

US EPA ARCHIVE DOCUMENT

g. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), 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." This action does not have tribal implications, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action.

h. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045 applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This action is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866 and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The action concerns the designation and de-designation of ocean disposal sites and would only have the effect of providing designated locations to use for ocean disposal of dredged material pursuant to section 102(c) of the MPRSA.

i. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action 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" as defined under Executive Order 12866.

j. National Technology Transfer and Advancement Act

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) directs EPA to use voluntary consensus standards in its regulatory activities

unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus bodies. The NTTAA directs EPA to provide to Congress, through the OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. Although EPA stated that the proposed action did not directly involve technical standards, the proposed action and today's final action include environmental monitoring and measurement as described in EPA's SMMP. EPA will not require the use of specific, prescribed analytic methods for monitoring and managing the designated sites. Rather, the Agency plans to allow the use of any method, whether it constitutes a voluntary consensus standard or not, that meets the monitoring and measurement criteria discussed in the final SMMP.

k. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

To the greatest extent practicable and permitted by law, and consistent with the principles set forth in the report on the National Performance Review, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions, the District of Columbia, the Commonwealth of Puerto Rico, and the Commonwealth of the Mariana Islands. Because this action addresses ocean disposal site designations (away from inhabited land areas), no significant adverse human health or environmental effects are anticipated. The action is not subject to Executive Order 12898 because there are no anticipated significant adverse human health or environmental effects.

List of Subjects in 40 CFR Part 228

Environmental protection, Water pollution control.

Authority: This action is issued under the authority of section 102 of the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401, 1411, 1412.

Dated: April 28, 2006.

L. Michael Bogert,
Regional Administrator, Region 10.

■ For the reasons set out in the preamble, Chapter I of title 40 is amended as set forth below:

PART 228—[AMENDED]

■ 1. The authority citation for part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

■ 2. Section 228.15 is amended by revising paragraphs (n)(4)(i), (ii), (iii), (iv), (v), and (vi) to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(n) * * *

(4) * * *

(i) *Location:* 43°22'54.8887" N, 124°19'28.9905" W; 43°21'32.8735" N, 124°20'37.7373" W; 43°22'51.4004" N, 124°23'32.4318" W; 43°23'58.4014" N, 124°22'35.4308" W (NAD 83).

(ii) *Size:* 4.45 kilometers long and 2.45 kilometers wide.

(iii) *Depth:* Ranges from 6 to 51 meters.

(iv) *Primary Use:* Dredged material determined to be suitable for ocean disposal.

(v) *Period of Use:* Continuing Use.

(vi) *Restriction:* Disposal shall be limited to dredged material determined to be suitable for unconfined disposal; Disposal shall be managed by the restrictions and requirements contained in the currently-approved Site Management and Monitoring Plan (SMMP); Monitoring, as specified in the SMMP, is required.

* * * * *

[FR Doc. 06-4286 Filed 5-10-06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R04-RCRA-2006-0429; FRL-8168-4]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Tennessee has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant Final authorization to Tennessee. In the

“Rules and Regulations” section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble of the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment.

DATES: Final authorization will become effective on July 10, 2006 unless EPA receives adverse written comment on or before June 12, 2006. 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: Submit your comments, identified by Docket ID No. EPA-R04-RCRA-2006-0429 by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
- E-mail: Gleaton.Gwen@epa.gov.
- Fax: (404) 562-8439 (prior to faxing, please notify the EPA contact listed below)
- Mail: Send written comments to Gwen Gleaton, RCRA Services Section, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
- Hand Delivery: Gwen Gleaton, RCRA Services Section, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the office’s normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R04-RCRA-2006-0429. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at [http://](http://www.regulations.gov)

www.regulations.gov including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <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 comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. 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. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. (For additional information about EPA’s public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>).

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy. You may view and copy Tennessee’s application at The EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The Library is open from 8:30 a.m. to 4 p.m. Monday through Friday, excluding legal holidays. The Library telephone number is (404) 562-8190.

You may also view and copy Tennessee’s application from 8 a.m. to 4:30 p.m. at the following address: Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243-1535.

FOR FURTHER INFORMATION CONTACT: Gwen Gleaton, RCRA Services Section, RCRA Programs Branch, Waste Management Division, EPA Region 4, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960; (404) 562-8500; fax number: (404) 562-8439; e-mail address: Gleaton.Gwen@epa.gov.

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 Tennessee’s application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Tennessee Final authorization to operate its hazardous waste program with the changes described in the authorization application. Tennessee has responsibility for permitting Treatment, Storage, and Disposal Facilities within its borders 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 Tennessee, including issuing permits, until the State is granted authorization to do so.

C. What Is the Effect of This Authorization Decision?

The effect of this decision is that a facility in Tennessee 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. Tennessee 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:

- Perform 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 Tennessee are 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 This 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 Tennessee Previously Been Authorized For?

Tennessee initially received final authorization on January 22, 1985, effective February 5, 1985 (50 FR 2820) to implement the RCRA hazardous waste management program. We granted

authorization for changes to Tennessee's program on March 14, 2005, effective May 13, 2005 (70 FR 12416), April 11, 2003, effective June 10, 2003 (68 FR 17748), December 26, 2001, effective February 25, 2002 (66 FR 66342), October 26, 2000, effective December 26, 2000 (65 FR 64161), September 15, 1999, effective November 15, 1999 (64 FR 49998), January 30, 1998, effective March 31, 1998 (63 FR 45870), on May 23, 1996, effective July 22, 1996 (61 FR 25796), on August 24, 1995, effective October 23, 1995 (60 FR 43979), on May 8, 1995, effective July 7, 1995 (60 FR 22524), on June 1, 1992, effective July 31, 1992 (57 FR 23063), and on June 12, 1987, effective August 11, 1987 (52 FR 22443).

G. What Changes Are We Authorizing With This Action?

On January 12, 2006, Tennessee submitted a final complete program revision application, 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 Tennessee's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant final authorization for the following program changes:

| Description of federal requirement | Federal Register date and page | Analogous state authority ¹ |
|---|--------------------------------|---|
| 203—Recycled Used Oil Management Standards; Clarification. | 68 FR 44659, 07/30/03 | Tennessee Revised Code 1200-1-11-.02(1)(e)10, .11(2)(a), .11(2)(a)9, .11(8)(e), .11(8)(e)2, .11(8)(e)2(i)-(iv). |
| 204—Performance Track | 69 FR 21737, 04/22/04 | Tennessee Revised Code 1200-1-11-.03(4)(e), .03(4)(e)13, .03(4)(e)13(i)-(ix), .03(4)(e)13(ii)(I)-(IV), .03(4)(e)13(i)-(iii)(I)-(IV), .03(4)(e)13(v)(I)-(II), .03(4)(e)13(ix)(I)-(IV), .03(4)(e)14-15. |
| 205—NESHAP: Surface Coating of Automobiles and Light-Duty Trucks. | 69 FR 22601, 04/26/04. | Tennessee Revised Code 1200-1-11-.06(31)(a), .06(31)(a)8, .05(28)(a), .05(28)(a)7. |

¹ The Tennessee provisions are from the Tennessee Hazardous Waste Management Regulations effective August 23, 2005.

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

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

I. Who Handles Permits After the Authorization Takes Effect?

Tennessee 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 they expire or are terminated. We will not issue any more

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 Tennessee is not authorized.

J. What Is Codification and Is EPA Codifying Tennessee'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 RR for this authorization of Tennessee's program changes until a later date.

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 also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). 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 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 July 10, 2006.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-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: April 25, 2006.

A. Stanley Meiburg,

Deputy Regional Administrator, Region 4.

[FR Doc. 06-4397 Filed 5-10-06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 051213334-6119-02; I.D. 112905C]

RIN 0648-AT98

Magnuson-Stevens Act Provisions; Fisheries off West Coast States; Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing the regulatory provisions of Amendment 19 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 19 provides for a comprehensive program to describe and protect essential fish habitat (EFH) for Pacific Coast Groundfish. The management measures to implement Amendment 19, which are authorized by the FMP and the Magnuson-Stevens Fishery Conservation and Management or Magnuson-Stevens Act), are intended to minimize, to the extent practicable, adverse effects to EFH from fishing. The measures include fishing gear restrictions and prohibitions, areas that are closed to bottom trawling, and areas that are closed to all fishing that contacts the bottom.

DATES: Effective June 12, 2006.

ADDRESSES: Copies of the Record of Decision, the Final Environmental Impact Statement, the Final Regulatory Flexibility Analysis (FRFA), and the Small Entity Compliance Guide (SECG) are available at www.nwr.noaa.gov or from D. Robert Lohn, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-0070, phone: 206-526-6150.

FOR FURTHER INFORMATION CONTACT: Steve Copps (Northwest Region, NMFS), phone: 206-526-6140; fax: 206-526-6736 and; e-mail: steve.copps@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is available on the Government Printing Office's website at: www.gpoaccess.gov/fr/index.html.

Background information and documents are available at the NMFS Northwest Region website at: www.nwr.noaa.gov and at the Pacific Fishery Management Council's website at: www.pcouncil.org.