



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

SEP 23 2004

4WD

Mrs. Jill Pafford, Chief  
Hazardous Waste Section  
North Carolina Department of  
Environment and Natural Resources  
401 Oberlin Road, Suite 150  
Raleigh, North Carolina 27605

SUBJ: Resource Conservation and Recovery Act (RCRA) Records

Dear Mrs. Pafford:

As discussed at the State Director's Meeting in Chattanooga on June 22-24, 2004, the Environmental Protection Agency (EPA) will no longer maintain copies of facility specific records pertaining to the State's authorized program under the Resource Conservation and Recovery Act (RCRA), as amended. We will rely on the State to be responsible for maintaining the RCRA records pertaining to their authorized program in accordance with or equivalent to appropriate federal records schedules. The RCRA Memorandum of Agreement (MOA) will need to be amended to reflect this discussion.

Since EPA will no longer keep official copies of records concerning the authorized program, any requests for information from the public will be forwarded to the State for action as appropriate (i.e. under state disclosure requirements). This clarification will also result in a reduction in the number of documents currently being required from the State by EPA under the MOA (the MOA will also need to be amended to reflect this reduction).

A copy of the proposed MOA language designating the State as the official record custodian for RCRA records under the authorized program is enclosed (please note that EPA will keep official records for those portions of HSWA for which the State is not yet authorized). Also enclosed is a list of the required documents and federal schedules.



I enjoyed our discussion in Chattanooga concerning this important aspect of the State's authorized program. Please call me at (404) 562-8620, or Jon Johnston at (404) 562-8527, if you have questions or would like to discuss this further.

Sincerely,



Winston A. Smith  
Director  
Waste Management Division

Enclosures

## Federal Record Requirements and Authorized State Equivalency

In order for a RCRA authorized state to assume responsibility for the official RCRA-regulated facility record, the state must agree to manage and retain the RCRA facility's records in a manner equivalent to the federal EPA Record Schedule associated with that record type. The following table is a proposed breakdown of EPA Record Schedules and the minimum associated records that would be required kept to be equivalent to the Federal record requirements for RCRA Program Site-specific records. For each RCRA facility, the records can be categorized by EPA ID number, record schedule and year, into one of five Schedules:

In the following table, sub-item retention, sub-items are followed by a series of numbers denoting the required retention in the office after the file break, the required retention off-site after the file break, then either permanent retention (P) or disposal (D) of the record (ex. 5/20/P).

RCRA Facility  
(EPA ID Number)

EPA Schedule 207  
(Regional Council Referrals)

(ENFO 207)

Sub-item Retention:

- (a) no action, 1/10/D
- (b) action, 1/20/D
- (c) landmark case 5/20/P

Associated Records:

- correspondence
- filing documentations
- Notice of Deficiencies, NODs
- information requests
- Warning Letters
- Notices of Violation, NOVs
- adm. compliance orders
- civil action documentation
- criminal action documentation
- Corrective Action Orders
- attorney work products
- case summaries
- pleadings
- state/local enforcement records
- settlement document
- consent decrees

Delegation to Authorized State:

- no schedule direction
- must be kept by enforcing authority

EPA Schedule 206  
(RCRA Corrective Action (CA))  
(Permit imposed CA)

(RCRA 206)

Sub-item Retention:

- (a) land disposal permit CA, 5/20/P
- (b) G/T/TSD CA, 5/10/D

Associated Records:

- RCRA Facility Assessment, RFA, work plan & report
- RCRA Facility Investigation, RFI, work plan & report
- Corrective Measures Studies, CMS, plan & report
- Corrective Measures Implementation, CMI, plan & report
- related documents
  - NCAPS
  - EI
  - approvals/denials letters
  - risk assessments
  - NOTIs
  - Interim measures documents

Delegation to Authorized State:

- delegate w/ MOU for state equivalency to federal record requirements
- Land disposal CA is not delgated.

EPA Schedule 211  
(RCRA Compliance files)

(ENFO 211)

Sub-item Retention:

- (a) paper 1/5/D

Associated Records:

- compliance schedules
- inspections
- inspection reports
- correspondence
- inventories
- sampling data
- analytical data
- Notices of Non-compliance
- non-enforcement related compliance orders

Note: if enforcement/NOV occurs, these records are converted to retention under Schedule 207.

Delegation to Authorized State:

- delegate w/ MOU for state equivalency to federal record requirements
- Regional oversite copies are disposable.

EPA Schedule 210  
(RCRA Land Disposal Permit Adm Record)

(PERM 210)

Sub-item Retention:

- (a) Land Disposal Permit 5/30/D

Associated Records:

- RCRA Permit Application
- Completeness Determination
- draft permit & factsheet
- Notice of Intent to Deny
- Statement of Basis and associated documents
- Public Notice comments received
- public hearing transcripts
- public notices
- final permit/response to comments

Delegation to Authorized State:

- no schedule direction
- must be kept by lead authority

EPA Schedule 478  
(RCRA Generators, Transporters & TSD facility files)

(RCRA 478)

Sub-item Retention:

- (a) land disposal permit CA, 5/20/P
- (b) G/T/TSD CA, 5/10/D

Associated Records:

- notification forms
- permit applications
- permit modifications
- background/support documents
- public notices
- draft permits/fact sheets
- final permits/respond to comments
- public meeting comments/records
- exception reports
- Notice of Intent to Deny
- certifications
- appeals
- import/export notices
- closure and post-closure plans/reports/verifications/certifications
- NODs
- Completeness Determinations
- inspection reports
- court orders
- manifests
- delisting requests/decisions
- correspondence
- financial assurance documents
- interim status related documents (notice of waste activity, enforcement)
- Regional Off-site Contract, ROC, documents (Off-site letters, phone logs, inspection reports)

Delegation to Authorized State:

- delegate w/ MOU for state equivalency to federal record requirements
- Regional oversite copies are disposable

## **Proposed RCRA Program Model Memorandum of Agreement (MOA) Language**

Below is proposed language for designating the state as the official record custodian for RCRA site-specific records.

The MOA will also be amended to reflect the reduction of the documents currently required by EPA for overview.

### **Model MOA Section:**

#### **IV. INFORMATION SHARING**

##### **A. General**

[Insert before first paragraph]

“As the State is granted final authorization, the State will record its actions and decisions in support of the State’s administration of the RCRA Program, and will assume the responsibility to maintain the official RCRA site-specific record for those sites within the State’s geographical boundaries. The State will manage the official record equivalent to the current federal EPA Record Schedule as appropriate for each record. A brief summary of the appropriate EPA Records Schedules, required retention times and associated documents, is included as Attachment \_\_\_\_\_. This summary may not be all-inclusive but does list site-specific decision and status documents to be included in the official RCRA site record.

For full record keeping requirement detail, the State will reference the most current EPA Records Schedules (<http://www.epa.gov/records/policy/schedule/>).

Additional documentation or extension of minimum required record retention time is at the discretion of the State.

Upon the effective date of the State’s final RCRA authorization, EPA will consider the State the official records custodian for RCRA site-specific records and will defer associated information requests to the State. Any documentation EPA receives after the effective date of authorization, EPA will consider to be a copy which will be appropriately destroyed when the EPA determines the document is no longer in use or no longer necessary to assist the State or to oversight the State.

EPA will record actions and decisions, and will maintain documentation only for portions of the RCRA Program for which EPA administers and the State has not yet received authorization.”

[Recommended language for an additional information sharing agreement item to be listed in IV. INFORMATION SHARING, A. General Section of MOA ]

[Add]

8. The State agrees to provide access (via i.e., integration, web, Extranet or dial-up access rights) to any electronic record management systems containing RCRA site-specific records, that the State may establish as soon as

technologically feasible and to the extent as necessary for the EPA to carry out its oversight responsibilities. EPA agrees to preserve the security protocols of any such electronic system given access to by the State.

**Attachment \_\_\_\_\_  
Federal Record Requirements and Authorized State Equivalency**

In order for a RCRA authorized state to assume responsibility as the official record custodian for RCRA site-specific records, the state must agree to manage and retain the RCRA site-specific records in a manner equivalent to the federal EPA Record Schedule associated with that record type. This summary may not be all-inclusive but does list site-specific decision and status documents to be included in the official RCRA site record.

\* For full record keeping requirement detail, the State will reference the most current EPA Records Schedules (<http://www.epa.gov/records/policy/schedule/>).

for each RCRA Facility (EPA ID Number)				
EPA Schedule 207 (Regional Council Referrals)  (ENFO 207)	EPA Schedule 206 (RCRA Corrective Action (CA)) (Permit imposed CA)  (RCRA 206)	EPA Schedule 211 (RCRA Compliance files)  (ENFO 211)	EPA Schedule 210 (RCRA Land Disposal Permit Adm Record)  (PERM 210)	EPA Schedule 478 (RCRA Generators, Transporters & TSD facility files)  (RCRA 478)
After the Schedule specified file break:				
Retention for referrals resulting in:  * no action, 10 yrs then Dispose * action, 20 yrs then Dispose * landmark cases, Permanent	Retention:  * land disposal permit CA, Permanent * G/T/TSD CA, 10yrs then Dispose	Retention: * paper 5 yrs then Dispose	Retention: * Land Disposal Permit 30 yrs then Dispose	Retention: * land disposal permit CA, Permanent * G/T/TSD CA, 10 yrs then Dispose

**Associated Records:**

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- meeting documentations
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