

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

[FRL-7884-4]

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

**SUMMARY:** Alabama 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 Alabama's changes to its 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 16, 2005, unless EPA receives adverse written comments by April 14, 2005. If EPA receives such comments, 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:** Submit your comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- E-mail: [middlebrooks.gail@epa.gov](mailto:middlebrooks.gail@epa.gov).
- Fax: (404) 562-8439 (prior to faxing, please notify the EPA contact listed below).
- Mail: Send written comments to Gail Middlebrooks at the address listed below.

**Instructions:** Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The Federal [regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity

or contact information unless you provide it in the body of your comments. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit.

You can view and copy Alabama's applications from 8 a.m. to 5 p.m. at the following addresses: Alabama Department of Environmental Management, 1400 Coliseum Blvd., Montgomery, Alabama 36130-1463; (334) 271-7700 and EPA Region 4, Library, 9th Floor, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8190.

**FOR FURTHER INFORMATION CONTACT:** Gail Middlebrooks, RCRA Services Section, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8494.

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

Alabama initially received final authorization on December 8, 1987,

effective December 22, 1987 (52 FR 46466), to implement the RCRA hazardous waste management program. We granted authorization for changes to Alabama's program on November 29, 1991, effective January 28, 1992 (56 FR 60926), May 13, 1992, effective July 12, 1992 (57 FR 20422), October 21, 1992, effective December 21, 1992 (57 FR 47996), March 17, 1993, effective May 17, 1993 (58 FR 20422), September 24, 1993 effective November 23, 1993 (58 FR 49932), February 1, 1994, effective April 4, 1994 (59 FR 4594), November 14, 1994, effective January 13, 1995 (59 FR 56407), August 14, 1995, effective October 13, 1995 (60 FR 41818), February 14, 1996, effective April 15, 1996 (61 FR 5718), April 25, 1996, effective June 24, 1996 (61 FR 5718),

November 21, 1997 effective February 10, 1998 (62 FR 62262), and on December 20, 2000 effective February 20, 2001 (65 FR 79769).

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

On November 17, 2004, Alabama submitted final complete program revision applications, seeking authorization of its changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of comments that oppose this action, that Alabama's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Therefore, we grant final authorization for the following program changes:

Description of Federal requirement (revision checklist)	Federal Register date and page	Analogous state authority <sup>1</sup>
Checklist 160, Land Disposal Restrictions Phase III—Emergency Extension of the KO88 National Capacity Variance, Amendment.	7/14/97 62FR 37694	335-14-9-.03(10).
Checklist 161, Emergency Revision of the Carbamate Land Disposal Restrictions.	8/28/97 62 FR 45568	335-14-9-.04(1), .04(8).
Checklist 162, Clarification of Standards for Hazardous Waste LDR Treatment Variances.	12/5/97 62 FR 64504	335-14-9-.04(5).
Checklist 163, Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment.	12/8/97 62 FR 64636	335-14-5-.05(40)(b)6. 335-14-5-.27(1)(2)(4). 335-14-5-.28(1). 335-14-5-.29(1,3,4,5,6,10,11). 335-14-5-.28(13)(15). 335-14-6-.02(6)(b)4. 335-14-.05(4)(b)6. 335-14-6-.27(1)(4). 335-14-28(11,13,15). 335-14-6-.29 (1-11). 335-14-6—Appendix VI.
Checklist 164, Kraft Mill Steam Stripper Condensate Exclusion .....	4/15/98 63 FR 18504	335-14-2-.01(4)(a)15.
Checklist 165, Organobromine Production Wastes .....	5/14/98 63 FR 24596 6/29/98 63 FR 35147	335-14-2-.04(3). 335-14-2-.04(4)(e). 335-12-2—Appendix VII. 335-14-2—Appendix VIII. 335-14-9-.03(3).
Checklist 166, Recycled Used Oil Management Standards; Technical Correction and Clarification.	5/6/98 63 FR 24963 7/14/98 63 FR 37780	335-14-2-.01(5)(j). 335-1.01(6)(a)3.(iv)(I-III). 335-14-17-.02(1)(i). 335-14-17-.03(3)(d). 335-14-17-.05(6)(h). 335-14-17-.06(5)(g). 335-14-17-.08(5)(b).
Checklist 167A, Land Disposal Restrictions Phase IV—Treatment Standards for metal Wastes and Mineral Processing Wastes.	5/26/98 63 FR 28556	335-14-9-.01(2,3,5). 335-14-9-.04(1)(8).
Checklist 167B, Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions.	5/26/98 63 FR 29556	335-14-9-.01(2)(7). 335-14-9-.04(5)(9).
Checklist 167C, Land Disposal Restrictions Phase IV—Corrections .....	5/26/98 63 FR 28556	335-14-9-.01(4)(7). 335-14-9-.04(1,3,6,8) 335-14-9—Appendix VII and VIII.
Checklist 167D, Mineral Processing Secondary Materials Exclusion .....	5/26/98 63 FR 28556	335-14-2-.01(2)(c)3. 335-14-2-.01(2)(c)4./Table. 335-14-2-.01(2)(e)1.(iii). 335-14-2-.01(4)(a)16. 335-14-2-.01(4)(a)16.(iv). 334-14-8-.04(3)(a)9.(v). 335-14-8-.07(3)(b)8.
Checklist 167E, Bevill Exclusion Revision and Clarifications .....	5/26/98 63 FR 28556	335-14-2-.01(3)(a)2. 335-14-2-.01(4)(b)7.
167F, Exclusion of Recycled Wood Pr Checklist deserving Wastewaters .....	5/26/98 63 FR 28556	335-14-2.01(4)(a)9.(iii).

Description of Federal requirement (revision checklist)	Federal Register date and page	Analogous state authority <sup>1</sup>
Checklist 168, Hazardous Waste Combustors; Revised Standards .....	6/19/98 63 FR 33782	335-14-2-.01(4)(a)16. 335-14-2-.04(9). 335-14-8-.04(3)(a)9.(v). 335-14-8-.07.
Checklist 169, Petroleum Refining Process Wastes .....	8/6/98, 63 FR 42110	335-14-2.01(3)(a)2.(iv). 335-14-2-.01(3)(a)2 (ii)(II,V). 335-14-.01(4)(a)12.(i,ii). 335-14-2-.01(4)(a)18. 335-14-2-.01(4)(a)19. 335-14-2-.01(6)(a)3.(iv)(III). 335-14-2-.04(2)(a). 335-14-2-.04(3). 335-14-2—Appendix VII. 335-14-7-.08(1). 335-14-9-.03(6). 335-14-9-.04(1). 335-14-9-.04(1).
Checklist 170, Land Disposal Restrictions Phase IV—Zinc Micronutrient Fertilizers, Amendment.	8/31/98 63 FR 46332	
Checklist 171, Emergency Revision of the Land Disposal Restrictions Treatment Standards for Listed hazardous Wastes from Carbamate Production.	9/4/98 63 FR 47410	335-14-9-.04(1)(8).
Checklist 172, Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags.	9/9/98 63 FR 48124	335-14-9-.03(5).
Checklist 173, Land Disposal Restrictions: Treatment Standards for spent Potliners from Primary; Aluminum Reduction (K088); Final Rule.	9/24/98 63 FR 51254	335-14-9-.03(10). 335-14-9-.04(1).
Checklist 174, Post-Closure Permit Requirement and Closure Process .....	10/22/98 63 FR 56710	335-14-5-.06(1)(e)(f). 335-14-5-.07(1)(c). 335-14-5-.07(3)(b)8. 335-14-5.07(3)(c)2.(iv). 335-14-5-.07(9)(b)4. 335-14-6-.06(1)(f). 335-14-6.07(1)(c, d). 335-14-6-.07(3)(b)8. 335-14-6-.7(3)(c)1.(iv). 335-14-6-.07()(c)4,5. 335-14-6-.07(9)(d)1. 335-14-6-.07(12)(a,b). 335-14-8-.01(1)(c). 335-14-8-.02(5)(a). 335-14-8-.02(19)(a). 335-14-1-.02(1).
Checklist 175, HWIR—Media .....	11/3/98 63 FR 65874	335-14-2-.01(2)(g). 335-14-5-.01(1)(j). 335-14-.05(4)(b)17. 335-14-5-.06(12)(d). 335-14-5-.19(1)(a). 335-14-5-19(2)(a). 335-14-5-.19(3)(a-c). 335-14-5-.19(3)(d). 335-14-5-.19(3)(e). 335-14-5-.19(3)(f). 335-14-5-.19(3)(g). 335-14-5-.19(3)(h). 335-14-5-.19(3)(i). 335-14-5-.19(3)(j). 335-14-5-.19(3)(k). 335-14-5-.19(3)(l). 335-14-5-.19(3)(m). 335-14-6-.01(1)(b). 335-14-9-.01(2). 335-14-9-.05(1) 335-14-8-.01(2)(q). 335-14-8-.02(2)(d)1, 2. 335-14-8-.04. 335-14-8-.06(7). 335-14-8-14(1)(a)1-6. 335-14-8-.14(1)(e)1-3. 335-14-8-.14(1)(i). 335-.14-8(2)(a,e,m,q,u,y). 335-14-8-.14(3)(a)1, 2. 335-.14-8-.14(3)(e,i,m,q,u,y). 335-14-8-.14(3)(cc). 335-14-8-.14(4)(a). 335-14-8-.14(4)(e)1-3. 335-14-8-.14(4)(i)1, 2.

Description of Federal requirement (revision checklist)	Federal Register date and page	Analogous state authority <sup>1</sup>
Checklist 176, Universal Rule-Technical Amendments .....	12/24/98 63 F71225	335-14-8-.14(4)q,u,m,y. 335-14-8-.14(4)(cc). 335-14-8-.14(5)(a). 335-14-8-.14(5)(e)1-4. 335-14-8-.14(5)(e)3,4. 335-14-8-.14(5)(i)1,2. 335-14-8-.14(5)(m). 335-14-7-.07(1)(a)(b). 335-14-11-.01(7).
Checklist 177, Organic Air Emission Standards; Clarification and Technical Amendments.	1/21/99 64 FR 3382	335-14-3-.03(5)(a)1.(i, ii). 335-14-5-.27(2). 335-14-5-.29(1,4,5,7). 335-14-5-.29(7). 335-14-6-.29(1,5,6,8).
Checklist 178, Petroleum refining Process Wastes-Leachate Exemption .....	2/11/99 64 FR 6806	335-14-2-.01(4)(b)15.
Checklist 179, Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards.	5/11/99 64 FR 25408	335-14-2-.01(2)(c)3,4. 335-14-2.01(2)(e)1.(iii). 335-14-2-.01(4)(a)17. 335-14-3-.03(5)(d)4. 335-14-9-.01(2,7,9). 335-14-9-.04(1). 335-14-9-.04(8)(9). 335-14-1-.02(2).
Checklist 180, Test Procedures for the Analysis of Oil and Grease and Non-Polar Material.	5/14/99 64 FR 26315	
Checklist 181, Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps.	7/6/99 64 FR 36466	335-14-1-.02. 335-14-2-.01. 335-14-5-.01. 335-14-11-.01-.04. 335-14-11-.05(1)(a).
Checklist 182, Hazardous air Pollutant Standards for Combustors .....	9/30/99 64 FR 52828 11/19/99 64 FR 63209	335-14-1-.02. 335-14-2-.04(9)(b) Table 1. 335-14-5-.(.15)(1)(b)X. 335-14-5-.15(1)(b)1, 2. 335-14-5-.15(1)(c-e). 335-14-5-.24(2). 335-14-6-.15(c). 335-14-7-.08(1,2,6).
Checklist 183, Land Disposal Restrictions Phase IV—Technical Corrections ...	10/20/99 64 FR 56469	335-14-2-.04(3). 335-14-9-.01(7).
Checklist 184, Accumulation Time for Waste Water Treatment Sludges .....	3/8/00 65 FR 12378	335-14-.03(5)(g)(4,5). 335-14-.03(5)(a).
Checklist 185, Organobromine Production Wastes Vacatur .....	3/17/00 65 FR 14472	335-14-2-.04(3, 4). 335-14-2—App.VII, VIII. 335-14-9-.03(4). 335-14-9-.04(1,8).
Checklist 187, Petroleum Refining Process Wastes-Clarification .....	6/8/00 64 FR 36365	335-14-2-.04(2)(a). 335-14-9—App.VII.
Checklist 188, Hazardous Air Pollutant Standards; Technical Corrections .....	7/10/00 63 FR 42292 5/14/01 66 FR 24270	335-14-.04(9)(c)(2)(iv). 335-14-04(3)(a)9.(v)(l).
Checklist 189, Chlorinated Aliphatics Listing and LDRs for newly Identified Wastes.	11/8/00 65 FR 67068	335-14-2-.04(3). 335-14-2—App.VII,VIII. 335-14-9-.03(4). 335-14-9-.04(1,8).
Checklist 190, Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil.	12/26/00 FR 81373	335-14-9-.03(3). 335-14-9-.04(8,9). 335-14-9—App III.
Checklist 191, Mixed Waste Rule .....	5/16/01 66 FR 27218	335-14-7-.14(1-22).
Checklist 192A, Mixture And Derived—From Rules .....	5/16/01 66 FR 27266	335-14-2.01(3)(a) 2.(iii, iv). 335-14-2-.01(3)(c)2.(i). 335-14-2-.01(3)(g)1-3. 335-14-2-.01(3)(h)1-3.
Checklist 192B, Land Disposal Restrictions Correction .....	5/16/01 66 FR 27266	335-14-9—App VII—Table 1.
Checklist 193, Change of Official EPA Mailing Address .....	6/28/01 66 FR 34374	335-14-1-.02(2).
Checklist 194, Mixture and Derived—From Rules Revision II .....	10/33/01 66 FR 50332	335-14-2 .01(3)(a) 2.(iv). 335-14-2-.01(3)(g)4.
Checklist 195, Inorganic Chemical Manufacturing Wastes Identification and Listing.	11/20/01 66 FR 58258 4/9/02 67 FR 17119	335-14-2-.01(4)(b)15. 335-14-2-.04(3). 335-14-2—App VII. 335-14-9-.03(7).
Checklist 196, CAMU Amendments .....	1/22/02 67 FR 2962	335-14-.5-.19.

Description of Federal requirement (revision checklist)	Federal Register date and page	Analogous state authority <sup>1</sup>
Checklist 197, Hazardous Air Pollutants Standards for Combustors: Interim Standards.	2/13/02 67 FR 6792	335-14-5-.15(1)(b)1-4. 335-14-7-.08(1). 335-14-8-.02(10)(e). 335-14-8-.02(13). 335-14-8-.06(2)(5). 335-14-8-.15(1). 335-14-7-.08(1).
Checklist 198, Hazardous Air Pollutant Standards for Combustors: Corrections.	2/14/02 67 FR 6968	335-14-8-.04(3)(a) 9.(v)(i).
Checklist 199, Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste.	3/13/02 67 FR 11251	335-14-2-.01(2)(C)3. 335-14-2-.01(4)(a)17. 335-14-2-.03(5)(a).

<sup>1</sup> Alabama Department of Environmental Administrative Code, Division 335-14, Hazardous Waste Program Regulations effective April 2, 1999, March 31, 2000, April 13, 2001, March 15, 2002, and April 17, 2003.

#### H. Where Are the Revised State Rules Different From the Federal Rules?

Alabama's analog, 335-14-1-.02(1), to 40 CFR 260.10, includes the definition for "Corrective action management unit (CAMU)" which has been moved to 40 CFR 265.552(a) under the Federal rules.

#### I. Who Handles Permits After the Authorization Takes Effect?

Alabama 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, EPA will suspend issuance of Federal permits in the State. EPA will transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program. 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 Alabama is not yet authorized.

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

The State of Alabama's Hazardous Waste Program is not being authorized to operate in Indian Country.

#### K. What Is Codification and Is EPA Codifying Alabama'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

B for this authorization of Alabama'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 (Pub. L. 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 13084 (63 FR 27655, May 10, 1998). 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.

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 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 16, 2005.

#### 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, and 6974(b).

Dated: March 1, 2005.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 05-5047 Filed 3-14-05; 8:45 am]

BILLING CODE 6560-50-P

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 302-17

[FTR Amendment 2005-02; FTR Case 2005-302]

RIN 3090-A105

### Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables—2005 Update

**AGENCY:** Office of Governmentwide Policy, (GSA).

**ACTION:** Final rule.

**SUMMARY:** The Federal, State, and Puerto Rico tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates. The Federal, State, and Puerto Rico tax tables contained in this rule are for

calculating the 2005 RIT allowance to be paid to relocating Federal employees.

**DATES:** *Effective Date:* January 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat (VIR), Room 4035, GS Building, Washington, DC 20405, (202) 208-7312, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Sallie Sherertz, Office of Governmentwide Policy, Travel Management Policy Division, at (202) 219-3455. Please cite FTR Amendment 2005-02, FTR case 2005-302.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 5724b of title 5, United States Code, provides for reimbursement of substantially all Federal, State, and local income taxes incurred by a transferred Federal employee on taxable moving expense reimbursements. Policies and procedures for the calculation and payment of a RIT allowance are contained in FTR Part 302-17. The Federal, State, and Puerto Rico tax tables for calculating RIT allowance payments are updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates.

This amendment provides the tax tables necessary to compute the relocation income tax (RIT) allowance for employees who are taxed in 2004 on moving expense reimbursements.

##### B. Executive Order 12866

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

##### C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for

notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

##### D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

##### E. Small Business Regulatory Enforcement Fairness Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

### List of Subjects in 41 CFR Chapter 302, Part 302-17

Government employees, Income taxes, Relocation allowances and entitlements, Transfers, Travel and transportation expenses.

Dated: March 1, 2005.

**Stephen A. Perry,**

*Administrator of General Services.*

■ For the reasons set forth in the preamble, under 5 U.S.C. 5701-5709, GSA amends 41 CFR chapter 302, part 302-17 as set forth below:

### PART 302-17 RELOCATION INCOME TAX (RIT) ALLOWANCE

■ 1. The authority citation for 41 CFR part 302-17 continues to read as follows:

**Authority:** 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971-1975 Comp., p. 586.

■ 2. Revise Appendixes A, B, and C to part 302-17 to read as follows:

#### APPENDIX A TO PART 302-17—FEDERAL TAX TABLES FOR RIT ALLOWANCE

#### FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 2004

[The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302-17.8(e)(1). This table is to be used for employees in which their Year 1 occurred during calendar year 2004.]

Marginal tax rate percent	Single taxpayer		Head of household		Married filing jointly		Married filing separately	
	Over	But not over	Over	But not over	Over	But not over	Over	But not over
10 .....	\$8,486	\$15,852	\$15,539	\$25,991	\$22,763	\$36,688	\$10,614	\$17,891
15 .....	15,852	39,093	25,991	56,668	36,688	82,625	17,891	41,386
25 .....	39,093	84,081	56,668	123,629	82,625	147,439	41,386	74,492
28 .....	84,081	166,123	123,629	193,801	147,439	212,158	74,492	108,134
33 .....	166,123	341,553	193,801	354,536	212,158	352,775	108,134	179,237
35 .....	341,553	.....	354,536	.....	352,775	.....	179,237	.....