

Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice 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: April 4, 1996.

John H. Hankinson, Jr.,
Regional Administrator.

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40 CFR Part 271

[FRL-5459-1]

North Carolina; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: North Carolina has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). North Carolina's revisions consist of the provisions contained in rules promulgated between July 1, 1993, and June 30, 1994, otherwise known as RCRA Cluster IV. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed North Carolina's application and has made a decision, subject to public review and comment, that North Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve North Carolina's hazardous waste program revisions. North Carolina's application for program revisions is available for public review and comment.

DATES: Final authorization for North Carolina's program revisions shall be effective June 24, 1996, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on North Carolina's

program revision application must be received by the close of business, May 28, 1996.

ADDRESSES: Copies of North Carolina's program revision application are available during normal business hours at the following addresses for inspection and copying: North Carolina Department of Environment, Health, and Natural Resources, P.O. Box 27687, Raleigh, North Carolina 27611-7687; U.S. EPA Region 4, Library, 345 Courtland Street, NE, Atlanta, Georgia 30365; (404) 347-4216. Written comments should be sent to Al Hanke at the address listed below.

FOR FURTHER INFORMATION CONTACT: Al Hanke, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365; (404) 347-2234.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program.

In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260-268 and 124 and 270.

B. North Carolina

North Carolina initially received final authorization for its base RCRA program effective on December 31, 1984, (49 FR 48694). North Carolina most recently received final authorization effective November 27, 1995, for the provisions of RCRA Cluster III. Today, North Carolina is seeking approval of additional program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed North Carolina's application and has made an immediate final decision that North Carolina's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to North Carolina. The public may submit written comments on EPA's immediate final decision up until May 28, 1996.

Copies of North Carolina's application for these program revisions are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

Approval of North Carolina's program revisions shall become effective June 24, 1996, unless an adverse comment pertaining to the State's revisions discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

North Carolina is today seeking authority to administer the following Federal requirements promulgated between July 1, 1993, and June 30, 1994.

Federal requirement	HSWA or FR reference	Promulgation	State authority
CHECKLIST 125 Boilers and Industrial Furnaces; Changes for Consistency with New Air Regulations.	58 FR 38816	July 20, 1993	N.C.G.S. 130A-294(c)(1) N.C.G.S. 130A-294(c)(7) N.C.G.S. 130A-294(c)(15) N.C.G.S. 150B-21.6 15A NCAC 13A.0001(e) 15A NCAC 13A.0011(e) 15A NCAC 13A.0011(f)
CHECKLIST 126 Testing and Monitoring Activities	58 FR 46040	Aug. 31, 1993	N.C.G.S. 130A-294(c)(1) N.C.G.S. 130A-294(c)(1a) N.C.G.S. 130A-294(c)(2) N.C.G.S. 130A-294(c)(7) N.C.G.S. 130A-294(c)(14) N.C.G.S. 130A-294(c)(15) N.C.G.S. 150B-21.6 15A NCAC 13A.0001(e) 15A NCAC 13A.0003(b) 15A NCAC 13A.0006(c) 15A NCAC 13A.0006(e) 15A NCAC 13A.0009(k) 15A NCAC 13A.0009(o) 15A NCAC 13A.0010(n) 15A NCAC 13A.0010(j) 15A NCAC 13A.0012(a) 15A NCAC 13A.0012(c) 15A NCAC 13A.0012(e) 15A NCAC 13A.0013(a) 15A NCAC 13A.0013(b) 15A NCAC 13A.0013(i)
CHECKLIST 127 Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Beville Residues.	58 FR 59598	Nov. 9, 1993	N.C.G.S. 130A-294(c)(1) N.C.G.S. 130A-294(c)(7) N.C.G.S. 130A-294(c)(15) N.C.G.S. 150B-21.6 15A NCAC 13A.0011(e) 15A NCAC 13A.0011(f)
CHECKLIST 128 Waste from the use of Chlorophenolic Formulations in Wood Surface Protection.	59 FR 458	Jan. 4, 1994	N.C.G.S. 130A-294(c)(1) N.C.G.S. 130A-294(c)(15) N.C.G.S. 150B-21.6 15A NCAC 13A.0001(e) 15A NCAC 13A.0006(e)
CHECKLIST 129 Revision of Conditional Exemption for Small Scale Treatability Studies.	59 FR 8362	Feb. 18, 1994	N.C.G.S. 130A-294(c)(1) N.C.G.S. 130A-294(c)(15) N.C.G.S. 150B-21.6 15A NCAC 13A.0006(a)
CHECKLIST 130 Recycled Used Oil Management Standards; Technical Amendments and Correction II.	59 FR 10550	Mar. 4, 1994	N.C.G.S. 130A-294(b) N.C.G.S. 130A-294(c)(1) N.C.G.S. 130A-294(c)(15) N.C.G.S. 150B-21.6 15A NCAC 13A.0018(a) 15A NCAC 13A.0018(b) 15A NCAC 13A.0018(c) 15A NCAC 13A.0018(e) 15A NCAC 13A.0018(f) 15A NCAC 13A.0018(g)
CHECKLIST 131 Recordkeeping Instruction: Technical Amendments.	59 FR 13891	Mar. 24, 1994	N.C.G.S. 130A-294(c)(2) N.C.G.S. 130A-294(c)(15) N.C.G.S. 150B-21.6 15A NCAC 13A.0009(y) 15A NCAC 13A.0010(v)
CHECKLIST 132 Wood Surface Protection; Correction	59 FR 28484	June 2, 1994	N.C.G.S. 130A-294(c)(1) N.C.G.S. 130A-294(c)(15) N.C.G.S. 150B-21.6 15A NCAC 13A.0001(e)
CHECKLIST 133 Letter of Credit Revision	59 FR 29958	June 10, 1994	N.C.G.S. 130A-294(c)(7) N.C.G.S. 130A-294(c)(10) N.C.G.S. 130A-294(c)(15) N.C.G.S. 150B-21.6 15A NCAC 13A.0009(i)

Federal requirement	HSWA or FR reference	Promulgation	State authority
CHECKLIST 134 Correction of Beryllium Powder (PO15) Listing	59 FR 31551	June 20, 1994	N.C.G.S. 130A-294(c)(1) N.C.G.S. 130A-294(c)(7) N.C.G.S. 130A-294(c)(15) N.C.G.S. 150B-21.6 15A NCAC 13A.0006(d) 15A NCAC 13A.0006(e) 15A NCAC 13A.0012(c)

C. Decision

I conclude that North Carolina's application for these program revisions meets all of the statutory and regulatory requirements established by RCRA. Accordingly, North Carolina is granted final authorization to operate its hazardous waste program as revised.

North Carolina now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. North Carolina also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law.

Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year. EPA does not anticipate that the approval of North Carolina's hazardous waste program referenced in today's notice will result in annual costs of \$100 million or more.

EPA's approval of state programs generally has a deregulatory effect on the private sector because once it is determined that a state hazardous waste program meets the requirements of RCRA section 3006(b) and the regulations promulgated thereunder at 40 CFR Part 271, owners and operators of hazardous waste treatment, storage, or disposal facilities (TSDFs) may take advantage of the flexibility that an approved state may exercise. Such flexibility will reduce, not increase compliance costs for the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may

own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265, and 270. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs with increased levels of flexibility provided under the approved state program.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of North Carolina's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

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

Authority: This notice 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: April 4, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

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