

US EPA ARCHIVE DOCUMENT

to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes." This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Kentucky is not approved to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State. Thus, Executive Order 13175 does not apply to this rule.

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.

#### 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.

**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: October 17, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region IV.*

[FR Doc. 01-31487 Filed 12-21-01; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7121-1]

### 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 as provided below. 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 25, 2002, unless EPA receives adverse written comment by January 25, 2002. 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, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-3104; (404) 562-8440. You can

view and copy Tennessee's application 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:

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.

#### 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 for RCRA Cluster VIII 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 programs, 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 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 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 their program on October 26, 2000, effective December 26, 2000 (65 FR 64161), on September 15, 1999, effective November 15, 1999 (64 FR 49998), on 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 Today's Action?**

On March 23, 2001, 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 written 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:

Federal requirement	Federal Register	Analogous State authority <sup>1</sup>
160—Land Disposal Restrictions; Phase III—Emergency Extension of the KO88 National Capacity Variance.	62 FR 37694, 07/14/97 .....	Tennessee Code Annotated (TCA) 68-212-104(7) & (16); 68-212-106(a)(1) & (2); 68-212-107(a), (d)(1), (3), & (9); Tennessee Revised Code 1200-1-11-10(2)(j)3.
161—Second Emergency Revision of the Land Disposal Restrictions Treatment Standards for Listed Hazardous Waste From Carbamate Production.	62 FR 45568, 08/28/97 .....	Tennessee Code Annotated (TCA) 68-212-104(7) & (16); 68-212-106(a)(1) & (2); 68-212-107(a), (d)(1), (3), & (9); Tennessee Revised Code 1200-1-11-10(3)(a)7, .10(3)(i)1/Table.
162—Clarification of Standards for Hazardous Waste Land Disposal Restriction Treatment Variances.	62 FR 64504, 12/05/97 .....	Tennessee Code Annotated (TCA) 68-212-104(7) & (16); 68-212-106(a)(1) & (2); 68-212-107(a), (d)(1), (3), & (9); Tennessee Revised Code 1200-1-11-10(3)(3).

Federal requirement	Federal Register	Analogous State authority <sup>1</sup>
163—Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment.	62 FR 64636, 12/08/97 .....	Tennessee Code Annotated (TCA) 68–212–104(6) & (7); 68–212–106(a)(1) & (2); 68–212–107(a), (d)(1), (3), & (6); 68–212–108(a)(1); Tennessee Revised Code 1200–1–11–.06(2)(f)2(iv), .06(5)(d)2(vi), .06(30)(a)2(iii), .06(30)(a)3 & 5; .06(30)(b), .06(30)(d)1(ii)(I)–(IV), .06(31)(a)2(iii), .06(31)(a)3 & 6, .06(31)(k)1, .06(31)(k)2(i)–(iv), .06(31)(m)2(ii)–(iii), .06(31)(o)7(vi), .06(31)(o)13, .06(32)(a)2(i), .06(32)(a)3, .06(32)(c)2, .06(32)(c)3(ii)(IX)I–II, .06(32)(c)3(iii), .06(32)(c)3(iv)(II), .06(32)(d)1(ii), .06(32)(d)2(i), .06(32)(e)3(ii)(III), .06(32)(e)3(ii)(III)II, .06(32)(e)3(ii)(III)II.A & B, .06(32)(e)5(iv), .06(32)(e)6(iii)(I)IV.D, .06(32)(e)6(iii)(III), .06(32)(e)6(iv), .06(32)(e)10(ii)(III), .06(32)(f)2(ii), .06(32)(f)4(i)(I), .06(32)(f)4(ii)(I)II, .06(32)(f)5(ii)(III), .06(32)(g)3(ii), .06(32)(g)3(iv)(I), .06(32)(g)4(ii), .06(32)(g)4(iv)(I), .06(32)(g)7, .06(32)(h)3(iii)(II), .06(32)(h)3(vii), .06(32)(j)1, .06(32)(j)2(i)(II)II, .06(32)(j)6(i), .06(32)(j)10, .06(32)(j)10(i)–(ii); .05(2)(f)2(iv), .05(5)(d)2(vi), .05(27)(a)2(iii), .05(27)(a)4, .05(27)(d)1(ii)(I)–(IV), .05(27)(d)6(ii)(VI)II, .05(28)(a)2(iii), .05(28)(a)5, .05(28)(k)1, .05(28)(k)2(i)–(iv), .05(28)(m)2(ii)–(iii), .05(28)(o)7(vi), .05(28)(o)13, .05(29)(a)2(i), .05(29)(b), .05(29)(c)1, .05(29)(c)1(i)–(ii), .05(29)(c)1(ii)(I)–(IV), .05(29)(c)2, .05(29)(c)2(i)–(ii), .05(29)(c)2(ii)(I)–(III), .05(29)(c)3 & 4, .05(29)(d)2, .05(29)(d)3(ii)(I), .05(29)(d)3(ii)(IX)I–II, .05(29)(d)3(iii), .05(29)(d)3(iv)(I), .05(29)(e)1(ii), .05(29)(e)1(iii)(II)II, .05(29)(e)1(iii)(III), .05(29)(e)1(iii)(III)I, VI, VII & VII.A, .05(29)(e)1(iii)(IV), .05(29)(e)1(iii)(IV)I, II, II.A, II.B, .05(29)(e)1(iii)(V), .05(29)(e)1(iv)(IV), .05(29)(e)2(i), .05(29)(e)2(iii)(II)II, .05(29)(e)2(iii)(III), .05(29)(e)2(iii)(III)VI–VII, .05(29)(e)2(iii)(IV) & (V), .05(29)(e)2(viii)(III), .05(29)(e)2(ix)(IV), .05(29)(e)4(v)(II), .05(29)(f)3(ii)(III), .05(29)(f)3(ii)(III)II, .05(29)(f)3(ii)(III)II.A & B, .05(29)(f)5(iv), .05(29)(f)6(iii)(I)IV.D, .05(29)(f)6(iv), .05(29)(f)10(ii)(III), .05(29)(g)2(ii), .05(29)(g)4(i)(III), .05(29)(g)4(ii)(I)II, .05(29)(g)5(ii)(III), .05(29)(h)3(iv)(I), .05(29)(h)4(iv)(I), .05(29)(h)7, .05(29)(i)3(iii)(II), .05(29)(i)3(vii), .05(29)(k)1, .05(29)(k)2(i)(II)II, .05(29)(k)6(i), .05(29)(k)10, .05(29)(k)10(i) & (ii), .05(53)Appendix VI; .07(5)(a)1(v)
164—Kraft Mill Steam Stripper Condensate Exclusion.	63 FR 18504, 04/15/98 .....	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1); 68–212–107(d)(1); Tennessee Revised Code 1200–1–11–.02(1)(d)1(xvii).
166—Recycled Used Oil Management Standards, Technical Correction and Clarification.	63 FR 24963, 05/06/99 .....	Tennessee Code Annotated (TCA) 68–211–106(a)(1) & 2; 68–211–107(a); 68–211–1001 <i>et seq.</i> ; 68–212–106(a)(1); 68–212–107(a), (d)(1), (3), & (6); Tennessee Revised Code 1200–1–11–.02(1)(e)10, .02(1)(f)1(iii)(IV)I–III, .11(2)(a)9, .11(3)(c)4, .11(3)(c)4(i)–(iv), .11(5)(f)8, .11(5)(f)8(i)–(iv), .11(6)(e)7, .11(6)(e)7(i)–(iv), .11(7)(e)7, .11(7)(e)7(i)–(iv), .11(8)(e)2, .11(8)(e)2(i)–(iv).
167A—Land Disposal Restrictions; Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes.	63 FR 28556, 05/26/98 .....	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1) & (2); 68–212–107(a) & (d)(1), (3) & (9); Tennessee Revised Code 1200–1–11–.10(1)(b)10, .10(1)(c)4, .10(2)(e)1, 3 & 4, .10(2)(e)5, .10(2)(e)5(i)–(iv), .10(2)(e)6, .10(3)(a)5 & 8, .10(3)(a)/Table “Treatment Mineral Wastes”, .10(3)(i)/Table UTS (Universal Treatment Standards)
167B—Land Disposal Restriction Phase IV—Hazardous Soils Treatment Standards and Exclusion.	63 FR 28556, 05/26/98 .....	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1) & (2); 68–212–107(a) & (d)(1), (3) & (9); Tennessee Revised Code 1200–1–11–.10(1)(b)9, .10(1)(g)1(i)–(ii), .10(1)(g)1(ii)(I)–(II), .10(1)(g)1(iii)intro, .10(1)(g)1(iii)(II), .10(1)(g)1(iv), .10(1)(g)1(iv)/Table, .10(1)(g)1(v)–(vi), .10(1)(g)2(i)–(iii), .10(1)(g)2(iv) intro, .10(1)(g)5 intro, .10(1)(g)5(i)–(ii), .10(3)(e), .10(3)(j)1–2, .10(3)(j)3 intro, .10(3)(j)3(i) intro, .10(3)(j)3(i)(I)–(III), .10(3)(j)3(ii), .10(3)(j)3(iii) intro, .10(3)(j)3(iii)(I)–(II), .10(3)(j)4, .10(3)(j)5 intro, .10(3)(j)5(i), .10(3)(j)5(ii) intro, .10(3)(j)5(ii)(I)–(II).
167C—Land Disposal Restrictions, Phase IV—Corrections.	63 FR 28556, 05/26/98 .....	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1) & (2); 68–212–107(a) & (d)(1), (3) & (9); Tennessee Revised Code 1200–1–11–.10(1)(d)1(ii)(II)–(III), .10(1)(g)1(vii), .10(1)(g)2(iii)(II)/Table, .10(1)(g)2(iv)(IV)–(V), .10(1)(g)2(v) & (vi), .10(3)(a)5, .10(3)(a)10/Table, .10(3)(c)1, .10(3)(c)1(i)–(iii), .10(3)(f)1 intro, .10(3)(f)4(iii)–(iv), .10(3)(i)1/table UTS, .10(5)Appendix VII, Table 1, .10(5)Appendix VIII.
167D—Mineral Processing Secondary Materials Exclusion.	63 FR 28556, 05/26/98 .....	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1) & (2); 68–212–107(a) & (d)(1), (3) & (9); 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) intro, .02(1)(d)1(xviii)(I)–(III), .02(1)(d)1(xviii)(IV)I–III, .02(1)(d)1(xviii)(V)–(VI).
167E—Bevill Exclusion Revisions and Clarifications.	63 FR 28556, 05/26/98 .....	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1) & (2); 68–212–107(a) & (d)(1), (3) & (9); Tennessee Revised Code 1200–1–11–.02(1)(c)1(ii)(I) & (III), .02(1)(d)3(ii)(III) intro, .02(1)(d)3(ii)(III)I–II, .02(1)(d)3(ii)(III)II.A–T, .02(1)(d)3(ii)(III)III, .02(1)(d)3(ii)(III)III.A & B.

Federal requirement	Federal Register	Analogous State authority <sup>1</sup>
168—Hazardous Waste Combustors, Revised Standards.	63 FR 33782, 06/19/98 .....	Tennessee Code Annotated (TCA) 68–212–104(7); 68–212–106(a)(1); 68–212–107(a), (d)(1), (3), & (4); 68–212–108(a)(1) & (b); Tennessee Revised Code 1200–1–11–.02(1)(d)1(xix), .02(4)(i) intro, .02(4)(i)1 intro, .02(4)(i)1(i) intro, .02(4)(i)1(i)(I)–(II), .02(4)(i)1(ii), .02(4)(i)2 intro, .02(4)(i)2(i)–(v), .02(4)(i)/Table 1, .02(4)(i)3 intro, .02(4)(i)3(i), .02(4)(i)3(i)(I) intro, .02(4)(i)3(i)(I)–II, .02(4)(i)3(i)(I)III intro, .02(4)(i)3(i)(I)III.A–D, .02(4)(i)3(i)(II) intro, .02(4)(i)3(i)(II)–V, .02(4)(i)3(ii) intro, .02(4)(i)3(ii)(I), .02(4)(i)3(ii)(II) intro, .02(4)(i)3(ii)(II)–II, .02(4)(i)3(ii)(III), .02(4)(i)3(iii) intro, .02(4)(i)3(iii)(I)–(III), .02(4)(i)3(iv)(I) intro, .02(4)(i)3(iv)(I)–III, .02(4)(i)3(iv)(II), .02(4)(i)3(v) intro, .02(4)(i)3(v)(I) intro, .02(4)(i)3(v)(I)–III, .02(4)(i)3(v)(II), .02(4)(i)3(vi), .02(4)(i)3(vii) intro, .02(4)(i)3(vii)(I) intro, .02(4)(i)3(vii)(I)–V, .02(4)(i)3(vii)(II) intro, .02(4)(i)3(vii)(II)–VIII, .02(4)(i)3(vii)(III), .02(4)(i)3(viii) intro, .02(4)(i)3(viii)(I) intro, .02(4)(i)3(viii)(I)–IV, .02(4)(i)3(viii)(II), .02(4)(i)3(viii)(III) intro, .02(4)(i)3(viii)(III)–II, .02(4)(i)3(viii)(IV)–(VII), .02(4)(i)3(viii)(VIII) intro, .02(4)(i)3(viii)(VIII)–II, .02(4)(i)3(viii)(IX), .02(4)(i)3(ix), .02(4)(i)3(x) intro, .02(4)(i)3(x)(I) intro, .02(4)(i)3(x)(I)–III, .02(4)(i)3(x)(II)–(VII), .02(4)(i)3(x)(VIII) intro, .02(4)(i)3(x)(VIII)–VIII, .02(4)(i)3(x)(IX) intro, .02(4)(i)3(x)(IX)–V, .02(4)(i)3(xi), .02(4)(i)3(xii) intro, .02(4)(i)3(xii)(I)–(III), .02(4)(i)3(xiii); .07(9)(c)5(x), .07(9)(c)5(x)(I)–(II), .07(10)(1)9, .07(3)(c)2(viii).

<sup>1</sup> The Tennessee provisions are from the Tennessee Hazardous Waste Management Regulations effective July 19, 1999.

**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 (30) 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 authorized.

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

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 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).

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 6, 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.” “Policies that have tribal implications” is defined in the Executive Order to include regulations that have “substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal

government and Indian tribes.” This rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Tennessee is not approved to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the State. Thus, Executive Order 13175 does not apply to this rule.

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.

**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.

**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: October 22, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region IV.*

[FR Doc. 01-31489 Filed 12-21-01; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[DA 01-2848; MM Docket No. 01-168; RM-10187]

**Radio Broadcasting Services; Mendocino, CA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In response to a *Notice of Proposed Rule Making*, 66 FR 41489 (August 8, 2001), this document adds Channel 266A to Mendocino, California, and removes channel 224A from Mendocino, California. This action enables Station KMFB(FM) to operate with maximum facilities as a Class A FM station, utilizing its current site for that station. The coordinates for Channel 266A at Mendocino are 39-20-33 North Latitude and 123-46-51 West Longitude.

**DATES:** Effective January 22, 2002.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 01-168, adopted November 28, 2001, and released December 7, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-

863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

**PART 73—RADIO BROADCAST SERVICES**

1. The authority citation for Part 73 reads as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

1. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 224A and adding Channel 266A at Mendocino, California.

Federal Communications Commission

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

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**BILLING CODE 6712-01-P**

**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration****49 CFR Part 225**

[FRA-1998-4898, Notice No. 4]

**RIN 2130-AB30**

**Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents—Calendar Year 2002**

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes at \$6,700 the monetary threshold for reporting railroad accidents/incidents involving railroad property damage that occur during calendar year 2002. The monetary threshold of \$6,700 for calendar year 2002 represents an \$100 increase over last year's monetary threshold of \$6,600. This action is needed to ensure and maintain comparability between different years of data by having the threshold keep pace with any increases or decreases in equipment and labor costs so that each year accidents involving the same minimum amount of railroad property damage are included in the reportable accident counts.

**EFFECTIVE DATE:** January 1, 2002.

**FOR FURTHER INFORMATION CONTACT:**

Robert L. Finkelstein, Staff Director, Office of Safety Analysis, RRS-22, Mail Stop 17, Office of Safety Assurance and Compliance, FRA, 1120 Vermont Ave., NW., Washington, DC 20590 (telephone 202-493-6280); or Nancy L. Friedman, Trial Attorney, Office of Chief Counsel, RCC-12, Mail Stop 10, FRA, 1120 Vermont Ave., NW., Washington, DC 20590 (telephone 202-493-6034).

**SUPPLEMENTARY INFORMATION:****Background**

Each rail equipment accident/incident must be reported to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). 49 CFR 225.19(b), (c). As revised in 1997, paragraphs (c) and (e) of 49 CFR 225.19, provide that the dollar figure that constitutes the reporting threshold for rail equipment accidents/incidents will be adjusted, if necessary, every year in accordance with the procedures outlined in appendix B to part 225, to reflect any cost increases or decreases. 61 FR 30942, 30969 (June 18, 1996); 61 FR 60632, 60634 (Nov. 29, 1996); 61 FR 67477, 67490 (Dec. 23, 1996).

**New Reporting Threshold**

Approximately one year has passed since the rail equipment accident/incident reporting threshold was last reviewed, and approximately four years since it was revised. 64 FR 69193 (Dec. 10, 1999); 63 FR 71790 (Dec. 30, 1998); 62 FR 63675 (Dec. 2, 1997). Consequently, FRA has recalculated the threshold, as required by § 225.19(c), based on increased costs for labor and increased costs for equipment. FRA has determined that the current reporting threshold of \$6,600, which applies to rail equipment accidents/incidents that occur during calendar year 2001, should increase by \$100 to \$6,700 for the same rail equipment accidents/incidents that occur during calendar year 2002, effective January 1, 2002.

Accordingly, §§ 225.5 and 225.19 and appendix B have been amended to state the reporting threshold for calendar year 2002 and the most recent cost figures and the calculations made to determine that threshold.

**Notice and Comment Procedures**

In this rule, FRA has recalculated the monetary reporting threshold based on the formula adopted, after notice and comment, in the final rule published June 18, 1996, 61 FR 30959, 30969, and discussed in detail in the final rule published November 29, 1996, 61 FR 30632. FRA has found that both the current cost data inserted into this pre-existing formula and the original cost