
Checklists 208 and 208.1: Methods and Innovation Rule and SW-846 Final Update IIIB .....	70 FR 34538, 6/14/2005; 70 FR 44150, 8/1/2005.
Checklist 209: Universal Waste Rule; Specific Provisions for Mercury Containing Equipment .....	70 FR 45508, 8/5/2005.
Checklist 210: Standardized Permit for RCRA Hazardous Waste Management Facilities .....	70 FR 53420, 9/8/2005.
Checklist 211: Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures (“Headworks exemptions”).	70 FR 57769, 10/4/2005.
Checklist 212: NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II).	70 FR 59402, 10/12/2005.
Checklist 213: Burden Reduction Initiative .....	71 FR 16862, 4/4/2006.
Checklist 214: Corrections to Errors in the Code of Federal Regulations .....	71 FR 40254, 7/14/2006.
Checklist 215: Cathode Ray Tubes Rule .....	71 FR 42928, 7/28/2006.
Checklist 217: NESHAP—Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments.	73 FR 18970, 4/8/2008.
Checklist 218: F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes.	73 FR 31756, 6/4/2008.
Checklist 220: Academic Laboratories Generator Standards .....	73 FR 72912, 12/1/2008.
Checklist 222: OECD Requirements; Export Shipments of Spent Lead-Acid Batteries .....	75 FR 1236, 1/8/2010.
Checklist 223: Hazardous Waste Technical Corrections and Clarifications .....	75 FR 12989, 3/18/2010; 75 FR 31716, 6/4/2010.
Checklist 225: Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents .....	75 FR 78918, 12/17/2010.
Checklist 226: Academic Laboratories Generator Standards Technical Corrections .....	75 FR 79304, 12/20/2010.
Checklist 227: Revision of the Land Disposal Treatment; Standards for Carbamate Wastes .....	76 FR 34147, 6/13/2011.
Checklist 228: Hazardous Waste Technical Corrections and Clarifications .....	77 FR 22229, 4/13/12.
Checklist 229: Conditional Exclusions for Solvent Contaminated Wipes .....	78 FR 46448, 7/31/13.
Checklist 230: Conditional Exclusion for Carbon Dioxide (CO <sub>2</sub> ) Streams in Geologic Sequestration Activities.	79 FR 350, 1/3/2014.
Checklist 231: Hazardous Waste Electronic Manifest System .....	79 FR 7518, 2/7/2014.
Checklist 232: Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule .....	79 FR 36220, 6/26/14.
Checklist 233: <sup>6</sup> Revisions to the Definition of Solid Waste, Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule.	80 FR 1694, 1/13/2015; 83 FR 24664, 5/31/2018.
Checklist 235: Disposal of Coal Combustion Residuals from Electric Utilities .....	80 FR 21302, 4/17/2015.
Checklist 236: Imports and Exports of Hazardous Waste .....	81 FR 85696, 11/28/16; 82 FR 41015, 8/29/2017.
Checklist 237: Hazardous Waste Generator Rule Improvements .....	81 FR 85732, 11/28/16.

<sup>1</sup> A “checklist” is developed by EPA for each federal rule amending the RCRA regulations. The checklists document the changes made by each federal rule and are presented and numbered in chronological order by date of promulgation.

<sup>2</sup> The analogous State authority for Checklist SI is Kentucky Revised Statutes (KRS) 224.10–212 and 224.10–100(14). The State analogs for the remaining checklists are listed in Table 2 below.

<sup>3</sup> Checklist 58 has been superseded by Checklist 207, the Uniform Hazardous Waste Manifest Rule, also included in this proposed authorization.

<sup>4</sup> Certain federal rules cited in this Table 1, such as the rules identified by Checklists 103, 106, and 116, among others, address land disposal restriction capacity variances and other federal rules that may have been subsequently amended. As a result, authorization of these rules may be moot. However, for purposes of completeness, the rules are included above. However, if a federal rule has been vacated or withdrawn, it is not listed in Table 1 above and will not be authorized.

<sup>5</sup> Checklist 117A has been superseded by Checklist 192A, the Final Mixture and Derived-From Rule, which is also included in this proposed authorization.

<sup>6</sup> Kentucky adopts the 2015 Definition of Solid Waste (DSW) Rule and the 2018 amendments to the DSW Rule, at 401 KAR 39:005, Section 1, and 39:060, Sections 2, 3 and 5. Because Kentucky adopts the analogous provisions of 40 CFR parts 260, 261, and 270 prospectively, Kentucky’s 2017 regulations appropriately adopt the 2018 amendments to the DSW Rule.

TABLE 2

Federal analog	State provisions proposed to be authorized <sup>7</sup>
40 CFR 260.10 .....	401 KAR 39:005, Section 1 and Sections 1(1)–(75). <sup>8</sup>
40 CFR 260 (except 260.10) .....	401 KAR 39:060, Sections 2(1)–(3) and (6).
40 CFR 261 .....	401 KAR 39:060, Sections 3(1)–(3), (5)–(7), and (9)(a).
40 CFR 262 .....	401 KAR 39:080, Sections 1(1)–(7)(a)1., (8)(a), and (9)–(11).
40 CFR 263 .....	401 KAR 39:080, Sections 2(1)–(3).
40 CFR 264 .....	401 KAR 39:090, Section 1 and Sections 1(1) <sup>9</sup> –(7).
40 CFR 265 .....	401 KAR 39:090, Sections 2(1)–(4).

TABLE 2—Continued

Federal analog	State provisions proposed to be authorized <sup>7</sup>
40 CFR 266 .....	401 KAR 39:090, Section 3 and Sections 3(1)–(3).
40 CFR 267 .....	401 KAR 39:090, Section 4.
40 CFR 268 .....	401 KAR 39:060, Section 4.
40 CFR 124 and 270 .....	401 KAR 39:060, Sections 5(1), (6)–(7), (11)–(13), and (17)–(18).
40 CFR 273 .....	401 KAR 39:080, Sections 3(1)–(4).
40 CFR 279 .....	401 KAR 39:080, Sections 4(1)–(4), and (6) <sup>10</sup> –(7).
No Direct Federal Analog <sup>11</sup> .....	401 KAR 39:060, Section 6(1) and (10)–(12); 401 KAR 39:080, Section 5(1); 401 KAR 39:090, Section 5; 401 KAR 39:090, Sections 7(1)–(9) and (11)–(14); 401 KAR 39:090, Section 8 and Sections 8(1), (3)–(4)(a), (5)(a), and (6)–(7); 401 KAR 39:090, Sections 9(1)–(2), (14)–(17), and (23).

<sup>7</sup> The Kentucky regulatory provisions are from the Kentucky hazardous waste regulations, effective December 7, 2017.

<sup>8</sup> Kentucky’s application notes an error to be corrected within the definition of “disposal” at 401 KAR 39:005, Section 1(21). The term “disposal” is defined at KRS 224.1–010(9), not at KRS 224.1–010(8) as stated in the current version of the regulation.

<sup>9</sup> 401 KAR 39:090, Section 1(1), replaces Table 1 of 40 CFR 264.94 with the current federal Maximum Contaminant Levels (MCLs), which is functionally equivalent to the federal provision at 40 CFR 264.94. Kentucky’s application also notes an error to be corrected in Table 1 of the Kentucky regulation. The correct maximum concentration level for lead in groundwater should be 0.015 mg/l.

<sup>10</sup> EPA is only proposing to authorize 401 KAR 39:080, Section 4(6), to the extent it requires additional reporting for used oil transporters. The incorporation of other transportation regulations is outside the scope of this authorization.

<sup>11</sup> EPA is proposing to authorize these additional State provisions because they relate to, and help to implement, other provisions of the Kentucky hazardous waste program set forth in this Table 2.

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

Although Kentucky incorporates the federal regulations by reference, Kentucky’s regulations also include

certain additions, which, if listed in Table 2 above, EPA has determined to be consistent with the federal program. There are also aspects of the Kentucky program which are more stringent than the federal program. All of these more

stringent requirements will become part of the federally enforceable RCRA program when authorized. These more stringent requirements are set forth in Table 3 below:

TABLE 3

Kentucky more stringent provisions	Explanation
401 KAR 39:060, Sections 3(3) and 3(6).	Kentucky is more stringent than the federal program by requiring that the Cathode Ray Tube export notifications referenced in 40 CFR 261.39(a)(5) and 261.41, and the state agreement required by 40 CFR 261.4(b)(11)(ii), be submitted to both EPA and the Kentucky Energy and Environment Cabinet (Cabinet).
401 KAR 39:060, Section 5(6)(a)2 .....	Kentucky is more stringent than the federal program at 40 CFR 270.13 by requiring the submission of a Part A Application Addendum, DWM 7058A, in addition to the information required on EPA Form 8700–23.
401 KAR 39:060, Section 5(7) .....	Kentucky is more stringent than the federal program at 40 CFR 270.30(l)(6) by requiring additional release reporting.
401 KAR 39:060, Section 5(18) .....	Kentucky is more stringent than the federal program at 40 CFR 270.60(a)(3)(v) by requiring an annual report instead of a biennial report.
401 KAR 39:060, Section 6(1), 401 KAR 39:080, Section 5(1), and 401 KAR 39:090, Section 9(1).	Kentucky is more stringent than the federal program by requiring additional release reporting for hazardous waste and used oil.
401 KAR 39:080, Section 1(2)(b) .....	Kentucky is more stringent than the federal program at 40 CFR 262.18(b) by requiring the submission of a Registration of Hazardous Waste Activity Addendum, DWM 7037A, in addition to the information required on EPA Form 8700–12.
401 KAR 39:080, Section 1(3) .....	Kentucky is more stringent than the federal program at 40 CFR 262.18(d) by requiring annual generator registrations for small and large quantity generators as opposed to every two and four years.
401 KAR 39:080, Section 1(5)(b) .....	Kentucky is more stringent than the federal program at 40 CFR 262.18(d) by requiring updates to the generator registration information to be submitted within thirty (30) days following any changes.
401 KAR 39:080, Section 1(6) .....	Kentucky is more stringent than the federal program at 40 CFR 262.17 by requiring that large and small quantity generators submit a Request to be Removed from the Hazardous Waste Handler List, DWM 7086, within ninety (90) days after hazardous waste generation ceases.
401 KAR 39:080, Section 1(8)(a) .....	Kentucky is more stringent than the federal program at 40 CFR 262.41(a) by requiring annual reporting, as opposed to biennial reporting, and by requiring large and small quantity generators to submit a Hazardous Waste Annual Report Addendum, DWM 7072A, in addition to EPA Form 8700–13 A/B.
401 KAR 39:080, Section 1(10)(b) .....	Kentucky is more stringent than the federal program at 40 CFR 262.14 by requiring very small quantity generators (VSQGs) to register with the Cabinet and obtain an EPA identification number prior to treating waste.
401 KAR 39:080, Section 2(2)(b)2 .....	Kentucky is more stringent than the federal program at 40 CFR 263.11 by requiring the submission of a Registration of Hazardous Waste Transportation Activity, DWM 7053, in addition to EPA Form 8700–12.
401 KAR 39:080, Section 2(3) .....	Kentucky is more stringent than the federal program at 40 CFR 263.30(c) by requiring additional release reporting to the Cabinet for hazardous waste transporters.
401 KAR 39:080, Section 3(4) .....	Kentucky is more stringent than the federal program at 40 CFR 273.32 by requiring large quantity handlers of universal waste to comply with the generator registration requirements at 401 KAR 39:080, Section 1.

TABLE 3—Continued

Kentucky more stringent provisions	Explanation
401 KAR 39:080, Section 4(2) .....	Kentucky is more stringent than the federal program at 40 CFR 279.22(d) and 279.52 by requiring additional release reporting to the Cabinet.
401 KAR 39:080, Section 4(4) .....	Kentucky is more stringent than the federal program at 40 CFR 279.51, 279.62, and 279.73 by requiring used oil handlers to comply with the generator registration requirements at 401 KAR 39:080, Section 1(2).
401 KAR 39:080, Sections 4(5) and (6)	Kentucky is more stringent than the federal program at 40 CFR 279.54 by requiring additional release reporting to the Cabinet.
401 KAR 39:090, Section 1(2) and Section 2(3).	Kentucky is more stringent than the federal program at 40 CFR 264.143, 264.145, 264.147, 265.143, 265.145, and 265.147 by requiring that insurers providing primary coverage must be authorized to transact insurance in Kentucky.
401 KAR 39:090, Section 1(6) and Section 2(2).	Kentucky is more stringent than the federal program at 40 CFR 264.304 and 40 CFR 265.303 by requiring additional release reporting for leak detection systems.
401 KAR 39:090, Sections 3(1)–(3) .....	Kentucky's tables are more stringent than the federal program at 40 CFR Part 266, Appendix I, Tables I–D and I–E, and Appendix V by establishing emissions screening limits and risk specific doses that are lower than the federal limits and doses.
401 KAR 39:090, Section 5 .....	Kentucky is more stringent than the federal program at 40 CFR 264.18(b) and 270.14(b)(11)(ii) by establishing additional requirements for facilities located in flood plains.
401 KAR 39:090, Section 7(12) .....	Kentucky is more stringent than the federal program by requiring that an insurer, upon request, must provide the Cabinet a duplicate copy of any insurance policy being used for financial assurance.
401 KAR 39:090, Section 8 and Sections 8(1)–(7) (excluding the fee provisions).	Kentucky is more stringent than the federal program at 40 CFR 264.101 by including more specific corrective action requirements.
401 KAR 39:090, Section 9(2) .....	Kentucky is more stringent than the federal program by requiring that any reports or information required to be submitted to EPA must also be submitted to the Cabinet.
401 KAR 39:090, Section 9(15) .....	Kentucky is more stringent than the federal program by prohibiting waste, used oil, or material contaminated with dioxins or hazardous wastes to be used as a dust suppressant.
401 KAR 39:090, Section 9(16) .....	Kentucky is more stringent than the federal program by requiring that the import and export notifications referenced in 40 CFR 264.12(a) and 265.12(a) be submitted to both EPA and the Cabinet.
401 KAR 39:090, Section 9(17) .....	Kentucky is more stringent than the federal program at 40 CFR 264.75 and 265.75 by requiring annual reporting, as opposed to biennial reporting, and by requiring owners and operators of treatment, storage, and disposal facilities to submit a Hazardous Waste Annual Report Addendum, DWM 7072A, in addition to EPA Form 8700–13 A/B.

The Kentucky regulations also include several State requirements that go beyond the scope of the federal program. These requirements are not being authorized and are therefore not

included in Table 2 above. Broader-in-scope requirements are not part of the authorized program and EPA cannot enforce them. Although regulated entities must comply with these

requirements in accordance with State law, they are not RCRA requirements. These broader-in-scope requirements are set forth in Table 4 below:

TABLE 4

Kentucky broader in scope provisions	Explanation
401 KAR 39:005, Section 1 .....	Kentucky is broader in scope than the federal program to the extent that certain Kentucky defined terms apply to wastes that are not hazardous under the federal program.
401 KAR 39:060, Sections 2(4) and (5)	Kentucky is broader in scope than the federal program at 40 CFR 260.22 by requiring payment of a fee for delisting petitions and by requiring compliance with Kentucky's solid waste regulations for the excluded wastes.
401 KAR 39:060, Section 3(4) .....	Kentucky is broader in scope than the federal program at 40 CFR part 261, subpart D, by including additional listed hazardous wastes.
401 KAR 39:060, Section 3(9)(b) .....	Kentucky is broader in scope than the federal program in its reference to special wastes being exempt from Kentucky's hazardous waste management fund.
401 KAR 39:060, Section 5(3) .....	Kentucky is broader in scope than the federal program at 40 CFR part 124 by requiring the permit applicant to reimburse the Cabinet for the costs of newspaper advertisements, duplication, and postage for public notices or distributions to a mailing list.
401 KAR 39:060, Sections 5(8) and (9)	Kentucky is broader in scope than the federal program at 40 CFR parts 124 and 270 by requiring additional approvals and determinations prior to the granting of a permit.
401 KAR 39:060, Section 5(14) .....	Kentucky is broader in scope than the federal program at 40 CFR 270.10 by requiring the permit applicant to submit additional background and compliance information.
401 KAR 39:060, Sections 5(15) and (16).	Kentucky is broader in scope than the federal program at 40 CFR 270.14(b)(11) and 264.18 by requiring the permit applicant to evaluate surface and subsurface topography for solution or karst terrain and by requiring the submittal of liner test data.
401 KAR 39:060, Section 6(16) .....	Kentucky is broader in scope than the federal program by requiring permit applicants to pay certain fees.
401 KAR 39:080, Sections 1(7)(a)2.–3. and (7)(b).	Kentucky is broader in scope than the federal program by requiring generators to receive written approval from the Cabinet prior to treating hazardous waste on site.
401 KAR 39:080, Section 1(8)(b) .....	Kentucky is broader in scope than the federal program by requiring additional reporting to local county governments by generators.



TABLE 4—Continued

Kentucky broader in scope provisions	Explanation
401 KAR 39:090, Section 6 .....	The additional chemical demilitarization requirements for Kentucky-specific listed wastes are broader in scope than the federal program.
401 KAR 39:090, Sections 8(2), 8(4)(b), and 8(5)(b).	Although the additional corrective action requirements at 401 KAR 39:090, Section 8, are more stringent, the fee provisions included in those requirements are broader in scope than the federal program.
401 KAR 39:090, Section 8(8) .....	Kentucky is broader in scope than the federal program at 40 CFR 264.113 by requiring facilities to close if they are not operated for six months.

The Kentucky hazardous waste regulations also include several additional provisions that, although relevant to the State’s implementation of its program, are outside the scope of authorization and are therefore not listed above. These provisions include the following: 401 KAR 39:060, Section 1; 401 KAR 39:060, Section 3(8); 401 KAR 39:060, Sections 5(2), (4)–(5), and (10); 401 KAR 39:060, Sections 6(2)–(9), (13)–(15), and (17)–(25); 401 KAR 39:060, Section 7; 401 KAR 39:080, Section 1(12); 401 KAR 39:080, Section 4(6) (to the extent this section incorporates U.S. Department of Transportation regulations) and (8)–(9); 401 KAR 39:080, Sections 5(2)–(5); 401 KAR 39:080, Section 6; 401 KAR 39:090, Section 7(10); 401 KAR 39:090, Sections 9(3)–(13), (18)–(22), and (24). In addition, the entirety of 401 KAR 39:120, which includes fee provisions and permit review and determination timetables, is either broader in scope or outside the scope of this authorization.

EPA cannot delegate certain federal requirements associated with the land disposal restrictions at 40 CFR 268.5, 268.13, 268.40(b), 268.42(b), and 268.44(a)–(g). Kentucky has properly adopted these requirements and appropriately preserved the EPA’s authority to implement them (see 401 KAR 39:060, Section 4, and 401 KAR 39:005, Section 1(2)(b)).

EPA cannot delegate certain federal requirements associated with the federal manifest registry system, the electronic manifest system, and international shipments (*i.e.*, import and export provisions). Kentucky has adopted these requirements and appropriately preserved the EPA’s authority to implement them (see 401 KAR 39:005, Section 1(2), (23), and (58)).

**H. Who handles permits after the final authorization takes effect?**

Kentucky 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

authorization until the State incorporates equivalent conditions from the federal permits into the State permits and the federal permits are terminated or expire. EPA will not issue any new permits or new portions of permits for the provisions listed in Table 1 above after the effective date of the final authorization. EPA will implement and issue permits for any future HSWA requirements for which Kentucky is not yet authorized until Kentucky adopts and becomes authorized for those requirements.

**I. What is codification and will EPA codify Kentucky’s hazardous waste program as proposed 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 proposing to codify the authorization of Kentucky’s changes at this time. However, EPA reserves the amendment of 40 CFR part 272, subpart S, for the authorization of Kentucky’s program changes at a later date.

**J. Statutory and Executive Order Reviews**

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). This action proposes to authorize State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB. This action is not an Executive Order 13771 (82 FR 9339, February 3, 2017) regulatory action because actions such as today’s proposed authorization of Kentucky’s revised hazardous waste program under RCRA are exempted under Executive Order 12866. 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 proposes to authorize 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 (2 U.S.C. 1531–1538). 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 proposes to authorize 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 action 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 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 proposing 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 this action 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 action 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 action proposes authorization of 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, this proposed rule is not subject to Executive Order 12898.

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

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, 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 30, 2018.

**Onis Glenn, III,**

*Regional Administrator, Region 4.*

[FR Doc. 2018-20533 Filed 9-20-18; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

#### 48 CFR Parts 232, 242, and 252

[Docket DARS-2018-0042]

RIN 0750-AJ28

#### Performance-Based Payments and Progress Payments (DFARS Case 2017-D019)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Announcement of public meeting.

**SUMMARY:** DoD is hosting a public meeting on October 10, 2018, to obtain views of experts and interested parties in Government and the private sector regarding revising policies and procedures with regard to customary progress payment rates and maximum performance-based payment rates for DoD contracts.

**DATES:** *Comment date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before October 23, 2018, to be considered in the formation of a final rule.

*Public meeting date:* The public meeting will be held on October 10, 2018, from 9 a.m. to 12 p.m., EST. Registration to attend this meeting must be received by October 4, 2018, at 12 p.m., EST. Further information for the public meeting may be found under the heading **SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** *Public meeting:* The public meeting will be held at the Mark Center Auditorium, 4800 Mark Center Drive, Alexandria, VA 22350-3603. The Mark Center Auditorium is located on level B-1 of the building.

*Submission of comments:* Submit comments identified by DFARS Case 2017-D019, using any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Search for “DFARS Case 2017-D019.” Select “Comment Now” and follow the instructions provided to submit a comment. Please include “DFARS Case 2017-D019” on any attached documents.

- *Email:* [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil). Include DFARS Case 2017-D019 in the subject line of the message.

- *Fax:* 571-372-6094.

- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy G. Williams, OUSD(A&S)DPC/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301-3060.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided. To confirm receipt of your comment(s), please check [www.regulations.gov](http://www.regulations.gov), approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, DPC/DARS, at 571-372-6106.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 24, 2018, DoD published a proposed rule in the **Federal Register** at 83 FR 42831 to implement section 831 of the National Defense Authorization Act for Fiscal Year 2017, which addresses the preference for performance-based payments, and to streamline the performance-based payment process. DoD is also proposing to amend the Defense Federal Acquisition Regulation Supplement to revise progress payments and performance-based payments policies for DoD contracts in order to increase its business effectiveness and efficiency as well as to provide an opportunity for both small and other than small entities to qualify for increased customary progress payment rates and maximum performance-based payment rates based on whether the offeror/contractor has met certain performance criteria.

##### II. Public Meeting

DoD is hosting a public meeting on October 10, 2018, to obtain views of experts and interested parties in Government and the private sector regarding revising policies and procedures with regard to customary progress payment rates and maximum performance-based payment rates for DoD contracts.

*Registration:* To ensure adequate room accommodations and to facilitate security screening and entry to the Mark Center, individuals wishing to attend the public meeting must register by 12 p.m., EST, on October 4, 2018, by sending the following information via email to [osd.dfars@mail.mil](mailto:osd.dfars@mail.mil):

(1) Company or organization name.

(2) Full name, valid email address, and telephone number of each person planning to attend, and whether the individual is a U.S. citizen.

(3) Name, title, organizational affiliation of presenter, if desiring to make a presentation, limited to a 5-minute presentation per company or organization. This limitation may be subject to adjustment, depending on the