

US EPA ARCHIVE DOCUMENT

development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.” This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any “tribal implications” as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.” This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

#### **XI. Submission to Congress and the Comptroller General**

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 rule 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 of this final rule in the **Federal Register**. This final

rule is not a “major rule” as defined by 5 U.S.C. 804(2).

#### **List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 20, 2002.

**Janet L. Andersen,**  
*Director, Biopesticides and Pollution Prevention Division.*

Therefore, 40 CFR chapter I is amended as follows:

#### **PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.1197 is revised to read as follows:

#### **§ 180.1197 Hydrogen peroxide; exemption from the requirement of a tolerance.**

An exemption from the requirement of a tolerance is established for residues of hydrogen peroxide in or on all post-harvest food commodities at the rate of ≤ 1% hydrogen peroxide per application.

[FR Doc. 02-4791 Filed 2-27-02; 8:45 am]

**BILLING CODE 6560-50-S**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 271**

[FRL-7150-6]

#### **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 April 29, 2002 unless EPA receives adverse written comment by April 1, 2002. 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 Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW Atlanta, GA, 30303-3104; (404) 562-8440. You can view and copy North Carolina’s application from 9 a.m. to 4 p.m. at the following addresses: North Carolina Department of Environment, Health and Natural Resources, P.O. Box 27687, 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.

**FOR FURTHER INFORMATION CONTACT:** Narindar Kumar, Chief RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA, 30303-3104; (404) 562-8440.

#### **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 application 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 application. 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. North Carolina most recently received authorization for revisions to its program on August 25, 1999 (64 FR 46298) effective October 25, 1999.

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

On April 05, 2000, North Carolina submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that North Carolina's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant North Carolina Final authorization for the following program changes:

Federal requirement	Federal Register	Analogous state authority <sup>1</sup>
Military Munitions Rule: Hazardous Waste Identification and Management; Explosive Emergencies; Manifest Exemptions for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties Checklist 156.	02/12/1997 ..... 62 FR 6622	NCGS § 130A-294(c)(1), NCGS § 130A-294(c)(2), NCGS § 130A-294(c)(5), NCGS § 130A-294(c)(6), NCGS § 130A-294(c)(7), NCGS § 130A-294(c)(14), NCGS § 130A-294(c)(15), NCGS § 130A-294(d), NCGS § 150B-21.6, 15A NCAC 13A.0102(b), 15A NCAC 13A.0106(a), 15A NCAC 13A.0107(a), 15A NCAC 13A.0107(b), 15A NCAC 13A.0108(a), 15A NCAC 13A.0109(b), 15A NCAC 13A.0109(f), 15A NCAC 13A.0109(z), 15A NCAC 13A.0110(a), 15A NCAC 13A.0110(e), 15A NCAC 13A.0110(w), 15A NCAC 13A.0111(e), 15A NCAC 13A.0113(a), 15A NCAC 13A.0113(g).
Land Disposal Restrictions Phase III Emergency Extension of the K088 National Variance, Amendment Checklist 160.	07/14/1997 ..... 52 FR 37699	15A NCAC 13A.0112(b).

Federal requirement	Federal Register	Analogous state authority <sup>1</sup>
Emergency Revision of the Carbamate Land Disposal Restrictions Checklist 161.	08/28/1997 ..... 62 FR 45568	15A NCAC 13A.0112(c).
Clarification of Standards for Hazardous Waste LDR Treatment Variances; Checklist 162.	12/05/1997 ..... 62 FR 64504	15A NCAC 13A.0112(c).
Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment; Checklist 163.	12/08/1997 ..... 62 FR 64636	15A NCAC 13A.0109(c),15A NCAC 13A.0109(f),15A NCAC 13A.0109(v),15A NCAC 13A.0109(w),15A NCAC 13A.0109(x),15A NCAC 13A.0110(b),15A NCAC 13A.0110(e),15A NCAC 13A.0110(s),15A NCAC 13A.0110(t),15A NCAC 13A.0110(u),15A NCAC 13A.0113(b).
Kraft Mill Steam Stripper Condensate Exclusion; Checklist 164.	04/15/1998 ..... 63 FR 18504	15A NCAC 13A.0106(a).
Recycled Used Oil Management Standards; Technical Corrections and Clarification; Checklist 166.	05/06/1998 ..... 63 FR 24963	15A NCAC 13A.0106(a),15A NCAC 13A.0118(b),15A NCAC 13A.0118(c),15A NCAC 13A.0118(e),15A NCAC 13A.0118(f),15A NCAC 13A.0118(g),15A NCAC 13A.0118(h).
Land Disposal Restrictions Phase IV Treatment Standards for Metal Wastes and Mineral Processing Wastes; Checklist 167A.	05/26/1998 ..... 63 FR 28556	NCGS § 130A–294(c)(7), NCGS § 130A–294(c)(15),NCGS § 130A–294(h)(2),NCGS § 150B–21.6,15A NCAC 13A.0112(a),15A NCAC 13A.0112(b),15A NCAC 13A.0112(c).
Land Disposal Restrictions Phase IV Corrections; Checklist 167C.	05/26/1998 ..... 63 FR 28556	NCGS § 130A–294(c)(7),NCGS § 130A–294(c)(15),NCGS § 130A–294(h)(2),NCGS § 150B–21.6,15A NCAC 13A.0112(a),15A NCAC 13A.0112(c),15A NCAC 13A.0112(e).
Mineral Processing Secondary Materials Exclusion; Checklist 167D.	05/26/1998 ..... 63 FR 28556	NCGS § 130A–294(c)(1),CGS § 130A–294(c)(15), NCGS § 150B–21.6,15A NCAC 13A.0106(a).
Bevill Exclusion Revisions and Clarifications; Checklist 167E.	05/26/1998 ..... 63 FR 28556	NCGS § 130A–294(c)(1),NCGS § 130A–294(c)(15),NCGS § 150B–21.6,15A NCAC 13A.0106(a).
Exclusion of Recycled Wood Preserving Wastewaters ....	05/26/1998 ..... 63 FR 28556	NCGS § 130A–294(c)(1),NCGS § 130A–294(c)(15),NCGS § 150B–21.6,15A NCAC 13A.0106(a).

<sup>1</sup> The North Carolina provisions are from the North Carolina Hazardous Waste Management Rules, 15A NCAC 13A, April 1, 1999, unless otherwise stated.

**H. 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. At the time the State Program is approved in the new areas, EPA will suspend issuance of Federal permits in the State and terminate those Federal permits issued pursuant to 40 CFR 124.5 and 271.8 upon effectiveness of equivalent state permit conditions. EPA will also transfer any pending permit applications, completed permits, or pertinent file information to the State within thirty (30) days of the approval of the State Program in conformance with the conditions of this agreement. 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.

**I. 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 PP for this authorization of North Carolina’s program until a later date.

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

North Carolina has not requested authorization to carry out its hazardous waste program in Indian Country within the State, which includes the Cherokee Indian Nation, and therefore is not authorized to carry out its hazardous waste program in Indian Country within the State. As a result, this action has no effect on Indian Country. EPA will continue to implement and administer the RCRA program in these lands.

**K. 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 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order

13175. 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 April 29, 2002.

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

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

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

Dated: September 18, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region IV.*

[FR Doc. 02-4644 Filed 2-27-02; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 32

[CC Docket Nos. 00-199, 97-212, and 80-286; FCC 01-305]

### 2000 Biennial Regulatory Review—Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** On February 6, 2002, the Commission published a final rule document which consolidated and streamlined Class A accounting requirements; relaxed certain aspects of the affiliate transactions rules; significantly reduced the accounting and reporting rules for mid-sized carriers; and reduced the ARMIS reporting requirements for both large and mid-sized incumbent local exchange carriers (LECs). This document corrects that rule by redesignating the paragraphs of § 32.5200.

**DATES:** Effective February 28, 2002.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, TW-A325, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Tim Peterson, Deputy Division Chief, Accounting Safeguards Division, Common Carrier Bureau, at (202) 418-1575 or Mika Savir, Accounting Safeguards Division, Common Carrier Bureau, Legal Branch, at (202) 418-0384. For additional information concerning the information collections in this document, contact Judy Boley at (202) 418-0214, or via the Internet at [jboley@fcc.gov](mailto:jboley@fcc.gov).

**SUPPLEMENTARY INFORMATION:** On February 6, 2001 the **Federal Register** published a summary of the Commission's Report and Order adopted October 11, 2001 and released November 5, 2001, along with final rules adopted by the Commission. In § 32.5200 of the final rules, paragraphs (j), (k), and (l) were incorrectly listed as (k), (l), and (m). This document corrects that error by redesignating those paragraphs as (j), (k), and (l).

The rule published on February 6, 2002 at 67 FR 5670, is corrected as follows:

On page 5693, in the third column, in § 32.5200, redesignate paragraphs (k), (l), and (m) as paragraphs (j), (k), and (l).

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 02-4861 Filed 2-27-02; 8:45 am]

**BILLING CODE 6712-01-P**