United States
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Agency

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Solid Waste and Emergency Response

EPA

Passing the Torch
Streamlined State Authorization

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EPA has proposed to streamline the state authorization procedures for the RCRA Subtitle C hazardous waste program. These procedures will continue to reinvent environmental regulations by:

- Making the authorization process quicker and more efficient
- Reducing the administrative burden
- Encouraging partnerships and trust between states and EPA
- Providing states the flexibility to implement rules that suit their unique needs

What Is State Authorization?

State authorization is a rulemaking process through which EPA delegates the primary responsibility of implementing the RCRA hazardous waste program to individual states in lieu of EPA. This process ensures national consistency and minimum standards while providing flexibility to states in implementing rules. Currently, 49 states and territories have been granted authority to implement the base, or initial, program. Many also are authorized to implement additional parts of the RCRA program that EPA has since promulgated, such as Corrective Action and the Land Disposal Restrictions. State RCRA programs must always be at least as stringent as the federal requirements, but states can adopt more stringent requirements as well.

rule that outlines new procedures for determining whether waste at cleanup sites is hazardous. For category 2 applications, states submit:

- A certification by the state Attorney General that the laws and regulations of the state provide the authority to implement a program equivalent to the federal program.
- A certification by the state program director that the state has the capability to implement an equivalent program.
- An update of the state/EPA Memorandum of Agreement and/or state program description, if necessary.
- Copies of all applicable state laws and regulations showing that such laws and regulations are fully effective.
- Any additional information that the state believes is necessary to support the revision application.

Once EPA receives the state's application, the Agency has 30 days to determine whether it is complete. Next, EPA has 60 days to examine the application to confirm that the state rules are equivalent to EPA's and publish a *Federal Register* notice requesting public comment. If no significant adverse comments are received, the state rule will become final 60 days from publication.

For More Information

Category 1 procedures were described in the **Phase IV Land Disposal Restrictions (LDRs) Proposed Rule** (60 *FR* 43654, August 22, 1995); Category 2 procedures were described in the **Requirements for Management of Hazardous Contaminated Media** (HWIR-media) proposed rule (61 FR 18780). The public comment period ends on July 29, 1996. After considering public comments, EPA will finalize these procedures.

To obtain more information call the RCRA Hotline at 800 424-9346 (TDD 800 553-7672). In the Washington, DC, area, call the Hotline at 703 412-9810 or TDD 703 412-3323.

Summary Of The Streamlining Proposals

For future RCRA rules, EPA has proposed replacing the current authorization process with two different procedures to authorize states for new EPA rules:

Category 1 Procedures (for Minor Changes)

EPA believes that the current state authorization procedures are too extensive for routine and minor rule changes, particularly when state authorization promotes an environmental benefit. EPA proposed a more efficient and appropriate process for rules or parts of rules that do not change the basic structure of the state's program or expand the scope of the RCRA regulations. Examples include new or revised waste treatment standards, regulation of new wastes, regulatory improvements, and technical corrections. Category 1 procedures are proposed as follows:

- States certify that existing state statutes and regulations are equivalent to and not less stringent than the analogous federal provisions. The state certifications include citations to specific statutes, administrative regulations, and any relevant judicial decisions. Additionally, the certification must show that the appropriate state laws are adopted and fully effective.
- If the state certification is complete, EPA has 60 days from submission to make a tentative decision and publish a notice in the *Federal Register* to provide an opportunity for public comment. Unless significant adverse comments are received by EPA, the authorization will be effective 60 days from the *Federal Register* notice.

Category 2 Procedures (for Significant Changes)

For rules that make significant changes to the RCRA program, EPA proposed a slightly more extensive authorization approach. This process would be appropriate for rules or portions of rules that address areas not previously covered by an authorized state program or that substantially change the nature of a program. An example is the proposed HWIR-media

Why Is EPA Proposing To Streamline the Authorization Process?

Since EPA regularly amends the RCRA regulations to implement statutory provisions, regulatory improvements, and evolving science and technology, states must continually revise their regulations and submit authorization applications to EPA for review and approval. Under the existing procedures, all applications for revisions to authorized state programs, including minor or routine changes, are subject to the same requirements and receive the same level of EPA scrutiny. The preparation and review of these program revisions require a significant resource commitment for both EPA and the states.

EPA is seeking to improve the authorization process by proposing new streamlined procedures for these state revisions. These proposed procedures are designed to make the process quicker and more efficient. They also will help reduce the amount of resources needed for preparing and processing authorization applications and enable states to implement additional parts of the RCRA program more quickly.

Under the current system, delays often occur in preparing and reviewing state applications. Because EPA continues to administer certain rules until a state is authorized and because authorization does lag behind state adoption of EPA rules, there are instances when both the state and EPA are administering the RCRA program at the same time. This situation can confuse the public and the regulated community, and can cause regulatory duplication. Other EPA rules do not go into effect until a state adopts and becomes authorized for them.

EPA also recognizes that many states have sophisticated and highly developed programs for hazardous waste management and cleanup designed to meet their individual circumstances and priorities. The proposed streamlined procedures acknowledge that state programs do not have to be exactly the same as the federal program to be as protective of human health and the environment.