

US EPA ARCHIVE DOCUMENT

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: November 9, 2004.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. 04-26820 Filed 12-7-04; 8:45 am]

BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7846-2]

Tennessee: Final Authorization of State Hazardous Waste Management Program Revision

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 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 Tennessee's changes to its hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on February 7, 2005 unless EPA receives adverse written comments by January 7, 2005. If EPA receives such comments, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- E-mail: gleanon.gwen@epa.gov
- Fax: (404) 562-8439 (prior to faxing, please notify the EPA contact listed below)

- Mail: Send written comments to Gwen Gleaton at the address listed below.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov>, or e-mail. The federal [regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comments. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit.

You can view and copy Tennessee's applications from 8 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, 9th Floor, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8190.

FOR FURTHER INFORMATION CONTACT:

Gwen Gleaton, RCRA Services Section, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, Region 4, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8500.

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 (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 Tennessee, 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 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:

- 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 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 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 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 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, 2996, 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 Today's Action?

On October 22, 2004, Tennessee submitted final complete program revision applications, seeking authorization of its changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of comments that oppose this action, that 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
169—Petroleum Refining Process Wastes	63 FR 42110 08/06/98	Tennessee Revised Code 1200-1-11-.02(1)(c)1(ii)(IV)III, .02(1)(c)3(ii)(II)II & V, .02(1)(d)7(xii)(I)-(II), .02(1)(d)1(xx), .02(1)(d)1(xx)(I)-(II), .02(1)(d)1(xxii), .02(1)(f)1(iii)(IV)III, .02(1)(f)1(iii)(V), .02(4)(b)1, .02(4)(c), .02(5) Appendix VII, .09(8)(a)2(iii), .10(2)(f)1-2, .10(2)(f)2(i)-(v), .10(2)(f)3, .10(3)(a)/Table.
170—Land Disposal Restrictions Phase IV—Zinc Micro-nutrient Fertilizers, Amendment.	63 FR 46332 08/31/98	Tennessee Revised Code 1200-1-11-.10(3)(a)9.
171—Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production.	63 FR 47410 09/04/98	Tennessee Revised Code 1200-1-11-.10(3)(a)7 & 10, .10(3)(a)/Table, .10(3)(i)1/ Table.
172—Land Disposal Restrictions Phase IV—Extension of Compliance Date for Characteristic Slags.	63 FR 48124 09/09/98	Tennessee Revised Code 1200-1-11-.10(3)(e)2-6.
173—Land Disposal Restrictions; Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); Final Rule.	63 FR 51254 09/24/98	Tennessee Revised Code 1200-1-11-.10(2)(j)3, .10(3)(a)/Table.
175—HWIR Media	63 FR 6584 11/30/98	Tennessee Revised Code 1200-1-11-.01(2)(a) intro., .01(2)(a), .02(1)(d)7, .02(1)(d)7(ii), .02(1)(d)7(ii) intro., .02(1)(d)7(ii)(I)-(IV), .06(1)(b)9, .06(1)(b)9(i)-(iii), .06(1)(b)9(iii)(I)-(II), .06(1)(b)9(iv)-(xiii), .06(5)(d)2(xvii), .06(6)(1)4, .06(22)(c)1, .06(22)(c)1(i)-(ii), .06(22)(d)1, .06(22)(e) (Note), .06(22)(e)1-3, .06(22)(e)3(i)-(iii), .06(22)(e)4, .06(22)(e)4(i), .06(22)(e)4(i)(I)-(III), .06(22)(e)4(ii), .06(22)(e)4(ii)(I)-(VI), .06(22)(e)5, .06(22)(e)5(i), .06(22)(e)5(i)(I)-(II), .06(22)(e)5(ii), .06(22)(e)6, .06(22)(e)6(i)-(iii), .06(22)(e)7-13, .06(22)(e)9(i), .06(22)(e)9(i)(I)-(II), .06(22)(e)9(ii), .06(22)(e)10(i), .06(22)(e)10(I)-(III), .06(22)(e)10(ii)-(iii), .06(22)(e)11(i), .06(22)(e)11(ii), .06(22)(e)12(i)-(iv), .06(22)(e)12(i)(I)-(II), .05(1)(b), .10(1)(b)6, .10(4)(a)7, .07(2)(a)10(ii), .07(10)(d)3, .07(10)(n)3, .07(1)(1), .07(3)(d)1, .07(11), .07(11)(a)1(i)-(vi), .07(11)(a)1(i)-(iv)(I)-(II), .07(11)(a)6(i)-(iii), .07(11)(a)6(i)(I)-(II), .07(11)(a)11, .07(11)(b) 1, 6, 11, 16, 21, 26, 31, .07(11)(b)16(i)-(ix), .07(11)(b)16(v)(I)-(III), .07(11)(b)16(vi)(I)-(III), .07(11)(c)1(i)-(ii), .07(11)(c)6, .07(11)(c)6(i)-(iii), .07(11)(c)6(ii)(I)-(IV), .07(11)(c)11, .07(11)(c)11(i)-(iii), .07(11)(c)16(i)-(iv), .07(11)(c)16(i)(I)-(IV), .07(11)(c)16(iii)(I)-(IX), .07(11)(c)16(iv), .07(11)(c)16(iv)(I)-(III), .07(11)(c)21(i)-(vii), .07(11)(c)21(vi)(I)-(VII), .07(11)(c)26(i)-(ii), .07(11)(c)26(i)(I)-(III), .07(11)(c)31, .07(11)(c)31(i)-(iii), .07(11)(c)36, .07(11)(d)1, .07(11)(d)6(i)-(iii), .07(11)(d)6(i)(I)-(VIII), .07(11)(d)11(i)-(ii), .07(11)(d)16, .07(11)(d)21(i)-(iv), .07(11)(d)21(iii)(I)-(III), .07(11)(d)26, 31 & 36, .07(11)(e)1, .07(11)(e)1(i)-(ii), .07(11)(e)6(i)-(iv), .07(11)(e)11(i)-(ii), .07(11)(f)1(i)-(v), .07(11)(f)1(iv)(I)-(IV), .07(11)(f)1(v)(I)-(II).
176—Universal Waste Rule—Technical Amendments	63 FR 71225 12/24/98	Tennessee Revised Code 1200-1-11-.09(7)(a)1, .09(7)(a)/Table, .09(7)(a)2, .09(7)(a)2(i)-(ii), .09(7)(a)2(i)(I)-(VIII), .09(7)(a)2(ii)(I)-(VII), .12(1)(b).

Description of Federal Requirement	Federal Register date and page	Analogous State authority ¹
177—Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers.	64 FR 3382 01/21/99	Tennessee Revised Code 1200–1–11–.03(4)(e)2(i)(I)–(II), .06(30)(b), .06(32)(a)2(v), .06(32)(d)1(i)(I)–(II), .06(32)(e)8(iii), .06(32)(e)8(iii)(I)–(II), .06(32)(g)5(vi), .05(29)(a)2(v), .05(29)(e)1(ii)(I)–(II), .05(29)(e)1(iii)(I)–IV, .05(29)(e)1(iii)(III), .05(29)(e)2(i)(I)–(II), .05(29)(e)2(iii)(II) & IV, .05(29)(e)2(iii)(III), .05(29)(f)8(iii), .05(29)(f)8(iii)(I)–(II), .05(29)(h)5(vi).
178—Petroleum Refining Process Wastes—Leachate Exemption.	64 FR 6806 02/11/99	Tennessee Revised Code 1200–1–11–.02(1)(d)2(xii), .02(1)(d)2(xii)(I)–(V).
179—Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards.	64 FR 25408 05/11/99	Tennessee Revised Code 1200–1–11–.02(1)(b)3(iii), .02(1)(b)3(iv)/Table, .02(1)(b)5(i)(III), .02(1)(d)1(xviii)–(xix), .02(1)(d)1(xix)(V), .02(1)(d)2(xv)(III), .02(1)(d)2(xv)(III)(I), .03(4)(e)6(vi), .10(1)(b)4 & 9, .10(1)(g)1(iv)/Table, .10(1)(g)2(iii)(I)/Table, .10(1)(g)2(iv)(IV), .10(1)(i)4(ii), .10(1)(i)4(iii)(I), .10(3)(a)9 & 10, .10(3)(a)/Table, .10(3)(i)1/Table, .10(3)(j)3(iii), .10(3)(j)3(iii)(I)–(II).
180—Test Procedures for the Analysis of Oil and Grease and Non-Polar Material.	64 FR 26315 05/14/99	Tennessee Revised Code 1200–1–11–.01(2)(b)1(xi) & (xvi).
181—Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps.	64 FR 36466 07/06/99	Tennessee Revised Code 1200–1–11–.01(2)(a), .12(1)(a) & (b), .02(1)(j), .12(1)(a)1(ii) & (iv), .06(1)(b)2(x), .05(1)(b)2(xii), .10(1)(a)6, .07(1)(b)4(ix), .12(1)(d)1(i), .12(1)(d)2(ii) & (iii), .12(1)(e)1, .12(1)(f)1, .12(1)(g)1 & 2, .12(1)(g)(i) & (ii), .12(1)(g)3, .12(1)(g)3(i) & (ii), .12(1)(h), .12(1)(i), .12(1)(c)1, .12(1)(c)1(i) & (ii), .12(1)(c)2, .12(1)(b), .12(1)(6), .12(2)(a), .12(2)(d)4(i), .12(2)(d)4(i)(I) & (II), .12(2)(e)5, .12(3)(a), .12(3)(c)2(iv) & (v), .12(3)(d)4(i), .12(3)(d)4(i)(I) & (II), .12(3)(e)5, .12(4)(a), .12(4)(a)1, .12(7)(b)1.
182—NESHAPS: Final Standards for Hazardous Waste Pollutants for Hazardous Waste Combustors.	64 FR 52828 09/30/99	Tennessee Revised Code 1200–1–11.01(2)(a), .02(4)(i)1(ii)/Table 1, .06(15)(a)2, .06(15)(a)2(i) & (ii), .06(15)(a)3–5, .06(27)(b), .05(15)(a), .05(15)(a)2(i) & (ii), .05(15)(a)3, .09(8)(a)2–8, .09(8)(a)2(i) & (ii), .09(8)(a)2(ii)(I)–(IV), .09(8)(a)4(i) & (iii), .09(8)(a)4(i)(I)–(III), .09(8)(a)4(iii)(I)–(III), .09(8)(b)3, .09(8)(b)3(i), .09(8)(f)3 & 4, .09(8)(f)3(i)–(iii), .09(8)(m)2(i), .09(8)(m)2(ii)(I), .09(8)(m)2(ii)(I)/Note, .09(30) Appendix VIII, .07(5)(b)5, .07(5)(b)5(v), .07(5)(b)8, .07(10) Appendix I, .07(1)(e) & (j).
183—Land Disposal Restrictions Phase IV—Technical Corrections.	64 FR 56469 10/20/99	Tennessee Revised Code 1200–1–11–.02(4)(c), .03(4)(e)2(iv), .10(1)(g)1(iii)(III), .10(3)(a)10, .10(3)(a)10/Table, .10(3)(j)3(i)(I) & (II).
184—Accumulation Time for Waste Water Treatment Sludges	65 FR 12378 03/08/00	Tennessee Revised Code 1200–1–11–.03(4)(e), .03(4)(e)2(iv), .03(4)(e)9–11, .03(4)(e)9(i)–(iii), .03(4)(e)9(iv) intro, .03(4)(e)9(iv)(I) intro, .03(4)(e)9(iv)(I) & II, .03(4)(e)9(iv)(I)III intro, .03(4)(e)9(iv)(I)III.A & B, .03(4)(e)9(iv)(III)–(V).
185—Organobromine Appendix Production Wastes Vacatur ...	65 FR 14472 03/17/00	Tennessee Revised Code 1200–1–11–.02(4)(c)/Table, .02(4)(d)6/Table, .02(4) VII & VIII, .10(2)(d), .10(3)(a)10/Table, .10(3)(i)/Table.
187—Petroleum Refining Process Wastes—Clarification	64 FR 36365 06/08/00	Tennessee Revised Code 1200–1–11–.02(4)(b)1/Table, .10(5) Appendix VII.
188—Hazardous Air Pollutant Standards; Technical Corrections.	65 FR 42292 07/10/00	Tennessee Revised Code 1200–1–11–.02(4)(i)3(ii)(IV), .06(15)(a)2(i), .06(15)(a)2(iii), .07(9)(c)5(x)(I).
	66 FR 24272 05/14/01	
	66 FR 35087 07/03/01	
189—Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes.	65 FR 67068 11/08/00	Tennessee Revised Code 1200–1–11–.02(4)(c), .02(5) Appendix VII, .02(5) Appendix VIII, .10(2)(d)1–4, .10(2)(d)2(i)–(v), .10(2)(d)4(i) & (ii), .10(3)(a) Table, .10(3)(i) Table.
190—Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil.	65 FR 81373 12/26/00	Tennessee Revised Code 1200–1–11–.10(2)(c)1 & 2, .10(2)(c)2(i)(I) & (II), .10(2)(c)2(ii)(I) & (II), .10(2)(c)2(iii) & (iv), .10(5) Appendix III, .10(3)(j)4, .10(5) Appendix III.
191—Mixed Waste Rule	66 FR 27218 05/16/01	Tennessee Revised Code 1200–1–11–.09(14)(a)1, .09(14)(b)1 & 6, .09(14)(b)11(i) & (ii), .09(14)(c)11(ii)(I)–(V), .09(14)(c)1, .09(14)(d)1(i) & (ii), .09(14)(d)1(i)(I), .09(14)(d)1(i)(I)–III, .09(14)(d)6, .09(14)(d)6(i)(I) & (II), .09(14)(d)6(i)(II)–IV, .09(14)(d)6(ii), .09(14)(e)1(i), .09(14)(e)1(i)(I)–(IV), .09(14)(e)1(ii), .09(14)(f)1(i) & (ii), .09(14)(g)1, .09(14)(l)1, .09(14)(m)1, .09(14)(m)1(i) & (ii), .09(14)(n)1, .09(14)(n)1(i)–(iv), .09(14)(n)6, 11, 16, 21, & 26, .09(14)(n)16(i)–(iv), .09(14)(n)26(i)–(iii), .09(14)(o)1, .09(14)(o)1(i)–(ii), .09(14)(p)1, .09(14)(p)1(i)–(v), .09(14)(q)1, .09(14)(q)1(i) & (ii), .09(14)(q)1(i)(I)–III, .09(14)(q)1(ii), .09(14)(q)1, .09(14)(q)6(i) & (ii), .09(14)(q)6(i)(I) & (II), .09(14)(q)6(i)(II)–IV.
192A—Mixture and Derived—From Rules	66 FR 27266 05/16/01	Tennessee Revised Code 1200–1–11–.02(1)(c)1(ii)(III) & (IV), .02(3)(c)3(ii)(I), .02(3)(c)7(i)–(iii), .02(3)(c)7(ii)(I) & (II), .02(3)(c)8(i)–(iii), .02(3)(c)8(ii)(I) & (II)
192B—Land Disposal Restrictions; Correction	66 FR 27266 05/16/01	Tennessee Revised Code 1200–1–11–.10(5) Appendix VII.
193—Change of Official EPA Mailing Address	66 FR 34374 06/28/01	Tennessee Revised Code 1200–1–11–.01(2)(b)1(xi).
194—Mixture and Derived—From Rules Revision II	66 FR 50332 10/03/01	Tennessee Revised Code 1200–1–11–.02(1)(c)1(ii)(IV), .02(1)(c)1(ii)(IV)–VII, .02(1)(c)7(iv).
195—Inorganic Chemical Manufacturing Wastes Identification and Listing..	66 FR 58258 11/20/01	Tennessee Revised Code 1200–1–11–.02(1)(d)2(xii), .02(1)(d)2(xii)(I)–(V), .02(4)(c), .02(5) Appendix VII, .10(2)(g)1, .10(2)(g)2 intro, .10(2)(g)2(i)–(v), .10(2)(g)3, .10(3)(a)10/ Table.
	67 FR 17119 04/09/02	

Description of Federal Requirement	Federal Register date and page	Analogous State authority ¹
196—CAMU Amendments	67 FR 2962 01/22/02	Tennessee Revised Code 1200–1–11–.01 (2)(a), .06(22)(a)1 & 2, .06(22)(b), .06(22)(b) intro, .06(22)(c)1, .06(22)(c)1(i)–(v), .06(22)(c)1(i)(I)& (II), .06(22)(c)1(i)(II) & II, .06(22)(c)1(i)(III), .06(22)(c)(iii)(I)–(IV), .06(22)(c)2(i) & (ii), .06(22)(c)2(i)(I) & (II), .06(22)(c)3, .06(22)(c)3(i)–(vii), .06(22)(c)4, .06(22)(c)4(i)–(iii), .06(22)(c)5, .06(22)(c)5(i)–(vi), .06(22)(c)5(ii)(I) & (II), .06(22)(c)5(iii)(I) & II, .06(22)(c)5(iv)(I), .06(22)(c)5(iv)(I)I, .06(22)(c)5(iv)(I)I.A & B, .06(22)(c)5(iv)(I)II & III, .06(22)(c)5(iv)(II)–(VII), .06(22)(c)5(iv)(IV)I–VI, .06(22)(c)5(iv)(V), .06(22)(c)5(iv)(V)I–V, .06(22)(c)5(iv)(V)I.V.A–E, .06(22)(c)5(v)(I)–(III), .06(22)(c)5(v)(I)–(III), .06(22)(c)5(vi)(I), .06(22)(c)5(vi)(I)I–II, .06(22)(c)5(vi)(II), .06(22)(c)5(vi)(III), .06(22)(c)5(vi)(IV), .06(22)(c)5(vi)(IV)I, .06(22)(c)5(vi)(IV)I.A–E, .06(22)(c)5(vi)(IV)II, .06(22)(c)5(vi)(V), .06(22)(c)6, .06(22)(c)6(i) & (ii), .06(22)(c)6(ii)(I) & (II), .06(22)(c)7–11, .06(22)(e)1(i) & (ii), .06(22)(f)1, .06(22)(f)1(i) & (ii), .06(22)(f)1(ii)(I)–(III), .06(22)(f)1(iii), .06(22)(f)2–7, .06(22)(f)5(i)–(vi).
197—Hazardous Air Pollutant Standards for Combustors: Interim Standards.	67 FR 6792 02/13/02	Tennessee Revised Code 1200–1–11–.06(15)(a)2(i) & (iv), .06(15)(a)2(iv)(I) & (II), .05(15)(a)2(i) & (iii), .09(8)(a)2(ii)(I)–(V), .07(5)(b)5(v), .07(5)(b)8 intro, .07(1)(e) intro, .07(1)(j) intro, .07(12)(a)1, .07(12)(a)1(i), .07(12)(a)1(i)(I), .07(12)(a)1(i)(II) & II, .06(12)(a)1(i)(II), .06(12)(a)1(i)(III), .07(12)(a)1(i)(II)I.A & B, .07(12)(a)1(i)(II)II, .07(12)(a)1(i)(II)II.A & B, .07(12)(a)1(i)(II)II.B(A) & (B), .07(12)(a)1(i)(III), .07(12)(a)1(i)(III)I & II, .07(12)(a)1(ii), .07(12)(a)1(ii)(I), .07(12)(a)1(ii)(II), .07(12)(a)1(ii)(III), .07(12)(a)1(ii)(III)I & II, .07(12)(a)2, .07(12)(a)2(i), .07(12)(a)2(ii)(I) & (II), .07(12)(a)2(ii).
198—Hazardous Air Pollutant Standards for Combustors; Corrections.	67 FR 6968 02/14/02	Tennessee Revised Code 1200–1–11–.09(8)(a)1, .09(8)(a)2(i), .09(8)(a)4(i)(I)II, .09(8)(a)4(ii)(I), .09(8)(a)4(ii)(II), .09(8)(a)4(iii) intro, .09(8)(a)4(iii)(I) intro, .09(8)(a)4(iii)(II)IV, .07(9)(c)5(x)(I)
199—Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Wastes and TCLP Use with MGP Waste.	67 FR 11251 03/13/02	Tennessee Revised Code 1200–1–11–.02(1)(b)3(iii), .02(1)(d)1(xix), .02(1)(d)1(xix)(I)–(VI), .02(1)(d)1(xix)(IV)I–III, .02(3)(d)1

¹ The Tennessee provisions are from the Tennessee Hazardous Waste Management Regulations effective November 28, 2000, October 17, 2001, July 22, 2002, October 8, 2002, and January 12, 2004.

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. At the time the State program is approved, EPA will suspend issuance of Federal permits in the State. EPA will transfer any pending permit applications, completed permits or pertinent file information to the State within thirty days of the approval of the State program. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Tennessee is not yet authorized.

J. How Does Today’s Action Affect Indian Country (18 U.S.C. 115) in Tennessee?

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

K. 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.

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 F.R. 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 F.R. 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 7, 2005.

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, 6974(b).

Dated: November 16, 2004.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. 04-26943 Filed 12-7-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 173, 174, 175, 176, 177, and 178

[Docket No. RSPA-98-4952 (HM-223)]

RIN 2137-AC68

Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: On October 30, 2003, RSPA published a final rule (68 FR 61905) to clarify the applicability of the Hazardous Materials Regulations to loading, unloading, and storage operations. RSPA is delaying the effective date of the final rule from January 1, 2005 until June 1, 2005.

DATES: The effective date of the final rule amending 49 CFR parts 171, 173, 174, 175, 176, 177, and 178 published at 68 FR 61905 on October 30, 2003, and delayed at 69 FR 30588 on May 28, 2004, is further delayed until June 1, 2005.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky (202) 366-8553, Office of Hazardous Materials Standards, Research and Special Programs Administration; or Donna O'Berry (202) 366-4400, Office of the Chief Counsel, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:

I. Background

On October 30, 2003, the Research and Special Programs Administration (RSPA, we) published a final rule to clarify the applicability of the Hazardous Materials Regulations (HMR; 49 CFR parts 171-180) to specific functions and activities, including hazardous materials loading and unloading operations and storage of hazardous materials during transportation (68 FR 61906). The final rule amended the HMR to incorporate the following new definitions and provisions:

- We defined a new term—"pre-transportation function"—to mean a

function performed by any person that is required to assure the safe transportation of a hazardous material in commerce. When performed by shipper personnel, loading of packaged or containerized hazardous material onto a transport vehicle, aircraft, or vessel and filling a bulk packaging with hazardous material in the absence of a carrier for the purpose of transporting it is a pre-transportation function as that term is defined in this final rule. Pre-transportation functions must be performed in accordance with requirements in the HMR.

- We defined "transportation" to mean the movement of property and loading, unloading, or storage incidental to the movement. This definition is consistent with the definition of "transportation" in Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*). Transportation in commerce begins when a carrier takes physical possession of a hazardous material for the purpose of transporting it and continues until delivery of the package to its consignee or destination as evidenced by the shipping documentation under which the hazardous material is moving, such as shipping papers, bills of lading, freight orders, or similar documentation.

- We defined "movement" to mean the physical transfer of a hazardous material from one geographic location to another by rail car, aircraft, motor vehicle, or vessel.

- We defined "loading incidental to movement" to mean the loading by carrier personnel or in the presence of carrier personnel of packaged or containerized hazardous material onto a transport vehicle, aircraft, or vessel for the purpose of transporting it. For a bulk packaging, "loading incidental to movement" means the filling of the packaging with a hazardous material by carrier personnel or in the presence of carrier personnel for the purpose of transporting it. Loading incidental to movement is regulated under the HMR.

- We defined "unloading incidental to movement" to mean the removal of a packaged or containerized hazardous material from a transport vehicle, aircraft, or vessel or the emptying of a hazardous material from a bulk packaging after a hazardous material has been delivered to a consignee and prior to the delivering carrier's departure from the consignee facility or premises. Unloading incidental to movement is subject to regulation under the HMR. Unloading by a consignee after the delivering carrier has departed the facility is not unloading incidental to movement and not regulated under the HMR.