

US EPA ARCHIVE DOCUMENT

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes a time limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined

that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the 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).

IX. 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: December 7, 2000.

James Jones,
Director, Registration Division, Office of Pesticide Programs.

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 180.425 is amended by alphabetically adding the commodity Sugarcane to the table in paragraph (b) to read as follows:

§ 180.425 Clomazone; tolerances for residues.

* * * * *
(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * * * *	* * * * *	* * * * *
Sugarcane	0.05	12/31/02
* * * * *	* * * * *	* * * * *

[FR Doc. 00-32399 Filed 12-19-00; 8:45 am]
BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6915-8]

Alabama: Final Authorization of State Hazardous Waste Management Program Revisions

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 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

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Federal Register will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on February 20, 2001 unless EPA receives adverse written comment by January 19, 2001. 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, Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960; (404) 562-8440. You can view and copy Alabama's application from 8 a.m. to 5 p.m. at the following addresses: 1400 Coliseum Blvd., Montgomery, Alabama 36130-1463, Phone number: (334) 271-7700 and EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960, Phone number: (404) 562-8190.

FOR FURTHER INFORMATION CONTACT: Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, Environmental Protection Agency at the above address and phone number.

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 application to revise its authorized program meets 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 their 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).

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

On October 28, 1999, and on March 19, 2000, Alabama submitted final complete program revision applications, 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 Alabama's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Alabama Final authorization for the following program changes which were promulgated on July 1, 1995-June 30, 1996 and on July 1, 1996-June 30, 1997:

Description of Federal requirement	FEDERAL REGISTER date and page	Analogous state authority ¹
Checklist 145 Liquids in Landfills III	7/11/95 60 FR 35703-35706	335-14-5.14(15)(e)2.(ii),(iii), 335-14-6-.14(15)(f)2.(ii),(iii). <i>Alabama Code</i> §§ 22- 30-4,22-30-6,22-30-10,22-30-11,22-30-14,22-30-15, 22-3-16.
Checklist 148 RCRA Expanded Public Participation.	12/11/95 60 FR 63417-63434	335-14-8-.08(1)(a)1-(1)(a)4, 335-14-9-.08(1)(b)1- (1)(b)3, 335-14-8-.08(1)(c)1-(1)(c)6, 335-14-8-.01(2)(g), 335-14-8-.02(5)(b)22, 335-14-8-.03(1)(m), 335-14-8-.06(3)(b)6,7,8-11, 335-14-8-.06(7)(d)3-(d)6, 335-14-8-.06(7)(g). <i>Alabama Code</i> §§ 22-30-4,22-30-6,22-30-10,22-30-11,22-30-14,22-30-15,22-30-16.
Checklist 150 Amendments to the definition of Solid Waste; Amendment II.	3/26/96 61 FR 13103-13106	335-14-2-.01(4)(a)12. <i>Alabama Code</i> §§ 22-30-4,22-3-6,22-30-10,22-30-11,22-30-14,22-30-15,22-30-16.
Checklist 151 Land Disposal Restrictions Phase III— Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners.	4/8/96 61 FR 5566-15660, Amended by 4/8/96 FR15660-15668, 4/30/96 61 FR 19117, 6/28/96 61 FR 3680-33690, 7/10/96 61 FR 36419-36421, 8/26/96 61 FR 43924-43931, 2/19/97 62 FR 7502-7600	335-14-9-.01(1)-.01(9), 335-14-9-.03(10), 335-14-.04(1),.04(3)-04(5), 335-14-9-.04(8), 335-14-9-Appendix XI. <i>Alabama Code</i> , §§ 22-30-4,22-30-6,22-30-10,22-30-14,22-30-15,22-30-16.
Checklist 153 Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D.	7/1/96 61 FR 34252-34278	335-14-2-.01(5)(f)3, 335-14-2-.01(5)(f)3.(i)-(vi), 335-14-2-.01(5)(g)3, 335-14-2-.01(5)(g)3(i)-(vi). <i>Alabama Code</i> §§ 22-30-10,22-30-11,22-30-14,22-30-15,22-30-16.
Checklist 154 Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers.	12/6/94 59 FR 52896-62953, Amended by, 5/19/95 60 FR 25828-26829, 9/29/95 60 FR 50426-50430, 11/13/95 60 FR 56952-56954, 2/9/96 60 FR 4903-4916, 6/5/96 60 FR 28508-28510, 11/25/96 60 FR 59932-59997	335-14-1-.02(2), 335-14-3-.03(5)(a)1.(i)-(ii), 335-14-3-.03(5)(d)2, 335-14-5-.02(4)(b)6, 335-14-5-.02(6)(b)4, 335-14-5-.05(4)(b)3, 335-14-5-.05(4)(b)6, 335-14-5-.05(8)(c), 335-14-5-.09(10), 335-14-5-.10(11), 335-14-5-.11(13), 335-14-5-.24(2), 335-14-5.27-.29, 335-14-6-.01(b), 335-14-6-.02(4)(b)6, 335-14-6-.02(6)(b)4, 335-14-6-.05(4)(b)3,(b)6, 335-14-6-.05(8)(d), 335-14-6-.09(10), 335-14-6.10(13), 335-14-6-.11(12), 335-14-6-.27-.29, 335-14-6-Appendix VI 335-14-8-.01(4)(a)2-(a)4, 335-14-8-.02(5)(b)5, 335-14-8-.02(6)(e), 335-14-8-.02(7)(k), 335-14-8-.02(8)(j), 335-14-8-.02(18)(a),(a)1-7. <i>Alabama Code</i> §§ 22-30-3,22-30-9,22-30-10,22-30-11,22-30-12,22-30-13,22-30-14, 22-30-15,22-30-16,22-30-17,22-30-18,22-30-19,22-30-20(9),22-22A-5.
Checklist 155 Land Disposal Restrictions Phase III-Emergency extension of the K088 Capacity Variance.	1/14/97 62 FR 1992-1997	335-14-9-.03. <i>Alabama Code</i> §§ 22-30-4,22-30-6,22-30-11,22-30-16.
Checklist 156 Military Munitions Rule: Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties.	2/12/97 62 FR 6622-6657	335-14-1-.02(1), 335-14-2-.01(2)(A)2.(iii),(iv), 335-14-3-.01(1)(i), 335-14-3-.02(1)(f), 335-14-4-.01(1)(e)(1)(f), 335-14-5-.01(1)(g)8.(i)(IV), 335-14-5-.01(1)(g)8.(iv), 335-14-5-.01(1)(i), 335-14-5-.05(1), 335-14-5-.31(1), 335-14-5.31(2)(a)2(a)1-5, 335-14-.31(2)(b), 335-14-5-.31(2)(b)1.(i-iii), 335-14-5-.31(2)(b)2,(b)3, 224-14-5-.31(2)(c)-(f), 335-14-5-31(3)(b), 335-14-6-.01(1)(c)11.(i)(IV), 335-14-6-.01(1)(c)11.(iv), 335-14-6-.01(1)(f), 335-14-6-.05(1), 335-14-6-.31(1),(2)(a),2(b)-(f), 335-14-6-.31(3)(a)(b), 335-14-7-.13(1)(a)(b), 335-14-7-.13(2), 335-14-1-.02(1), 335-24-7-.13(3)(a)-(d), 335-14-7-.13(4)(a)-(c), 335-14-7-.13(5), 335-14-7-.13(6)(a)-(e), 335-14-7-.13(7), 335-14-8-.01(1)(c)3.(i)(IV), 335-14-8-.01(1)(c)3.(iii), 335-14-8-.04(3)(e)1, 335-14-8-.04. <i>Alabama Code</i> §§ 22-30-9,22-30-10,22-30-11,22-30-12,22-30-15,22-30-16,22-30-18,22-30-19,22-30-20,22-30-21,22-30-22A-5.

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Description of Federal requirement	FEDERAL REGISTER date and page	Analogous state authority ¹
Checklist 157 Land disposal Restrictions Phase IV-Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions from RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions.	5/12/97 62 FR25998-26040	335-14-2-.01(1)(c)9, 335-14-2-.01(2)/Table 1, 335-14-2.01(4)(a)13-14, 335-14-2-.01(4)(a)14(ii), 335-14-2-.01(6)(a)3.(ii), 335-14-9-.01, 335-14-9-.03, 335-14-9-.04, 335-14-9-Appendices I, II, III, and X, 335-14-9-appendix VI-VIII, 335-14-9-Appendix X. <i>Alabama Code</i> §§ 22-30-4,22-30-6,22-30-11,22-30-16.
Checklist 158 Testing and Monitoring Activities Amendment III.	6/13/97 62 FR 32452-32463	335-14-1-.02(2), 335-14-5-.27(5)(d)1.(iii), 335-14-5-.27(5)(f), 335-14-5-.28(14)(d)2, 335-14-5-Appendix IX, footnote 5, 335-14-6-.27(5)(d)1.(iii), 335-14-6-.27(5)(f), 335-14-6-.28(14)(d)2, 335-14-7-.08, 335-14-7-Appendix IX. <i>Alabama Code</i> §§ 22-30-3,22-30-4,22-30-6,22-30-10,22-30-11,22-30-16.
Checklist 159 Conformance with the Carbamate Vacatur.	6/17/97 62 FR 32974-32980	335-14-2-.04(3)/Table, 335-14-2-.04(4), 335-14-2-Appendix VII, 335-14-2-Appendix VIII, 335-14-9-.03. <i>Alabama Code</i> §§ 22-30-4,22-30-6,22-30-10,22-30-11,22-30-16.

¹Alabama Department of Environmental Management Administrative Code, Division 335-14, Hazardous Waste Program Regulations effective March 28, 1997, for checklists numbers 145, 148, 150 and 151, and regulations effective March 27, 1998, for checklists numbers 153, 154, 155, 156, 157, 158, and 159.

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

We consider the following State requirement to be more stringent than the Federal requirements:

- 335-14-9-.03, Alabama has adopted 40 CFR 268 by reference exclusive of 268.1(c)(3). The State is more stringent by excluding disposal of waste into nonhazardous or hazardous injection wells.

This requirement is part of Alabama's authorized program and is federally enforceable.

EPA cannot delegate the Federal requirements at 61 FR 16290-16316, "Imports and Exports of Hazardous" (checklist 152). Although Alabama has adopted these requirements verbatim from the Federal regulations at 335-14-2-.01(6)(a)5, 335-14-3-.01(1)(d), 335-14-3-.01(1)(e)-(h), 335-14-3-.05(4)(b), 335-14-3-.05(7)(b), 335-14-3-.05(9)(a)(9)(b), 335-14-3-.090(1)(a), 335-14-3-.09(1)(b), 335-14-3-.09(2)(a-1), 335-14-.09(3)(a), 335-14-3-.09(3)(a)1, 335-14-3-.09(3)(a)1.(i)-(iii), 335-14-3-.09(3)(a)2, 335-14-3-.09(3)(a)2(i-ii), 335-14-3-.09(3)(a)3-4, 335-14-3-.09(3)(b), 335-14-3-.09(4)(b-e), 335-14-3-.09(5)(a)-(e), 335-14-3-.09(6)(a-g), 335-14-3-.09(7)(a)(b), 335-14-3-.08(a-c), 335-14-3-.09(8)(c)1.(iii)2, 335-14-3-.09(9)(10)(a-e), 335-14-5-.02(3)(a)1, 2(e)335-14-6-.02(3)(a)1, 2, (2)(e), 335-14-7-.06(1)(b)2, 3, 335-14-11-.02(11), 335-14-11-.03(11), 335-14-11-.04(7), 335-14-11-.06(1), 335-14-11-.06(1)(d), EPA will continue to implement those requirements.

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 until the permits expire or are terminated. 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?

Alabama is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the Poarch Band of Creek Indians. 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 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 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 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 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 February 20, 2001.

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 record keeping 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: November 28, 2000.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 00-31723 Filed 12-19-00; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION.

47 CFR Parts 1, 73, and 74

[MM Docket No. 98-93; FCC 00-368]

1998 Biennial Regulatory Review—Streamlining of Radio Technical Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document continues the Commission's wide-ranging reform of the Mass Media Bureau's radio technical rules. These rule modifications were proposed as part of a broad-based initiative, undertaken in conjunction with the Commission's 1998 biennial regulatory review, to streamline the Mass Media Bureau radio technical rules, and are intended to speed the introduction of new and improved broadcast services to the public, provide greater flexibility to broadcasters to improve existing services, and reduce regulatory burdens on applicants.

DATES: Effective January 19, 2001.

FOR FURTHER INFORMATION CONTACT: Peter H. Doyle, Audio Services Division, Mass Media Bureau (202) 418-2700.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Report and Order* in MM Docket No. 98-93, adopted October 12, 2000, and released November 1, 2000. The complete text of this *Second Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, on the Internet at <http://www.fcc.gov/mmb/asd/welcome2.html#NEWSBOX> or using the Commission's Electronic Document Management System (EDOGS) at <http://www.fcc.gov/searchtools.html>, and may be purchased from the Commission's

copy contractor, International Transcription Service (ITS), 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800 telephone, (202) 857-3805 facsimile.

Summary of Second Report and Order

I. Introduction

In this *Second Report and Order*, the Commission modifies the minimum distance separation requirements for short-spaced FM stations to allow short spacings of at least six kilometers for all classes of FM stations; permits short-spaced FM stations in Puerto Rico and the U.S. Virgin Islands additional site location flexibility by adopting the use of contour protection to determine station compliance with Commission rules; creates a new class of FM station, Class C0, with maximum permissible facilities of 100 kilowatts effective radiated power (ERP) and 450 meters antenna radiation center height above average terrain (HAAT), and specifies minimum distance separation requirements for this new FM class; specifies a new minimum antenna radiation center HAAT of 451 meters for Class C FM stations; creates a demand-driven procedure for reclassification to Class C0 of existing Class C FM stations with facilities less than 100 kilowatts ERP and 451 meters antenna radiation center HAAT; permits certain broadcast stations to correct licensed transmitter site geographic coordinates and allows certain FM translator and FM booster stations to request a decrease in ERP by filing only a license application; modifies the second adjacent channel interference ratios for noncommercial educational (NCE) FM and FM translator stations; and requires NCE FM facilities to provide 1 mV/m (60 dBμ) or greater signal strength to at least 50 percent of the population or area within the station's community of license.

II. Discussion

A. FM Technical Requirements

1. Modification of Minimum Distance Separation Requirements for Short-Spaced FM Stations

To be considered fully spaced and to be able to use maximum permissible facilities for their station class, the transmitter sites for all non-reserved band FM stations and certain reserved band FM stations are required to meet the minimum distance separation requirements of 47 CFR 73.207. However, in order to allow site location flexibility, some of these FM stations are permitted to utilize short-spaced transmitter sites, provided that the short-spaced station meets the less