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40 CFR Part 271

[FRL-5508-3]

Tennessee; Final Authorization of Revisions to State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Tennessee has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Tennessee's revisions consist of the provisions contained in certain rules promulgated between February 21, 1991, and September 30, 1992, which fall within RCRA Clusters I-III. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed Tennessee's application and has made a decision, subject to public review and comment, that Tennessee's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Tennessee's hazardous waste program revisions. Tennessee's application for program revisions is available for public review and comment.

DATES: Final authorization for Tennessee's program revisions shall be effective July 22, 1996, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Tennessee's program revision application must be received by the close of business, June 24, 1996.

ADDRESSES: Copies of Tennessee's program revision application are available during normal business hours at the following addresses for inspection and copying: Tennessee Department of

Environment and Conservation, 5th Floor, L & C Tower, 401 Church Street, Nashville, Tennessee 37243-1535; U.S. EPA Region 4, Library, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347-4216. Written comments should be sent to Al Hanke at the address listed below.

FOR FURTHER INFORMATION CONTACT: Al Hanke, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347-3555 vmx 2018.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 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.

In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260-268 and 124 and 270.

B. Tennessee

Tennessee initially received final authorization for its base RCRA program effective on February 8, 1985. Tennessee

has received authorization for revisions to its program on August 11, 1987, October 1, 1991, November 6, 1991, July 31, 1992, and July 7, 1995. On December 5, 1994, Tennessee submitted a program revision application for additional approvals. Today, Tennessee is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Tennessee's application and has made an immediate final decision that Tennessee's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Tennessee. The public may submit written comments on EPA's immediate final decision up until June 24, 1996.

Copies of Tennessee's application for these program revisions are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

Approval of Tennessee's program revisions shall become effective July 22, 1996, unless an adverse comment pertaining to the State's revisions discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

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.

Tennessee is today seeking authority to administer the following Federal requirements promulgated on February 21, 1991, through September 30, 1992.

Checklist	Federal requirement	FR Reference	FR Promulgation date	State authority
85	Burning of Hazardous Waste in Boilers and Industrial Furnaces.	56 FR 7134	2/21/91	TCA 68-212-104(7); TCA 68-212-106(a)(1); TCA 68-212-107(a), (d)(1), (3)&(4); TRC 1200-1-11-.01(2)(a)&(b)1; .02(1)(b); .02(1)(d)1(x); .02(1)(d)3(ii)(I-IV); .02(1)(f); .06(7)(a); .06(15)(a); .05(7)(a); .05(15)(a); .09(1)(a); .07(5)(b); .07(9)(c)5; .07(10)(a); .07(1)(j); .07(3)(a).

Checklist	Federal requirement	FR Reference	FR Promul-gation date	State authority
94	Burning of Hazardous Waste in Boilers and Industrial Furnaces; Corrections and Technical Amendments I.	56 FR 32688	7/17/91	TCA 68-212-107(a),(d)(3,4,&6); TRC 1200-1-11-.02(1)(c)3(ii)(II)II; .02(1)(f)1; .05(16)(a)1; .11(1)(a); .09(8)(a)1; .09(9)(a)1; .07(5)(b)12; .07(9)(c)5; .07(1)(j)1; .07(3)(a)1.
96	Burning of Hazardous Waste in Boilers and Industrial Furnaces, Technical Amendments II.	56 FR 42504	8/27/91	TCA 68-212-104(7); TCA 68-212-106(a)(1); TCA 68-212-107(a)(d)(3,4,&6); TRC 1200-1-11-.02(1)(b)1; .05(7)(a)1; .09(8)(a)1; .09(9)(a)1.
98	Coke Ovens Administrative Stay.	56 FR 43874	9/5/91	TCA 68-212-104(7&15); TCA 68-212-106(a)(1); TCA 68-212-107(a)(d)(1,3,4,&6); TRC 1200-1-11-.09(8)(a)1.
111	Boilers and Industrial Furnaces; Technical Amendment III.	57 FR 38558	8/25/92	TCA 68-212-104(7); TCA 68-212-106(a)(1); TCA 68-212-107(a) & (d)(1)-(3); TCA 68-211-105(c); TCA 68-211-106(a)(1)&(2); TCA 68-211-107(a); TCA 68-211-111(d); TCA 68-211-1001 <i>et seq.</i> ; TCA 68-212-111(d); TRC 1200-1-11-.01(2)(a); .01(3)(a)1; .02(1)(b); .06(1)(b)2(ii-iii); .09(1)(a).
114	Boilers and Industrial Furnaces; Technical Amendment IV.	57 FR 44999	9/30/92	TCA 68-211-105(c); TCA 68-211-106(a)(1)&(2); TCA 68-211-107(a); TCA 68-211-111(d); TCA 68-211-1001 <i>et seq.</i> ; TCA 68-211-104(7); TCA 68-212-106(a)(1); TCA 68-212-107(a), (d)(1) & (d)(3); TRC 1200-1-11-.09(1)(a).

C. Decision

I conclude that Tennessee's application for these program revisions meet all of the statutory and regulatory requirements established by RCRA. Accordingly, Tennessee is granted final authorization to operate its hazardous waste program as revised.

Tennessee now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. 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 Section 3008, 3013, and 7003 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 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. When a written

statement is needed for an EPA rule, 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, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year. EPA does not anticipate that the approval of Tennessee's hazardous waste program referenced in today's notice will result in annual costs of \$100 million or more.

EPA's approval of state programs generally has a deregulatory effect on the private sector because once it is

determined that a state hazardous waste program meets the requirements of RCRA section 3006(b) and the regulations promulgated thereunder at 40 CFR Part 271, owners and operators of hazardous waste treatment, storage, or disposal facilities (TSDFs) may take advantage of the flexibility that an approved state may exercise. Such flexibility will reduce, not increase compliance costs for the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265, and 270. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs with increased levels of flexibility provided under the approved state program.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Tennessee's

program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Environmental Protection
Administrative practice and procedure,
Confidential business information,
Hazardous materials transportation,
Hazardous waste, Indian lands,
Intergovernmental relations, Penalties,
Reporting and recordkeeping
requirements, Water pollution control,
Water supply.

Authority: This notice 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: May 14, 1996.

A. Stanley Meiburg,

Acting Regional Administrator.

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[FRL-5508-4]

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AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: Tennessee has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Tennessee's revisions consist of the provisions contained in rules promulgated between November 8, 1984, and June 30, 1987, otherwise known as HSWA Cluster I. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed Tennessee's application and has made a decision, subject to public review and comment, that Tennessee's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Tennessee's hazardous waste program revisions. Tennessee's application for program revisions are available for public review and comment.

DATES: Final authorization for Tennessee's program revisions shall be effective July 22, 1996, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Tennessee's program revision application must be received by the close of business, June 24, 1996.

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FOR FURTHER INFORMATION CONTACT: Al Hanke, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365; (404) 347-2234.

SUPPLEMENTARY INFORMATION:

A. Background

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regulations in 40 CFR Parts 260-268 and 124 and 270.

B. Tennessee

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EPA has reviewed Tennessee's application and has made an immediate final decision that Tennessee's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Tennessee. The public may submit written comments on EPA's immediate final decision up until June 24, 1996.

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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.

Tennessee is today seeking authority to administer the following Federal requirements promulgated on November 8, 1984-June 30, 1987.