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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 271**

[FRL-7888-3]

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

**SUMMARY:** North Carolina 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 North Carolina's changes to their 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 May 23, 2005, unless EPA receives adverse written comment by April 22, 2005. If EPA receives such comment, 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:** Send written comments to Thornell Cheeks, North Carolina Authorizations Coordinator, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303-3104; (404) 562-8479. You may also e-mail your comments to [Cheeks.Thornell@epa.gov](mailto:Cheeks.Thornell@epa.gov) or submit your comments at <http://www.regulation.gov>. Copies of North Carolina's applications may be viewed from 9 a.m. to 4 p.m. at the following addresses: North Carolina Department of

Environment and Natural Resources, 401 Oberlin Rd., Suite 150, Raleigh, North Carolina 29201, (919) 733-2178; and EPA Region 4, Atlanta Federal Center, Library, 61 Forsyth Street, SW., Atlanta, Georgia 30303; (404) 562-8190, John Wright, Librarian.

**FOR FURTHER INFORMATION CONTACT:**

Thornell Cheeks, North Carolina Authorizations Coordinator, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303-3104; (404) 562-8479.

**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 North Carolina's applications to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant North Carolina Final authorization to operate its hazardous waste program with the changes described in the authorization applications. North Carolina 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 North Carolina, 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 North Carolina 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. North Carolina 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 North Carolina 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 North Carolina Previously Been Authorized for?**

North Carolina initially received final authorization on December 14, 1984, effective December 31, 1984 (49 FR 48694) to implement its base hazardous waste management program. We granted authorization for changes on March 25, 1986 (51 FR 10211) effective April 8, 1986, August 5, 1988 (53 FR 1988) effective October 4, 1988, February 9, 1989 (54 FR 6290) effective April 10, 1989, September 22, 1989 (54 FR 38993) effective November 21, 1989, January 18, 1991 (56 FR 1929) effective March 19, 1991, April 10, 1991 (56 FR 14474) effective June 9, 1991, July 19, 1991 (56 FR 33206) effective September 17, 1991, April 27, 1992 (57 FR 15254) effective June 26, 1992, December 12, 1992 (57 FR 59825) effective February 16, 1993, June 3, 1993 (58 FR 31474) effective June 3, 1993, January 27, 1994

(59 FR 3792) effective March 28 1994, April 4, 1994 (59 FR 15633) effective June 3, 1994, June 23, 1994 (59 FR 32378) effective August 22, 1994, November 10, 1994 (59 FR 56000) effective January 9, 1995, September 27, 1995 (60 FR 49800) effective November 27, 1995, April 25, 1996 (61 FR 18284) effective June 24, 1996, October 23, 1998 (63 FR 56834) effective December 22, 1998, August 25 1999 (64 FR 46298) effective October 25, 1999, and February 28, 2002 (67 FR 9219) effective April 29, 2002. North Carolina most recently received authorization for revisions to its program on February 14, 2005 (69 FR 74444).]

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

On November 29, 2004 and January 31, 2005 North Carolina submitted final complete program revision applications, seeking authorization of their changes in accordance with 40 CFR 271.21. North Carolina's revisions consists of provisions promulgated July 1, 2000 through June 30, 2001 (RCRA XI); July

1, 2001 through June 30, 2002, (RCRA XII); July 1, 2002 through June 30, 2003 (RCRA XIII) and July 1, 2003 through June 30, 2004 otherwise known as RCRA XIV. The rule adoption for the provisions of RCRA XI, and XII covered in this action became effective April 10, 2003. The rule adoption for the provisions of RCRA XIII and XIV covered in this action became effective August 10, 2004 unless otherwise noted. North Carolina Statutes at section 150B-21.6 and section 130A-294 allow the North Carolina Department of Environment and Natural Resources to administer the rules governing hazardous waste management. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that North Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for Final authorization. Therefore, we grant North Carolina Final authorization for the following program changes:

Federal requirements	Federal Register	Analogous state authority <sup>1</sup>
Hazardous Air Pollutant Standards: Technical Corrections; Checklist 188, RCRA Cluster XI, Non-HSWA Provision.	65 FR 42292-42302 ..... July 10, 2000 as amended May 14, 2001 66 FR 24270-24272 and July 3, 2001 66 FR 35087-35107	15A NCAC 13A.0106(d), 15A NCAC 13A.0109(q), 15A NCAC 13A.0113(g).
Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes; Checklist 189, RCRA Cluster XI, HSWA Provision.	65 FR 67068-67133 ..... November 8, 2000	15A NCAC 13A.0106(d), 15A NCAC 13A.0106(e), 15A NCAC 13A.0112(b), 15A NCAC 13A.0112(c), 15A NCAC 13A.0112(b), 15A NCAC 13A.0112(c), 15A NCAC 13A.0112(e), 15A NCAC 13A.0111(f).
Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil; Checklist 190, RCRA Cluster XI, HSWA Provision.	65 FR 81373-81381 ..... December 26, 2000	15A NCAC 13A.0112(b), 15A NCAC 13A.0112(c), 15A NCAC 13A.0112(e).
Mixed Waste Rule; Checklist 191, RCRA Cluster XI, HSWA and Non-HSWA Provision.	66 FR 27218-27266 ..... May 16, 2001	15A NCAC 13A.0111(f).
Mixture and Derived-From Rules Revisions; Checklist 192 A, RCRA Cluster XI, HSWA and Non-HSWA Provision.	66 FR 27266-27297 ..... May 16, 2001	15A NCAC 13A.0106(a).
Land Disposal Restrictions Correction; Checklist 192B, RCRA Cluster XI, HSWA.	66 FR 27266-27297 ..... May 16, 2001	15A NCAC 13A.0112(e).
Change of Official EPA Mailing Address; Checklist 193, RCRA Cluster XI, HSWA/non-HSWA.	66 FR 34374-34376 ..... June 28, 2001	15A NCAC 13A.0101(e).
Mixture and Derived-From Rules Revision II; Checklist 194, RCRA XII, HSWA/Non-HSWA.	66 FR 50332-50334 ..... October 3, 2001	15A NCAC 13A.0106(a).
Inorganic Chemical Manufacturing Wastes Identification and Listing; Checklist 195, RCRA XII, HSWA/Non-HSWA.	66 FR 58258-58300 ..... November 20, 2001	15A NCAC 13A.0106(a), 15A NCAC 13A.0106(d), 15A NCAC 13A.0106(e), 15A NCAC 13A.0112(b), 15A NCAC 13A.0112(c), 15A NCAC 13A.0112(b), 15A NCAC 13A.0109(s).
CAMU Amendments; Checklist 196, RCRA XII, HSWA Provision.	67 FR 2962-3029 ..... January 22, 2002	15A NCAC 13A.0109(q), 15A NCAC 13A.0110(o), 15A NCAC 13A.0111(d), 15A NCAC 13A.0113(b), 15A NCAC 13A.0113(i), 15A NCAC 13A.0113(k).
Hazardous Air Pollutant Standards for Combusters; Interim Standards; Checklist 197, RCRA XII, HSWA/non-HSWA Provision.	67 FR 6792-6818 ..... February 13, 2002	15A NCAC 13A.0109(q), 15A NCAC 13A.0110(o), 15A NCAC 13A.0111(d), 15A NCAC 13A.0113(b), 15A NCAC 13A.0113(i), 15A NCAC 13A.0113(k).
Hazardous Air Pollutant Standards for Combusters; Corrections; Checklist 198, RCRA XII, HSWA/non-HSWA Provision.	67 FR 6968-6996 ..... February 14, 2002	15A NCAC 13A.0111(d), 15A NCAC 13A.0113(g).

Federal requirements	Federal Register	Analogous state authority <sup>1</sup>
Vacatur of Mineral Processing Spent Materials being Reclaimed as Solid Wastes and TCLP Use with MGP Waste; Checklist 199, RCRA XII, HSWA/non-HSWA Provision.	67 FR 11251–11254 ..... March 13, 2002	15A NCAC 13A.0106(a), 15A NCAC 13A.0106(c).
Zinc Fertilizer Rule; Checklist 200, RCRA XIII, HSWA/Non-HSWA.	67 FR 48393–48415 ..... July 24, 2002	15A NCAC 13A.0106(a), 15A NCAC 13A.0111(a), 15A NCAC 13A.0112(c).
Treatment Variance for Radioactivity; Checklist 201, RCRA XIII, HSWA Provision.	67 FR 62618–62624 ..... October 7, 2002	15A NCAC 13A.0112(c).
Hazardous Air Pollutant Standards for Combustor—Corrections 2; Checklist 202, RCRA XIII, HSWA Provision.	67 FR 77687–77692 ..... December 19, 2002	15A NCAC 13A.0113(b), 15A NCAC 13A.0113(i).
Recycled Used Oil Management Standards; Clarification; Checklist 203, RCRA XIV, Non-HSWA Provision.	68 FR 44659–44665 ..... July 30, 2003	15A NCAC 13A.0107(c).
Performance Track; Checklist 204, RCRA XIV, Non-HSWA Provision.	69 FR 21737–21754 ..... April 22, 2004 69 FR 62217 October 25, 2004	15A NCAC 13A.0106(a), 15A NCAC 13A.0118(b), 15A NCAC 13A.0118(h).
NESHAP: Surface Coating of Automobiles and Light Duty Trucks; Checklist 205, RCRA XIV, Non-HSWA Provision.	69 FR 22601–22661 ..... April 26, 2004	15A NCAC 13A.0109(w), 15A NCAC 13A.0110(t).

<sup>1</sup> The North Carolina provisions for RCRA 11 and 12 are from the North Carolina Hazardous Waste Management Rules 15A NCAC 13A, dated April 10, 2003, unless otherwise stated. North Carolina provisions for RCRA 13 and 14 are from the North Carolina Hazardous Waste Rules 15A NCAC 13A dated August 10, 2004 unless otherwise stated.

#### 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?

North Carolina 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. 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 North Carolina is not yet authorized.

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

North Carolina is authorized to carry out its hazardous waste program in Indian Country within the State, which includes the Cherokee Indian Nation. Therefore, this action has no effect on Indian Country. EPA will continue to implement and administer the RCRA program in these lands.

#### K. What Is Codification and Is EPA Codifying North Carolina'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 II for this authorization of North Carolina'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 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship

between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" 66 FR 28355, May 22, 2001 because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) 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 May 23, 2005.

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

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

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

Dated: March 10, 2005.

**A. Stanley Meiburg,**

*Deputy Regional Administrator, Region 4.*

[FR Doc. 05-5722 Filed 3-22-05; 8:45 am]

**BILLING CODE 6560-50-P**

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 105

[GSPMR Amendment 2005-01; GSPMR Case 2004-105-1]

#### General Services Administration Property Management Regulations; Privacy Act of 1974; New System of Records Exemption

**AGENCY:** Office of Inspector General, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The GSA Office of Inspector General (OIG) is publishing a final rule amending the General Services Administration Property Management Regulation (GSPMR) to exempt the new system of records, Internal Evaluation Case Files (GSA/ADM-25), from certain information disclosure provisions. Due to the law enforcement nature of the records, a rule amendment is required in order to invoke the relevant exemptions under the Privacy Act of 1974, as amended (5 U.S.C 552a). The exemption will assist the OIG to efficiently and effectively perform internal investigations and other authorized duties and activities.

**DATES:** March 23, 2005.

**FOR FURTHER INFORMATION CONTACT:** GSA Privacy Act Officer, General Services Administration, Office of the Chief People Officer, 1800 F Street NW, Washington DC 20405; telephone (202) 501-1452.

**ADDRESSES:** Any correspondence relating to this rule amendment should be submitted to the Office of Counsel to the Inspector General (JC), Office of Inspector General, General Services Administration, 1800 F Street NW, Washington DC 20405.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

In the December 29, 2004, issue of the **Federal Register**, an OIG notice was published proposing the establishment of the new system of records "Internal Evaluation Case Files," (GSA/ADM-25), under the Privacy Act, as amended, 5 U.S.C. 552a. An amendment to GSPMR 105-64.6 (41 CFR 105-64.6) is necessary to exempt that system of records from the provisions of the Act that require, among other things, that the OIG provide notice when collecting information, account for certain disclosures, permit individuals access to their records, and allow them to request that the records be amended. These provisions would interfere with the conduct of OIG internal investigations if

applied to the OIG's maintenance of the proposed system of records.

Accordingly, the OIG exempts the system of records under sections (j)(2) and (k)(2) of the Privacy Act. Section (j)(2), 5 U.S.C. 552a(j)(2), exempts a system of records maintained by "the agency or component thereof which performs as its principal function any activity pertaining to enforcement of criminal laws . . ." Section (k)(2), 5 U.S.C. § 552a(k)(2), exempts a system of records consisting of "investigatory materials compiled for law enforcement purposes," where such materials are not within the scope of the (j)(2) exemption pertaining to criminal law enforcement.

Where applicable, section (j)(2) may be invoked to exempt a system of records from any Privacy Act provision except: 5 U.S.C. 552a(b) (conditions of disclosure); (c) (1) and (2) (accounting of disclosures and retention of accounting, respectively); (e)(4) (A) through (F) (system notice requirements); (e) (6), (7), (9), (10), and (11) (certain agency requirements relating to system maintenance); and (i) (criminal penalties). Section (k)(2) may be invoked to exempt a system of records from 5 U.S.C. 552a(c)(3) (making accounting of disclosures available to the subject individual); (d) (access to records); (e)(1) (G), (H) and (I) (notice of certain procedures); and (f) (promulgation of certain Privacy Act rules).

The system of records consists of information covered by the (j)(2) and (k)(2) exemptions. The OIG internal evaluation case files are maintained pursuant to official investigatory and law enforcement functions of the OIG under the authority of the Inspector General Act of 1978, Public Law 95-452, 5 U.S.C. App. 3 (1978). Furthermore, the OIG constitutes a GSA component that performs as one of its principal functions activities pertaining to the enforcement of criminal laws, see 5 U.S.C. 552a(j)(2). Information covered under the (j)(2) exemption includes, but is not limited to, information compiled for the purpose of identifying criminal offenders and alleged offenders and consisting of identifying data and notations of arrests, and the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; information compiled for the purpose of a criminal investigation, including reports of informants and investigators, that is associated with an identifiable individual; or reports of enforcement of the criminal laws from arrest or indictment through release from supervision. Information contained in OIG complaint and investigative files