

US EPA ARCHIVE DOCUMENT

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 271****[FRL-6437-9]****Tennessee: Final Authorization of
State Hazardous Waste Management
Program Revision****AGENCY:** Environmental Protection
Agency (EPA).**ACTION:** Immediate final rule.

SUMMARY: Tennessee has applied for Final authorization of the revision to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Tennessee's revision consists of the provisions contained in rules promulgated between July 1, 1994 through June 30, 1995, otherwise known as RCRA Cluster V and July 1, 1996 through June 30, 1997, otherwise known as RCRA Cluster VI. The EPA has reviewed Tennessee's application and determined that its hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. EPA is authorizing the state program revision through this immediate final action. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial action and does not anticipate adverse comments. However, in the proposed rules section of this **Federal Register**, EPA is publishing a separate document that will serve as a proposal to authorize the revision should the Agency receive adverse comment. Unless EPA receives adverse written comments during the review and comment period, the decision to authorize Tennessee's hazardous waste program revision will take effect as provided below.

DATES: This Final authorization for Tennessee will become effective without further notice on November 15, 1999, unless EPA receives adverse comment by October 15, 1999. Should EPA receive such comments, EPA will publish a timely withdrawal informing the public that the rule will not take effect.

ADDRESSES: Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104; (404) 562-8440. Copies of the Tennessee program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:00 a.m. to 4:30 p.m. at the following addresses: Tennessee Department of Environment and Conservation, Division of Solid Waste Management, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243-1535; and EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104; (404) 562-8190.

FOR FURTHER INFORMATION CONTACT: Narinda Kumar, (404) 562-8440.

SUPPLEMENTARY INFORMATION:**A. Background**

States with final authorization under section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. As the Federal hazardous waste program changes, the States must revise their programs and apply for authorization of the revisions. Revisions to State hazardous waste programs may be

necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must revise 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. Tennessee

Tennessee initially received Final Authorization on January 22, 1985, effective February 5, 1985 (50 FR 2820) to implement its base hazardous waste management program. Tennessee received authorization for revisions to its program on January 30, 1998, effective March 31, 1998 (63 FR 4587), 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).

On May 15, 1998, Tennessee submitted a final complete program revision application, seeking authorization of its program revision in accordance with 40 CFR 271.21. The EPA reviewed Tennessee's application, and now makes an immediate final decision, subject to receipt of adverse written comment, that Tennessee's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Tennessee Final Authorization for the program modifications contained in the revision. Today, Tennessee is seeking authority to administer the following Federal requirements promulgated between July 1, 1994 and June 30, 1996:

Description of Federal requirement	Federal Register date and page	Analogous State authority ¹
135—Recovered Oil Exclusion	07/28/94, 59 FR 38536	Tennessee Code Annotated (TCA) 68-212-104(7), 86-212-106(a)(1), and 68-212-107(d)(1), Tennessee Revised Code (TRC) 1200-1-11-.02(1)(c)3(ii)(II)II, .02(1)(d)1(xii), .02(1)(f)1(iii)(III)-(V), .09(8)(a)2(iii).
136—Removal of the Conditional Exemption for Certain Slag Residues.	08/24/94, 59 FR 43496	Tennessee Code Annotated (TCA) 68-212-04(7), 68-212-106(a)(1), 68-212-107(a), (d)(1), and (d)(9), Tennessee Revised Code (TRC) 1200-1-11-09(3)(a)3, .10(3)(a).
137—Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes.	09/19/94, 59 FR 47982	Tennessee Code Annotated (TCA) 68-212-106(a)(1), 68-212-107(d)(1) and (3).

Description of Federal requirement	Federal Register date and page	Analogous State authority ¹
	01/03/95, 60 FR 242	Tennessee Code Annotated (TCA) 68-212-104(7), 68-212-106(a)(1), 68-212-107(d)(1), (d)(6), and (d)(9) .01(4)(a) intro., .01(4)(a)2, .01(4)(b)1, .01(5)(a) intro., .01(5)(b) intro., .01(5)(b)1-2, .02(1)(b)5(i)(III), .06(1)(b)2(v)-(vi), .09(3)(d)1, .09(8)(a)3(i) and (iii), .09(8)(a)3(iii)(I), .09(8)(a)3(iii)(II), .09(8)(a)3 (iii)(II), .09(9) Appendix XIII, .10(1)(a)3(iii)(II)-(III), .10(1)(a)5(iv)-(v), .10(1)(b)7 and 9, .10(1)(g)1, .10(1)(g)1(i), .10(1)(g)1(i)(I)-(VI), .10(1)(g)1(ii), .10(1)(g)1(ii)(I), .10(1)(g)1(ii)(I)-IV, .10(1)(g)1(ii)(II), .10(1)(g)1(iii), .10(1)(g)1(iii)(I)-(V), .10(1)(g)1(iii)(V)-II, .10(1)(g)1(iii)(VI)-(VII), .10(1)(g)1(iv), .10(1)(g)1(iv)(I)-(III), .10(1)(g)1(v)-(x), .10(1)(g)2(iv)(II).
139—Testing and Monitoring Activities Amendment I.	01/13/95, 60 FR 3089	Tennessee Code Annotated (TCA) 68-212-104(7), 68-212-106(a)(1), and 68-212-107(d)(1) and Tennessee Revised Code (TRC) 1200-1-11-.01(2)(b).
140—Carbamate Production Identification and Listing of Hazardous Waste.	02/09/95, 60 FR 7824	Tennessee Code Annotated (TCA) 68-212-104(7), 68-212-106(a)(1), and 68-212-107 (d)(1); Tennessee Revised Code (TRC) 1200-1-11-.02(1)(c)1(iii)(IV)-VII, .02(1)(c)3(ii)(I)IV, .02(4)(c), .02(4)(d)5-6, .02(5) Appendix VII-VIII.
141—Testing and Monitoring Amendment II.	04/04/95, 60 FR 17001	Tennessee Code Annotated (TCA) 68-212-104(7), 68-212-106(a)(1), and 68-212-107 (d)(1); Tennessee Revised Code (TRC) 1200-1-11-.01(2)(b)1.
142A—Universal Waste: General Provisions.	05/11/95, 60 FR 25492	Tennessee Code Annotated (TCA) 68-212-104(7) and 18, 68-212-106(a)(1), and 68-212-107 (a) and (d); Tennessee Revised Code (TRC) 1200-1-11-.01(2)(a), .02(1)(e)3, .02(1)(e)3(i)-(vi), .02(1)(e)6(iii), .02(1)(e)6(iii)(I)-(V), .02(1)(e)6(iii)(V)-II, .02(1)(e)6(iii)(VI), .02(1)(e)7(iii), .02(1)(e)7(iii)(I)-(V), .02(1)(e)7(iii)(I)-(V)-II, and VI, .02(1)(j) intro., .03(1)(a)2-7, .03(1)(b)4, .06(1)(b)2(x)-(xii), .10(1)(a)5(vi), .07(1)(b)4(ix), .12(1)(a)-(b), .12(1)(e)1, .12(1)(e)1(i)-(ii), .12(1)(e)2, .12(1)f, .12(2)(a), .12(2)(b)intro, .12(2)(b)1-2, .12(2)(c), .12(2)(e) intro, .12(2)(f)1-3, .12(2)(f)3(i)-(vi), .12(2)(g), .12(2)(h)1-2, .12(2)(i)1-5, .12(2)(i)5(i)-(ii), .12(2)(i)6, .12(2)(i)6(i)-(ii), .12(2)(i)7-8, .12(2)(j)-(k), .12(2)(k)1-3, .12(3)(a), .12(3)(b)1-2, .12(3)(c)1(i)-(ii), .12(3)(c)2, .12(3)(c)2(i)-(v), .12(3)(e) intro, .12(3)(f)1-3, .12(3)(f)3(i)-(vi), .12(3)(g), .12(3)(h)1-2, .12(3)(i)1-5, .12(3)(i)5(i)-(ii), .12(3)(i)6, .12(3)(i)6(i)-(ii), .12(3)(i)7-8, .12(3)(j)1, .12(3)(j)1(i)-(iii), .12(3)(j)2, .12(3)(j)2(i)-(iii), .12(3)(j)3(i)-(ii), .12(3)(k)intro, .12(3)(k)1-3, .12(4)(a), .12(4)(b), .12(4)(b)1-2, .12(4)(b)1-2, .12(4)(c)1-2, .12(4)(d)1-2, .12(4)(e)1-2, .12(4)(f)1-2, .12(4)(g)intro, .12(4)(g) 1-2, .12(5)(a)1-2, .12(5)(b)1-2, .12(5)(b)2(i)-(ii), .12(5)(b)3-4, .12(5)(c)1, .12(5)(c)1(i)-(iii), .12(5)(c)2, .12(6)(a) intro, .12(6)(a)1-3.
142B—Universal Waste Rule: Specific Provisions for Batteries.	05/11/95, 60 FR 25492	Tennessee Code Annotated (TCA) 68-212-104(7) and 18, 68-212-106(a)(1), and 68-212-107 (a) and (d), Tennessee Revised Code (TRC) 1200-1-11-.01(2)(a), .02(1)(f)1(iii)(II)-(V), .02(1)(j)1, .06(1)(b)2(x)(I), .05(1)(b)2(xii)(I), .09(7)(a)1-2, .10(1)(a)5(vi)(I), .07(1)(b)4(ix)(I), .12(1)(a)1, .12(1)(b)1(i)-(ii), .12(1)(b)2, .12(1)(b)2(i)-(iii), .12(1)(b)3(i)-(ii), .12(1)(f), .12(2)(d)1, .12(2)(d)1(i)-(ii), .12(2)(d)1(ii)(I)-(VII), .12(2)(d)1(iii), .12(2)(d)1(iii)(I)-(II), .12(2)(e), .12(3)(d)1, .12(3)(d)1(i)-(ii), .12(3)(d)1(ii)(I)-(VII), .12(3)(d)1(iii), .12(3)(d)1(iii)(I)-(II), .12(3)(e)1.
142C—Universal Waste Rule: Specific Provisions for Pesticides.	05/11/95, 60 FR 25492	Tennessee Code Annotated (TCA) 68-212-104(7) and 18, 68-212-106(a)(1), and 68-212-107 (a) and (d); Tennessee Revised Code (TRC) 1200-1-11-.01(2)(a), .02(1)(j)2, .12(1)(c)1(ii), .12(1)(c)2, .12(1)(c)2(i)-(iv), .12(1)(c)3(i), .12(1)(c)3(i)(I)-(II), .12(1)(c)3(ii), .12(1)(c)4, .12(1)(c)4(i), .12(1)(c)4(i)(I)-(II), .12(1)(c)4(ii), .12(1)(f), .12(2)(d)2, .12(2)(d)2(i)-(iv), .12(2)(e)2, .12(2)(e)2(i)-(ii), .12(2)(e)3, .12(2)(e)3(i)(I)-(III), .12(2)(e)3(ii), .12(3)(c)1(i) and (iii), .12(3)(d)2, .12(3)(d)2(i)-(iv), .12(3)(e)2, .12(3)(e)2(i)-(ii), .12(3)(e)3, .12(3)(e)3(i)(I)-(III), .12(3)(e)3(ii), .10(1)(a)5(vi)(II), .07(1)(b)4(ix)(ii), .12(1)(a)1(ii), .12(1)(c)1, .12(1)(c)1(i), .12(1)(c)1(i)(I)-(II).
142D—Universal Waste Rule: Specific Provisions for Thermostats.	05/11/95, 60 FR 25492	Tennessee Code Annotated (TCA) 68-212-104(7) and 18, 68-212-106(a)(1), and 68-212-107 (a) and (d); Tennessee Revised Code (TRC) 1200-1-11-.01(2)(a), .02(1)(j)3, .06(1)(b)2(x)(III), .05(1)(b)2(xii)(III), .10(1)(a)5(vi)(III), .07(1)(b)4(ix)(III), .12(1)9a)1(iii), .12(1)(d)1-2, .12(1)(d)2(i)-(ii), .12(1)(d)3(i)-(ii), .12(1)(f)1, .01(2)(a), .12(2)(d)3, .12(2)(d)3(i)-(ii), .12(2)(d)3(ii)(I)-(VIII), .12(2)(d)3(iii)(I), .12(2)(d)3(iii)(II), .12(2)(d)3(iii)(III), .12(2)(d)3(iii)(IV), .12(2)(e)4, .12(3)(d)3, .12(3)(d)3(i)-(ii), .12(3)(d)3(ii)(I)-(VIII), .12(3)(d)3(iii)(I), .12(3)(d)3(iii)(II)-(III), .12(3)(e)4.

Description of Federal requirement	Federal Register date and page	Analogous State authority ¹
142E—Universal Waste Rule: Petition Provisions to Add a New Universal Waste.	05/11/95, 60 FR 25492	Tennessee Code Annotated (TCA) 68–212–104(7) and 18, 68–212–106(a)(1), and 68–212–107 (a) and (d); Tennessee Revised Code (TRC) 1200–1–11–.01(3)(a)1, .01(3)(d)1–4, .12(7)(a)1–3, .12(7)(b)1–8.
144—Removal of Legally Obsolete Rules.	06/29/95, 60 FR 33912	Tennessee Code Annotated (TCA) 68–212–104(2), (7), and (11), 68–212–107(a) and (d)(3), and 68–212–108(a)(1); Tennessee Revised Code (TRC) 1200–1–11–.2(4)(b), .09(8)(d)3(v), .09(8)(e)6–8, .07(2)(b)5, .07(2)(c)2, .07(2)(d)1, .07(2)(d)1(i)–(ii).
145—Liquids in Landfills III	07/11/95, 60 FR 35703	Tennessee Revised Code (TRC) 1200–1–11–.06(14)(o)5(ii)(II) and (III), .05(14)(o)6(ii)(II) and (III).
148—RCRA Expanded Public Participation.	12/11/95, 60 FR 63417	Tennessee Code Annotated (TCA) 68–212–106(a)(2), 68–212–107(d)(4) and (6), 68–212–108(a)(1) and (e); TRC 1200–1–11–.07(2)(c)3(i)(I)–(IV), .07(2)(c)3(i)(IV)I, .07(2)(c)3(i)(IV)I(A)–(D), .07(2)(c)3(i)(IV)II, .07(2)(c)3(i)(IV)II.A–E, .07(7)(e)4(iv)(I)–(II), .07(5)(a)1(xxii), .07(8)(a)13, .07(1)(d)2(v)–(vi), .07(1)(e)2(vi)(I)–(II), .07(1)(e)2(vi)(II)(I)–(IV), .07(1)(e)2(vii)–(xi), .07(1)(e)4, .07(1)(j)4(iii), .07(1)(j)4(iii)(I)–(II), .07(1)(j)4(iii)(II)–IV, .07(1)(j)4(iv)–(vi), .07(1)(j)7.
150—Amendments to the Definition of Solid Waste; Amendment II.	03/26/96, 61 FR 13103	Tennessee Revised Code 1200–1–11 –.02(1)(d)1(xii).
151—Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners.	04/08/96; 04/30/96; 06/28/96; 07/10/96; 08/26/96; 02/19/97, 61 FR 15566.	TCA 68–212–104(7) and (16), 68–212–106(a)(1) and (2), 68–212–107(a) and (d)(1), (3), and (9); Tennessee Revised Code (TRC) 1200–1–11–.10(1)(a)3(iii), .10(1)(a)3(iii)(I) –(II), .10(1)(a)3(iv), .10(1)(a)3(iv)(I)–(VI), .10(1)(a)5(iii)–(iv), .10(1)(b)6, .10(1)(b)9–12, .10(1)(c)1–3, .10(1)(c)3(i)–(vi), .10(1)(g)1, .10(1)(g)1(i)(II)–(V), .10(1)(g)1(ii)(I)II, .10(1)(g)1(iii)(II), .10(1)(g)2(iv)(II), .10(1)(g)2(v)(IV)–(V), .10(1)(h), .10(1)(i)1, .10(1)(i)4, .10(1)(i)4(i)(I)–(II), .10(1)(i)4(iii)(I)–(IV), .10(2)(j)1–6, .10(2)(j)6(i)–(iv), .10(2)(j)7, .10(3)(a)1, 5 and (7), .10(3)(a)/Table, .10(c)/Table 1, .10(3)(i)1 Table UTS, .10(5) App. XI .10(1)(c)3(i)–(vi), .10(1)(g)1, .10(1)(g)1(i)(II)–(V), .10(1)(g)1(ii)(I)II, .10(1)(g)1(iii)(II), .10(1)(g)2(iv)(II), .10(1)(g)2(v)(IV)–(V), .10(1)(h), .10(1)(i)1, .10(1)(i)4.
152—Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision.	04/12/96, 61 FR 16290	Tennessee Revised Code (TRC) 1200–1–11–.03(1)(a)5–8, .03(6)(d)2, .03(6)(g)2, .04(3)(a)1, .06(2)(c)1(i), .05(2)(c)1(i), .09(6)(a)2(ii), .12(2)(k), .12(3)(k), .12(4)(g), .12(6)(a).

¹ The Tennessee provisions are from the Tennessee Hazardous Waste Management Regulations adopted December 6, 1994, August 6, 1996, June 3, 1997, and February 3, 1998.

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

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

EPA is publishing this rule without prior proposal because we view this as a noncontroversial program revision and do not anticipate adverse comment. However, in the Proposed Rules' section of today's **Federal Register**, we are publishing a separate document that will serve as the proposal to authorize the revision if we receive adverse comments. This authorization will become effective without further notice on November 15, 1999, unless EPA receives adverse comment by October 15, 1999. Should EPA receive such comments it will publish a timely

withdrawal informing the public that the rule will not take effect. We will address all public comments in a subsequent final action based on the proposed rule. EPA may not provide additional opportunity for comment. Any parties interested in commenting must do so at this time.

The public may submit written comments on EPA's immediate final decision until October 15, 1999. Copies of Tennessee's application for program revision are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document. The **ADDRESSES** section also indicates where to send written comments on this action.

C. Decision

I conclude that Tennessee's application for program revision authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, EPA grants Tennessee Final Authorization to operate its hazardous waste program as revised. Tennessee now has responsibility for permitting treatment, storage, and disposal facilities 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 HSWA. Tennessee also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA, and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

D. Codification in Part 272

The EPA uses 40 CFR part 272 for codification of the decision to authorize Tennessee's program and for incorporation by reference of those provisions of its statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. EPA reserves amendment of 40 CFR part 272, subpart RR until a later date.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private

sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. EPA has determined that sections 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of \$100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Tennessee program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the State, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small

governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing State laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under the existing State laws that are now being authorized by EPA. The EPA's authorization does not impose any significant additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Pursuant to the provision at 5 U.S.C. 605(b), the Agency hereby certifies that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

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. The 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 the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Compliance With Executive Order 12866

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

Compliance With Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

This rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its hazardous waste program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from this action. Accordingly, the requirements of Executive Order 12875 do not apply to this rule.

Compliance With Executive Order 13045

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) the Office of Management

and Budget determines is "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 rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions based on environmental health or safety risks.

Compliance With Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule is not subject to E.O. 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Tennessee is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in Indian country within the State.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden

imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

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 note) 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 standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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, Water pollution control, Water supply.

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).

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 99-23912 Filed 9-14-99; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43 and 64

[CC Docket No. 98-81, ASD File No. 98-64, CC Docket No. 96-150, RM-9341, FCC 99-106]

1998 Biennial Regulatory Review—Review of Accounting and Cost Allocation Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document streamlines the accounting requirements for mid-sized incumbent local exchange carriers (LECs) whose aggregate annual revenues are less than \$7 billion by allowing these companies, currently required to use Class A accounts, to use the more streamlined Class B accounts. The Commission also permits the mid-sized incumbent LECs to submit their cost allocation manuals (CAMs) based on the Class B system of accounts. In addition, mid-sized incumbent LECs will now only be required to obtain an attestation every two years, instead of an annual financial audit requiring a positive opinion. The Commission also eliminates several accounting requirements for all incumbent LECs. The Commission's objective in modifying the accounting and cost allocation rules is to minimize the reporting burden on incumbent LECs and improve the quality of the reported information.

DATES: This rule is effective November 15, 1999, except § 32.2000(b) which contains information collection requirements and will not become effective until approved by the Office of Management and Budget. The Commission will publish a document announcing the effective date of this section.

ADDRESSES: Federal Communications Commission, 445-12th Street, SW, TW-A325, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mika Savir, Legal Branch, Accounting Safeguards Division, Common Carrier Bureau at (202) 418-0384 or Andy Multz, Chief, Legal Branch, Accounting Safeguards Division, Common Carrier Bureau at (202) 418-0827.

SUPPLEMENTARY INFORMATION: This *Report and Order* in CC Docket No. 98-81, ASD File No. 98-64, CC Docket No. 96-150, RM-9341, adopted on May 18, 1999 and released on June 10, 1999, is available for inspection and copying during normal business hours in the FCC Reference Information Center (RIC), 445 12th Street, SW, TW-A325, Washington, D.C. 20554. The complete text may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857-3800.

Synopsis of Report and Order

I. Background

1. As part of the biennial review under section 11 of the Communications Act, the Commission proposed to raise the threshold significantly for required Class A accounting, allowing mid-sized