

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 the rule 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. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 24, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it

extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: April 11, 2002.  
**James B. Gulliford**,  
*Regional Administrator, Region 7.*

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart AA—Missouri**

**§ 52.1319 [Removed and Reserved]**

2. Section 52.1319 is removed and reserved.

3. In § 52.1320(c), the table is amended under Chapter 2 by adding in numeric order entries 10–2.205 and 10–2.215, and by revising entries 10–2.210 and 10–2.260, to read as follows:

**§ 52.1320 Identification of Plan.**

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(c) * * *				

**EPA-APPROVED MISSOURI REGULATIONS**

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
Chapter 2—Air Quality Standards and Air Pollution Control Regulations for the Kansas City Metropolitan Area				
* * * * *				
10–2.205	Control of Emissions from Aerospace Manufacture and Rework Facilities.	3/30/01	4/24/02	
10–2.210	Control of Emissions from Solvent Metal Cleaning	10/30/01	4/24/02	
10–2.215	Control of Emissions from Solvent Cleanup Operations	5/30/01	4/24/02	
* * * * *				
10–2.260	Control of Petroleum Liquid Storage, Loading, and Transfer	7/30/01	4/24/02	
* * * * *				

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 [FR Doc. 02–9911 Filed 4–23–02; 8:45 am]  
**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL–7173–7]

**Arkansas: Final Authorization of State Hazardous Waste Management Program Revisions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** The State of Arkansas has applied for Final authorization of its revisions to its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these

revisions satisfy all requirements needed to qualify for Final authorization, and is authorizing the State’s revisions through this immediate final action. The EPA is publishing this rule to authorize the revisions without a prior proposal because we believe this action is not controversial and do not expect adverse comments. Unless we get adverse comments which oppose this authorization during the comment period, the decision to authorize the State of Arkansas Department of Environmental Quality’s (ADEQ) revisions to their hazardous waste program will take effect. If adverse comments are received, we will publish a document in the **Federal Register** either; withdrawing this immediate final decision; or a notice containing a response to comments and which either affirms that the immediate final decision takes effect or reverses the decision.

**DATES:** This immediate final rule is effective on June 24, 2002, unless EPA receives adverse written comments by May 24, 2002. Should the EPA receive such comments, it will publish a timely document either: withdrawing the immediate final publication or affirming the publication and responding to comments.

**ADDRESSES:** Written comments referring to Docket Number AR–01–02, should be sent to Alima Patterson, Region 6, Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State of Arkansas program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733,

(214) 665-8533; or Arkansas Department of Environmental Quality, 8101 Interstate 30, Little Rock, Arkansas 72219-8913, (501) 682-0876.

**FOR FURTHER INFORMATION CONTACT:**

Alima Patterson (214) 665-8533.

**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 Hazardous Waste 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 CFR parts 124, 260 through 266, 268, 270, 273, and 279.

**B. What Is the Effect of Today's Authorization Decision?**

The effect of this decision is that a facility in Arkansas subject to RCRA will now have to comply with the authorized State requirements (in RCRA Clusters III-IX and Checklist 181 Universal Waste Rule, Specific Provisions for Hazardous Lamps in RCRA Cluster X listed in this document) instead of the equivalent Federal requirements in order to comply with RCRA. Arkansas 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: (1) Do inspections, and require monitoring, tests, analyses or reports; (2) enforce RCRA requirements and suspend or revoke permits; and (3) 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 Arkansas is being authorized by today's action are already effective, and are not changed by today's action.

**C. What Is the History of Arkansas' Final Authorization and Its Revisions?**

Arkansas initially received final authorization on January 25, 1985, (50 FR 1513) to implement its Base Hazardous Waste Management program. Arkansas received authorization for

revisions to its program at January 11, 1985 (50 FR 1513), effective January 25, 1985; March 27, 1990 (55 FR 11192) effective May 29, 1990; September 18, 1991 (56 FR 47153) effective November 18, 1991; October 5, 1992 (57 FR 45721) effective December 4, 1992; and October 7, 1994 (59 FR 51115) effective December 21, 1994. The authorized Arkansas RCRA program was incorporated by reference into the Code of Federal Regulations effective December 13, 1993 (58 FR 52674). On November 7, 2000, Arkansas submitted a final complete program revision application, seeking authorization of its program revisions in accordance with 40 CFR 271.21. The State of Arkansas also has adopted the regulations for Import and Export of Hazardous Waste. However, the requirements of the Import and Export regulations will be administered by the EPA and not the State, because the exercise of foreign relations and International Commerce powers is reserved to the Federal government under the United States Constitution. Therefore, the State of Arkansas is not seeking authorization for this rule.

On April 1994, Arkansas Department of Pollution Control and Ecology (ADPC&E), revised its Regulation Number 23 from one of "incorporation by reference" to the adoption and incorporation of a version of the full text of the Federal regulatory language. Modifications were made as necessary to provide for the appropriate State protocol or point of contact for federally authorized rules and regulations under the State waste management program, with additional or more stringent State requirements. The text of 40 CFR parts 260-266, 268, 270, 273 and 279 has been inserted into Chapter 2 of Regulation No 23, with the federal "Parts" redesignated as State "Sections", and federal "Subparts" redesignated as State "Subsections". Part, Subpart, and paragraph numbering and citations have been retained in the same format as in the federal regulations throughout the text. This restructuring makes it simpler for the regulated community to determine which specific rules are effective at any point in time under the State hazardous waste management program, and provides a single regulatory reference for most hazardous waste management situations within the State. The Consolidated Independent Counsel Statement submitted with Arkansas' application for final authorization addresses the revised program implementation requirements under RCRA as amended by The Hazardous and Solid Waste

Amendments of 1984 ( HSWA). The State is seeking authorization in this application for RCRA Clusters III, IV, V, VI, VII, VIII, IX and one rule in RCRA Cluster X (Universal Waste Rule, Specific Provisions for Hazardous Waste Lamps Checklist 181).

Reference to "ARK" "Code Ann" and "A.C.A" refer to the Arkansas Code of 1987 Annotated, as amended and effective in 2001. Reference to "APC&E Reg. No. 23" refers to the Arkansas of Pollution Control and Ecology Commission's Regulations Number 23 (Hazardous Waste Management) (formerly titled the Arkansas Hazardous Waste Management Code), amended on December 1, 1995, effective January 21, 1996, to adopt all rules promulgated by EPA through June 30, 1995, and last amended on February 25, 2000, to adopt all final rules promulgated by EPA through July 6, 1999 and became effective on May 20, 2000. Dates of enactment and adoption for other statutes or regulations are given when cited.

Arkansas Act 1219 of 1987 renamed the Arkansas Department of Pollution Control and Ecology (ADPC&E) as the "Arkansas Department of Environmental Quality" (hereafter referred to as the (ADEQ) with an effective date March 31, 1999. This name change was implemented in order to resolve public confusion concerning the respective functions and responsibilities of the Arkansas Department of Pollution Control and Ecology Commission and the Arkansas Department of Pollution Control and Ecology which arose because of the similarity in the names of these entities. The Arkansas Department of Environmental Quality succeeded to all the general powers and responsibilities previously assigned to the Department of Pollution Control and Ecology, and this name change in no way impaired or affected any of the powers and authorities of the ADPC&E, nor did it impair the continued effectiveness of any regulations, policies, or orders promulgated or issued by the Arkansas Pollution Control and Ecology Commission prior to the effective date of Act 1219. Likewise, references to Arkansas Department of Pollution Control and Ecology as it was referred to or empowered throughout the entire Arkansas Code, Annotated were changed to refer to the "Arkansas Department of Environmental Quality". The change in reference from the old to the name was codified in the Arkansas Code, Annotated, by Act 1164 of 1999. This administrative name change has been reflected throughout this application.

**D. What Revisions Are We Approving With Today's Action?**

On November 7, 2000, the State of Arkansas submitted a final complete program revision application, seeking authorization of their revisions in accordance with 40 CFR 271.21. We

now make an immediate final decision, subject to receipt of adverse comments, that the State of Arkansas's hazardous waste program revision satisfies all the requirements necessary to qualify for Final authorization. Arkansas' revisions consist of regulations which specifically

govern Federal Hazardous Waste promulgated from July 1, 1992, to June 30, 1999 (RCRA Clusters III-IX, and one rule in RCRA Cluster X Universal Waste Rule, promulgated July 6, 1999. Arkansas requirements are included in a chart with this document.

Federal citation	State analog
1. Used Oil Filter Exclusion; Technical Correction, [57 FR 29220] July 1, 1992. (Checklist 107).	Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective 1995, Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) A.C.A. § 8-7-209(a)(4), § 8-7-209(a)(5) introductory paragraph, § 8-7-203(6), § 8-7-202, Reg. No. 23 §§ 261.1 through 261.4, 261.1(b)(15), as amended December 1, 1995; effective January 21, 1996.
2. Toxicity Characteristics Revision; Technical Correction, [57 FR 30657] July 10, 1992. (Checklist 108).	A.C.A. § 8-7-209(a)(4), APC&E Reg. No. 23 §§ 261.3(a)(2)(i) 261.4, 261.8, 261.24, 261.30(b), 261, Appendix II, 264.301(e)(1), 265.221(d)(1), 265.273(a), 265.301(d)(1) and 265, Appendix I, as amended December 1, 1995; effective January 21, 1996.
3. Land disposal Restrictions for Newly Listed Wastes and Hazardous Debris, [57 FR 37194-37282] August 18, 1992. (Checklist 109).	A.C.A. § 8-7-209(a)(4), (5)(6), APC&E Reg. No. 23 §§ 261.3(f), 268.2, 268.5, 268.7, 268.14, 268.36, 268.40-43, 268.45, 270.13-14, 261.3(a)&(c), 268.9, 268.6, 260.10, 262.34, 264.111, 264.112, 264.140, 264.142, 264.142, 264 Subsection DD, 265.110-112, 265.140-2, 265.221, 265 Subsection DD, 268.50, 270.42, 270.72, as amended December 1, 1995; effective January 21, 1996.
4. Coke By-Product Listings, [57 FR 37284] August 18, 1992. (Checklist 110).	A.C.A. § 8-7-209(a)(4), APC&E Reg. No. 23 §§ 261.4(a)(1), 261.31, 261.32, 261.33, 261, Appendix VIII, 264.572(a)(2), and 265.443(a)(2), as amended December 1, 1995; effective January 21, 1996.
5. Burning of Hazardous Waste in Boilers and Industrial Furnaces; Technical Amendment III, [57 FR 38558] August 25, 1992. (Checklist (111)).	A.C.A. § 8-7-209(a)(4), (5), (6), § (8), (11) and (12), § 8-7-209(b), § 8-7-202 § 8-7-202(2), § 8-7-218(b)(2), § 8-7-218(c), § 8-7-219, § 8-7-223, § 8-7-225(a), § 8-7-211, APC&E Reg. No. 23 §§ 260.10, 260.20(a), 261.2(d)(2), 261.2(e)(2)(iv), 261.4, 261.6, 260.10, 260.11, 260.20, 261.2, 261.33(b)(2), 264.1, 264.112, 264.340, 265.1, 265.112, 265.113, 265.340(a), 265.370, 264.1(g)(2), 265.1(c)(6), 266.100(a) and (f), 266.101(c)(1)(2), 266.103(b)(2)(iii)(iii), 266.103(b)(3)(iii)(B), 266.103(b)(3)(v), 266.103(c)(1), 266.103(c)(ii)(A), 266.103(c)(1)(ii)(A)(1), 266.103(c)(1)(ii)(A)(2), 266.103(c)(1)(ii)(C), 266.103(c)(1)(iii), 266.103(c)(vi), 266.103(c)(5), 266.103(c)(7)(ii)(B), 266.104(f)(1), 266.106(b)(7), 266.106(d)(1)(3)(5), 266.107(a), 266.108(c), 266.112(B)(2)(i), 3(b)(2) 266 Subsections H, 266 Appendices I-X, 270.22, 270.42, 270.66, 270.72, and 270.73, as amended December 1, 1995; effective January 21, 1996.
6. Recycled Used Oil Management Standards, [57 FR 41566-41626], September 10, 1992. (Checklist 112).	A.C.A. § 8-7-209(a)(4), § 8-7-209(a)(5), (6), and (11), APC&E Reg. No. 23 §§ 260.10, 261.3(a)(2), 261.5(j), 261.6(a)(2), (3), and (4), 266.40-266.44, 266.100(b), 279 and 30(b), as amended December 1, 1995; effective January 21, 1996.
7. Financial Responsibility for Third-Party Liability, Closure and post-closure, [57 FR 42832], September 16, 1992, Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Liability Coverage, [53 FR 33938] September 1, 1988, Liability Requirements; Technical Amendments, [56 FR 30200] July 1, 1991. (Checklists 113, 113.1, and 113.2).	A.C.A. § 8-7-209(1), and (3), § 8-7-209(a) (5), (6), (8), (11) and (12), § 8-7-209(b), § 8-7-202(2), § 8-7-218(b)(2), § 8-7-216(f), § 8-7-218(2)(b)(2), § 8-7-218(c), § 8-7-219, § 8-7-223, § 8-7-225(a), § 8-7-211, § 8-7-219(1)(2), 8-7-218, and 8-7-512, APC&E Reg. No. 23 §§ 264.141(h), 264.143(f)(10), 264.145(f)(11), 264.147(a)(2)-(7), 264.147(a)(7)(i)-(iii), 264.147(b)(2)-(7), 264.147(b)(7)(i)-(iii), 264.147(f)(6), 264.147(g)(1)(ii), 264.147(g)(2)(i)-(ii), 264.147(h), (1)-(5), 264.147(i),(1)-(4), 264.147(i)(4)(i)-(ii), 264.147(j), 264.147(j)(1)-(4), 264.147(k), 264.151(i)-(ii) 264.151(b)(f)(g)(h)(1)-(2), 264.151(i)(2)(d), 264.151(j)(2)(d), 264.151(k), 264.151(1), 264.151(m)(1)-(2), 264.151(n)(1)-(2), 264.141(h), 265.143(e)(10) 265.141, 265.145(e)(11) and 265.147(f)(6), 264.147(a)(7), 264.147(b)(7), 265.134(E)(10)-(11), 265.147(a)(2)-(7)(i)-(iii), 265.147(b)(2)-(7)(i)-(iii), 265.147(f)(6), 265.147(g),(1)(ii), 265.147(g)(2)(i)-(ii), 265.147(h),(1)-(5), 265.147(i),(1)-(4)(i)-(ii), 265.147(j),(1)-(4), and 265.147(k), as amended December 1, 1995; effective January 21, 1996.
8. Burning of Hazardous Waste and Industrial Furnaces; Amendment IV, [57 FR 44999] September 30, 1992. (Checklist 114).	A.C.A. § 8-7-209(1), and (3), § 8-7-209(a) (5), (6), (8), (11) and (12), § 8-7-209(b), § 8-7-202(2), § 8-7-218(b)(2), § 8-7-218(c), § 8-7-219, § 8-7-223, § 8-7-225(a), § 8-7-211, APC&E Reg. No. 23 §§ 260.10, 260.20(a), 261.2(d)(2), 261.2(e)(2)(iv), 261.4, 261.6, 260.10, 260.11, 260.20, 261.2, 261.3, 261.4, 264.1, 264.112, 264.340, 265.1, 265.112, 265.113, 265.340(a), 265.370, 266 Subsection H, 266 Appendices I-X, 266.103(c)(1), 266.103(c)(1)(ii)(C), 266.103(c)(1)(iii), 266.103(c)(1)(vi), 266.103(c)(1)(vii)-(viii), 266.103(c)(1)(xi)(B), and 3(b)(2), as amended December 1, 1995; effective January 21, 1996.
9. Chlorinated Toluene Production and Waste Listing, [57 FR 47376] October 15, 1992. (Checklist 115).	A.C.A. § 8-7-209(a)(4), § 8-7-209(a)(5) introductory paragraph, and § 8-7-202, APC&E Reg. No. 23 §§ 261.4(b)(1), 261.31, 261.32, 261.33, 261, Appendices III, VII, and VIII, as amended December 1, 1995; effective January 21, 1996.

Federal citation	State analog
10. Hazardous Soil Case-by-Case Capacity Variance, [57 FR 47772] October 20, 1992. (Checklist 116).	A.C.A. § 8-7-209(a)(5), (11), § 8-7-202(2), § 8-7-218(b)(2), § 8-7-218(b)(c), § 8-7-303(c), § 8-7-303(1), § 8-7-308(4), and (6)8-7-APC&E Reg. No. 23 §§ 268.35(c)-(e), 268.35(e)(1)-(2), as amended December 1, 1995; effective January 21, 1996.
11. "Mixture" and "Derived-From Rules; Response to Court Remand, [57 FR 7628] March 3, 1992. (Checklist 17A).	A.C.A. § 8-7-209(a)(4), APC&E Reg. No. 23 § 261.3 (a), (b), (c), and (d), as amended December 1, 1995; effective January 21, 1996.
12. "Mixture" and Derived-From Rules; Final Rule Correction, [57 23062] March 3, 1992. (Checklist 117A.1).	A.C.A. § 8-7-209(a)(4), APC&E Reg. No. 23 § 261.3 (a), (b), (c), and (d), as amended December 1, 1995; effective January 21, 1996.
13. "Mixture" and "Derived-From" Rules; Final Rule, [57 FR 49278] October 20, 1992. (Checklist 117.2).	A.C.A. § 8-7-209(a)(4), APC&E Reg. No. 23 § 261 (a), (b), (c), and (d), as amended December 1, 1995; effective January 21 1996.
14. Toxicity Characteristic Revisions, [57 FR 23062] June 1, 1992. (Checklist 117B).	A.C.A. § 8-7-209(a)(4), APC&E Reg. No. 23 §§ 261.3(a)(2)(i), 261.4, 261.8, 261.24, 261.30(b), 261, Appendix II, 264.301(e)(1), 265.221(d)(1), 265.273(a), 265.301(d)(1) and 265, Appendix I, as amended December 1, 1995; effective January 21, 1996.
15. Liquids in Landfills II, [57 FR 54452] November 18, 1992. (Checklist 118).	A.C.A. §§ 8-7-205(4), 8-7-209(a)(3), (4), (5)(B) and (5)(C), and (6), 8-7-218(a), 8-7-308(4), APC&E Reg. No. 23 §§ 260.10, 264.13(c)(3), 264.314, 264.316, 265.13(b)(c), 265.314, and 265.315, as amended December 1, 1995; effective January 21 1996.
16. Toxicity Characteristic Revisions; TCLP, [57 FR 55114] 1996. November 24, 1992]. (Checklist 119).	A.C.A. §§ 8-7205(4), APC&E Reg. No. 23 § 261, Appendix II, as amended December 1, 1995; effective January 21 1996.
17. Toxicity Characteristic Revisions; TCLP Correction, [58 FR 6854] February 2, 1993. (Checklist 119.1).	A.C.A. §§ 8-7205(4), APC&E Reg. No. 23 § 261, Appendix II, as amended December 1, 1995; effective January 21, 1996.
18. Wood Preserving; Amendments to Listings and Technical Requirements, [57 FR 61492] December 24, 1992. (Checklist 120).	A.C.A. § 8-7-209(a)(4), (5), (6), APC&E Reg. No. 23 §§ 264.1(a)(10), 261.31, 261.31, 261.32, 261.33, 261.4, 261.35, 261.34, Appendix VIII, 264.572(a)(2), 264.190, 264 Subsection W, 265 Subsection W, 264.570, 264.573, (a)(4), 265.440, and 265.443(a)(2), (4), (a), 270.22, and 270.26, as amended December 1, 1995; effective January 21, 1996.
19. Corrective Action Management Units and Temporary Units; Corrective Action Provisions Under Subtitle C, [58 FR 8658] February 16, 1993. (Checklist 121).	A.C.A. § 8-7-209(a)(5)(6) & (8), 8-7-508, 5-7-512, APC&E Reg. No. 23 §§ 260.10, 264.3, 264.101(b), 264, Subsection S, 265.1(b), 268.2(c), 270.2, & 270.42, as amended December 1, 1995; effective January 21, 1996.
20. Recycled Used Oil Management Standards; Technical Amendments and Corrections, [58 FR 26420] May 3, 1993. (Checklist 122).	A.C.A. § 8-7-209(a)(4), (5), (6) and (7), APC&E Reg. No. 23 §§ 260.10, 261.31(a)(2), 261.5(j), 261.6(a)(2), (3), and (4), 266.40-266.44, 266.100(b), 279, and 30.(b), as amended December 1, 1995; effective January 21, 1996.
21. Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance, [58 FR 28506-2811] May 14, 1993. (Checklist 123).	A.C.A. § 8-7-209(a)(5) and (6), APC&E Reg. No. 23 § 268.35(c)-(e), as amended December 1, 1995; effective January 21, 1996.
22. Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Treatment Standards Were Vacated, [58 FR 29860-29887] May 24, 1993. (Checklist 124).	A.C.A. § 8-7-209(a)(5) and (6), APC&E Reg. No. 23 § § 268.37, as amended December 1, 1995; effective January 21, 1996.
23. Boilers and Industrial Furnaces; Changes for Consistency with New Air Regulations, [58 FR 38816-38884] July 10, 1993. (Checklist 125).	A.C.A. § 8-7-209(a)(5) and (6), APC&E Reg. No. 23, §§ 260.11(a), 266.104(e), 266.106(h) and 266 Appendix X, as amended December 1, 1995; effective January 21, 1996.
24. Testing and Monitoring Activities, [58 FR 46040-46051] August 31, 1993, as amended September 19, 1994, at [59 FR 47980-4782]. (Checklist 126).	A.C.A. § 8-7-209(a)(5) and (6), APC&E Reg. No. 23 §§ 260.11(a), 260.22, 261.22(a), 261.24(a), 261, Appendices II, III and X, 264.190(a), 264.314(c), 264.314(d), 268.7(a), 268.40(a), 268.41(a), 268 Appendices I and IX, 270.6(a), 270.19(c), 270.62(b), 270.66(c), as amended December 1, 1995; effective January 21, 1996.
25. Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues, [58 FR 59598-59603], November 9, 1993. (Checklist 127).	A.C.A. § 8-7-209(a)(5) and (6), APC&E Reg. No. 23 §§ 266.112(b), and 266, Appendix VII, as amended December 1, 1995; effective January 21, 1996.
26. Hazardous Waste Management Systems; Identification and Listing of Hazardous Waste; Wastes from Wood Surface Protection, [59 FR 458] January 4, 1994. (Checklist 128).	A.C.A. § 8-7-209(a)(4), and § 8-7-202, APC&E Reg. No. 23 §§ 260.11(a), and 261 Appendices VIII, as amended December 1, 1995; effective January 21, 1996.
27. Hazardous Waste Management Systems; Identification and Listing of Hazardous Waste; Treatability Studies Sample Exclusion, [59 FR 8362] February 18, 1994. (Checklist 129).	A.C.A. § 8-7-209(a)(4), § 8-7-209(a)(5) introductory paragraph, § 8-7-202, APC&E Reg. No. 23 § 261.4(e)(2)(i)-(ii), 261.4(e)(3), 261.4(e)(3)(i)-(iii), 261.4(e)(iii)(A)-(E), 261.4(f)(3), and 261.4(f)(4)-(5), as amended December 1, 1995; effective January 21, 1996.
28. Recycled Used Oil Management Standards; Technical Amendments and Corrections II, [59 FR 10550-10560], March 4, 1994. (Checklist 130).	A.C.A. § 8-7-209(a)(4), § 8-7-209(a)(5), (6), and (11), APC&E Reg. No. 23 §§ 260.10, 261.3(a)(2), 261.5(j), 261.6(a)(2), (3), and (4), 266.40-266.44 266.100(b), 279 and 30(b), as amended December 1, 1995; effective January 21, 1996.
29. Recordkeeping Instruction; [59 FR 13891] March 24, 1994. (Checklist 131).	A.C.A. § 8-6-1501-1504, § 8-7-209(a)(4), (5), (6), § 8-7-209(1), and (3), § 8-7-209(a)(5), (6), (8), (11) and (12), § 8-7-209(b), § 8-7-202(2), § 8-7-218(b)(2), § 8-7-218(c), § 8-7-219, § 8-7-223, § 8-7-225(a), § 8-7-211, APC&E Reg. No. 23 § 264 Appendix I, Tables 1 and § 265 Appendix I, Tables 2, as amended December 1, 1995; effective January 21, 1996.
30. Hazardous Waste Management System; Identification and Listing of Hazardous Wastes; Wastes from Wood Surface Protection; Correction, [59 FR 28484] June 2, 1994. (Checklist 132).	A.C.A. § 8-7-209(a)(4), (5), § 8-7-202, §§ 8-7-203(4)-(13), APC&E Reg. No. 23 § 260.11(a), and as amended December 1, 1995; effective January 21, 1996.

Federal citation	State analog
31. Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities, Underground Storage Tanks, and Underground Injection Control Systems; Financial Assurance; Letter of Credit, [59 FR 29958] June 10, 1994. (Checklist 133).	A.C.A. § 8-7-209(a)(4), (5), (6), § 8-7-209(1), and (3), § 8-7-209(a)(5), (6), (8), (11) and (12), § 8-7-209(b), § 8-7-202(2), § 8-7-218(b)(2), § 8-7-218(c), § 8-7-219, § 8-7-223, § 8-7-225(a), § 8-7-211, APC&E Reg. No. 23 § 264.151(d) and (k), as amended December 1, 1995; effective January 21, 1996.
32. Hazardous Waste Management System; Correction of Listing of P015-Beryllium Power, [59 FR 31551], June 20, 1994. (Checklist 134).	A.C.A. § 8-7-209(a)(4), APC&E Reg. No. 23 §§ 261.4(a)(10), 261.31, 261.31, 261.32, 261.33, 261, Appendix VIII, 264.572(a)(2), and 265.443(a)(2), as amended December 1, 1995; effective January 21, 1996.
33. Recovered Oil Exclusion, [59 FR 38536-38545], July 28, 1994. (Checklist 135).	A.C.A. § 8-7-209(a)(4), APC&E Reg. No. 23 §§ 261.4, 261.6, and 266.100, A.C.A. § 8-7-209(a)(4), as amended December 1, 1995; effective January 21, 1996.
34. Removal of the Conditional Exemption for Certain Slag Residues, [59 FR 43496-43500], as amended August 24, 1994. (Checklist 136).	A.C.A. § 8-7-209(a)(4), (5), and (6), APC&E Reg. No. 23 §§ 266.20(c) and 268.41(a), as amended December 1, 1995; effective January 21, 1996.
35. Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes, [59 FR 47982-48110] September 19, 1994 as amended at [60 FR 242-302, January 3, 1995. (Checklist 137).	A.C.A. § 8-7-209(a)(2), (3), (4), (5), (11) and (b), A.C.A. § 8-7-308(4) and (8), APC&E Reg. No. 23 §§ 260.30 260.30(b), 260.31(a)&(b), 260.32, 260.33(a)&(b), 266.100, 261.2(e)(1)(iii), 268.1, 268.7, 268.9, 268.38, 268.40, 268.41, 268.42, 268.43, 268.46, 268.48, and Appendices IV, V, and X, as amended December 1, 1995; effective January 21, 1996. State requirements are equivalent to those of the Federal program with the exception of the provisions of 40 CFR 268.7(a)(10), which provides an exemption for wastes managed under tolling arrangements as provided under 40 CFR 262.20(e). Arkansas does not allow the exemptions provided under this Federal rule, and thus does not exempt the wastes listed at 40 CFR 268.7(a)(10).
36. Testing and Monitoring Activities Amendment I, [60 FR 3089-3095], January 13, 1995. (Checklist 139).	A.C.A. § 8-7-209(a)(4), (5), and (11), APC&E Reg. No. 23 § 260.11, as amended December 1, 1995; effective January 21, 1996.
37. Carbamate Production Identification and Listing of Hazardous Waste, [60 FR 7824-7859], February 9, 1995, as amended at [60 FR 19165, April 17, 1995 and at [60 FR 25619], May 12, 1995. (Checklist 140).	A.C.A. § 8-7-209(a)(4), APC&E Reg. No. 23 § 261.3(a)(2)(iv)(G), and 261.3(c)(2)(ii)(D), 261.32, 261.33, and appendices VII and VIII, as amended December 1, 1995; effective January 21, 1996. The State had conducted an independent rulemaking, and the subsequent vacatur of the Federal rules in <i>Dihiocarbamate Task Force v EPA</i> did not immediately apply to the equivalent State's regulations. The State amended provision, in that they include the vacated waste streams are broader in scope than the equivalent Federal provisions. Arkansas has only one generator of that waste (Zeneca Ag Products), who subsequently applied to the Commission for a one-year variance from the State listing of those wastes. The Commission granted this variance, which expires February 28, 1998, pending further action by EPA to revise or re-promulgate its listing of the vacated waste streams. State requirements are broader in scope in comparison to the Federal program in that the State in that listings for K156, K157, and K158 include 3-iodo-2-propynyl n-butylcarbamate (IPBC) as a hazardous constituent.
38. Testing and Monitoring Activities Amendment II, [60 FR 17001-17004], April 4, 1995. (Checklist 141).	A.C.A. § 8-7-209(a)(4), (5), and (11), APC&E Reg. No. 23 § 260.11, as amended December 1, 1995; effective January 21, 1996.
39. Universal Waste: General Provisions, [60 FR 25492-25551], May 11, 1995. (Checklist 142 A).	A.C.A. § 8-7-209(a)(2), (3), (4), (5), (11) and (b), APC&E Reg. No. 23 §§ 273, 260.10, 261.5 and 261.9, 262.10 and 262.11, 264.1(g)(11), and 265.1(c)(14), as amended December 1, 1995; effective January 21, 1996.
40. Universal Waste Rule: Specific Provisions for Batteries, [60 FR 25492-25551] May 11, 1995. (Checklist 142 B).	A.C.A. § 8-7-209(a)(2), (3), (4), (5), (11) and (b), 8-10-301, (Act 952 of 1993, effective August 13, 1993), APC&E Reg. No. 23 §§ 260.10, 261.5 and 261.9, 262.10 and 262.11, 264.1(g)(11), 266, Subsection G and 273, 265.1(c)(14), as amended December 1, 1995; effective January 21, 1996.
41. Universal Waste Rule: Specific Provisions for Pesticides, [60 FR 25492-2551], May 11, 1995. (Checklist 142 C).	A.C.A. § 8-7-209(a)(2), (3), (4), (5), (11) and (b), APC&E Reg. No. 23 §§ 260.10, 261.5 and 261.9, 262.10 and 262.11, 264.1(g)(11), 266, and 273, 265.1(c)(14), as amended December 1, 1995; effective January 21, 1996.
42. Universal Waste Rule: Specific Provisions for Thermostats, [60 FR 25492-25551] May 11, 1995. (Checklist 142 D).	A.C.A. § 8-7-209(a)(2), (3), (4), (5), (11) and (b), APC&E Reg. No. 23 §§ 260.10, 261.5 and 261.9, 262.10 and Specific 262.11, 264.1(g)(11), 266, and 273, 265.1(c)(14), as amended December 1, 1995; effective January 21, 1996.
43. Universal Waste Rule: Petition Provisions to Add a New Universal Waste, [60 FR 25492-25551] May 11, 1995. (Checklist 142 E).	A.C.A. § 8-7-209(a)(2), (3), (4), (5), (11) and (b), APC&E 8 (Administrative Procedures), Reg. No. 23 §§ 260.20(a) and 260.23, 273.80 and 273.81, as amended December 1, 1995; effective January 21, 1996.
44. Removal of Legally Obsolete Rules, [60 FR 33912-33915] June 29, 1995. (Checklist 144).	A.C.A. §§ 8-7-205(4), 8-7-209(a); APC&E Reg. No. 23 §§ 261.31(a), 266.103(c)5, 266.104(f)-(h), 270.2, 270.10(e)(4), 270.10(f)(2), 270.10(g)(1) amended February 25, 2000 effective May 20, 2000.
45. Liquids in Landfills III, [60 FR 35703-35706] July 11, 1995 (Checklist 145).	A.C.A. §§ 8-7-205(4), 8-7-209(a)(3), (4), (5)(B), as amended and effective 1997; APC&E Reg. No. 23 §§ 264.314(e)(2)(ii)-(iii), and 265.314(f)(2)(ii)-(iii), as amended July 25, 1997, effective August 22, 1997.
46. RCRA Expanded Public Participation, [60 FR 63417-63434] December 11, 1995. (checklist 148).	A.C.A. §§ 8-4-203(b)-(h), 8-7-217, Reg. No. 8 § 2.1.2-10, No. 8 § 2.1.2-10, APC&E Reg. No. 23 §§ 3(b)(3), 270.7(d)(f), 270.2, 270.14(b)(22), 270.30(m), 270.61(b)(5), 270.62(b) & (d), 270.66(d) & (g), as amended July 25, 1997, effective August 22, 1997.
47. Amendments to the Definition of Solid Waste; Amendments II, [61 FR 13103-13106] March 26, 1996. (Checklist 150).	A.C.A. § 8-7-209(a)(4), APC&E Reg. No. 23 §§ 261.4(a)(12), as amended July 25, 1997, effective August 22, 1997.

Federal citation	State analog
48. Land Disposal Restrictions Phase III-Decharacterized Wastewaters, carbamate Waste, and Spent Potliners [61 FR 15566-15660] April 8, 1996, as amended April 8, 1996, at [61 FR 15660-15668] April 30, 1996, [61 FR 19117] June 28, 1996, [61 FR 33680-33690] July 10, 1996, [61 FR 36419-36421] August 26, 1996, [61 FR 43924-43931] February 19, 1997 [62 FR 7502-7600]. (Checklist 151).	A.C.A. § 8-7-209(a)(5) and (6), Reg. No. 23 §§ 268.35(c)-(e), 268.2(f), (i) and (j), 268.3(a)-(c)268.7(a) and (b), 268.8, 268.9(a) and (d), 268.39, 268(a), (e), (g), and Table 1, 268.(a), (e), (g), and Table TTS, 268.44(a), 268.48(a) and Table UTS, and 268 Appendix XI, as amended July 25, 1997, effective August 22, 1997.
49. Criteria for Classification of Solid Waste Disposal Facilities and Practices; Identification and Listing of Hazardous Waste; Requirements for Authorization of State Hazardous Waste Programs, [61 FR 34252] July 1, 1996. (Checklist 153).	A.C.A. § 8-7-209(a)(4), APC&EC Reg. 23 §§ 264.5(f)(3) and 264.5(g)(3); 261.5(f)(3)(i)-(iii) and (iv)-(vii), 261.5(g)(3) intro, 261.5(g)(3)(i)-(vii), as amended February 25, 2000 effective May 20, 2000.
50. Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers, [61 FR 59931] November 25, 1996, [59 FR 62896], December 6, 1994, [60 FR 26828] May 19, 1995, [60 FR 50426] September 29, 1995, [60 FR 56952] November 13, 1995, [61 FR 4903] February 9, 1996, [61 FR 28508] June 5, 1996. (Checklist 154, 154.1, 154.2, 154.3, 154.4, 154.5, and 154.6).	A.C.A. §§ 8-7-209(10), 8-7-209(b)(1), 8-7-209(b)(1)(F), 8-7-303(1) & (2), 8-7-310(a)(1), 8-7-310(a)(2), 8-7-209(b), 8-7-210(d), 8-7-218(c), 8-7-503(7), APC&E Reg. 23 §§ 23 260.11(a)-(b), 261.6(c)(1), and 262.34(d)(2), Reg. 23 §§ 270.4(a)(2)-(4), 270.14(b)(5), 270.15(e), 270.16(k), 270.17(j), 270.27(a), 270.27(a)(1)-(7), 262.20(f), 262.34(a)(1)(i) & (ii), 264 Subsection CC & 265 Subsection CC; amended February 25, 2000 effective May 20, 2000.
51. Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance, [62 FR 1992] January 14, 1997. (Checklist 155).	A.C.A. §§ 8-7-209(a)(5) and 6, APC&EC Regulation 23 § 262.39(c); amended February 25, 2000 effective May 20, 2000.
52. Military Munitions Rule: Hazardous Waste Identification and Management; Explosives Emergencies; Manifest Exemption for Transport of Hazardous Waste on Right-of-Ways on Contiguous Properties, [62 FR 6622] February 12, 1997. (Checklist 156).	A.C.A. §§ 8-7-209(a)(10), 8-7-209(b)(1), and 8-7-209(b)(1)(F), 8-7-209(a)(3), 8-7-209(a)(4) & 5, 8-7-224, APC&E Reg. 23 §§ 260.10 "Military Munition", 261.2(a)(iii)(iv), 262.10(i), 263.10(e) & (f), 264.1(g)(8)(i)(D), (iv), and (i), 264.70, 264 Subsection EE, 265.1(c)(11)(i)(D), (iv), & (f), 265.70, 266.201-203, 266.204-206, 270.1(c)(3)(i)(D), and (iii) 262.20(f), 266.205, 270.42(h) & (i), 265.1200, 265.1201(a), 265.1201(a)(1)-(5), 265.1201(b), 265.1201(b)(1)(i), 265.1201(ii)(A)-(C), 265.1201(b)(2)-(3), 265.1201(c)-(f), 265.1202(a)-(b), 266.200(a)-(b), and 270.42(h), 270.42(h)(1)-(3), and 270.42(i), as amended February 25, 2000 effective May 20, 2000.
53. Land Disposal Restrictions—Phase IV: Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; and Miscellaneous Hazardous Waste Provisions, [62 FR 25998] May 12, 1997. (Checklist 157).	A.C.A. §§ 8-7-209(a)(4)-(5), 8-7-209(6), 10, & 11, 8-7-202(2), 8-7-218(b)(2), 8-7-218(c), 8-7-303(1) & 8-7-308(4), APC&E Reg. 23 § 262.30(a)-(e), 268.1(e)(4), 268.4(a)(2)(iv), 268.4(a)(4), 268.7(a)-(c)(2), 268.9(a), 268.9(d)(1)(ii), 268.32, 268.34-268.37, 268.44(o), 268 Appendices I-III, VI, VIII & X, 268.42, Table 1, & 268.40; 261.1(c)(9)-(12), 261.2(c), Table 1, 261.4(a)(13)-(14), 261.4(14)(i)-(ii), 261.69(a)(3)(ii), 268.1(e) intro-(e)(3), 268.7(a)(1)-(3), 268.7(a)(i)-(ii), 268.7(a)(3)-(4), 268.7(a), table, 268.7(a)(5), 268.7(a)(5)(i)-(iii), 268.7(a)(6)-(9), 268.7(a)(9)(i)-(iv), 268.7(a)(10), 268.7(b), 268.7(b)(1)-(2), 268.7(b)(3) intro, 268.7(b)(3)(i)-(ii), 268.7(b)(3)(ii), table, 268.7(b)(4), 268.7(b)(4)(i)-(iii), 268.7(b)(4)-(6), 268.7(c)(1)-(2), as amended February 25, 2000 effective May 20, 2000.
54. Hazardous Waste Management; System; Testing and Monitoring Activities, [62 FR 32452] June 13, 1997. (Checklist 158).	A.C.A. §§ 8-7-209(a)(4), APC&E Reg. 23 §§ 260.11(a), 264.1034(d)(1)(iii) & (f), 264.1063(d)(2), 264 Appendix IX, 265.1034(d)(1)(iii) and (f), 265.1063(d)(2), 266.104(e)(1), 266.106(g)(1) & (2) 266.107(f) & 266 Appendix IX; amended February 25, 2000 effective May 20, 2000.
55. Hazardous Waste Management System; Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions, [62 FR 32974] June 17, 1997. (Checklist 159).	A.C.A. §§ 8-7-209(a)(4), 8-7-211, APC&E Reg. 23 §§ 261.32, 261.33(f), 261 Appendices VII and VIII 268.39(a) and (d), 268.40; amended February 25, 2000 effective May 20, 2000.
56. Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance, [62 FR 37694] July 14, 1997. (Checklist 160).	A.C.A. §§ 8-7-209(a)(5) and 6, APC&EC Reg. 23 § 262.39(c); amended February 25, 2000 effective May 20, 2000.
57. Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes From Carbamate Production, [62 FR 45568] August 28, 1997. (Checklist 161).	A.C.A. §§ 8-7-209(a)(5) and 6, APC&EC Reg. 23 § 268.40(g), 268.48(a); amended February 25, 2000 effective May 20, 2000.
58. Clarification of Standards for Hazardous Waste LDR Treatment Variances, [62 FR 64504] December 5, 1997. (Checklist 162).	A.C.A. §§ 8-7-209(a)(5) and 6, APC&EC Regulation 23 § 268.44(a), 268.44(h), & 268.44(m); amended February 25, 2000 effective May 20, 2000.
59. Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers; Clarification and Technical Amendment, [62 FR 64636] December 8, 1997. (Checklist 163).	A.C.A. §§ 8-7-209(10), 8-7-209(b)(1), 8-7-209(b)(1)(F), 8-7-303(1) & (2), 8-7-310(a)(1) & 2, 8-7-209(b), 8-7-210(d), 8-7-218(c), 8-7-503(7), APC&E Regulation 23 §§ 262.34(a)(1)(i) & (ii), 264 Subsection CC & 265 Subsection CC; amended February 25, 2000 effective May 20, 2000.
60. Kraft Mill Steam Stripper Condensate Exclusion, [63 FR 18504] April 15, 1998. (Checklist 164).	A.C.A. §§ 8-7-209(a)(4), APC&EC Regulation 23 § 261.4(a)(15); amended February 25, 2000 effective May 20, 2000.
61. Recycled Used Oil Management Standards; Technical Correction and Clarification, [63 FR 24963] May 6, 1998. (Checklist 166).	A.C.A. §§ 8-7-204(b), 8-7-205(1), 8-7-207, 8-7-209(a)(1), (5), (6), (7), (8), (10), & (12), 8-7-209(b)(5) & (6), 8-7-210(b), 8-7-212, 8-7-213, 8-7-214, APC&EC Regulation 23 §§ 261.5(j), 261.6(a)(3)(iv)(A)-(C), 279; amended February 25, 2000 effective May 20, 2000.

Federal citation	State analog
62. Land Disposal Restrictions Phase IV—Treatment Standards for Metal Wastes and Mineral Processing Wastes, [63 FR 28556] May 26, 1998. (Checklist 167 A).	A.C.A. §§ 8–7–209(a)(5) and 8–7–209(a)(6), APC&EC Regulation 23 §§ 268.2(i), 268.3(d), 268.34, 268.40(e) & (h), 268 Table of Treatment Standards, & 268.48; amended February 25, 2000.
63. Land Disposal Restrictions Phase IV—Hazardous Soils Treatment Standards and Exclusions, [63 FR 28556] May 26, 1998. (Checklist 167 B).	A.C.A. §§ 8–7–209(b), 8–7–205(1), 8–7–207, 8–7–209(a)(1), (5), (6), (7), (8), (10), & (12), 8–7–209(b)(5) & (6), 8–7–210(b), 8–7–212, 8–7–213, 8–7–214, APC&EC Regulation 23 §§ 262.34(d)(4), 268.2(h) & (k), 268.7(a)(1)–(6), 268.7(b)(1)–(3), 268.7(b)(4) intro & 268.7(b)(iv), 268.7(e), 268.9(d)(2), 268.9(d)(2)(i), 268.44(h)(3)–(5) & 268.49; amended February 25, 2000.
64. Land Disposal Restrictions—Phase IV—Corrections, [63 FR 28556] May 26, 1998. (Checklist 167 C).	A.C.A. §§ 8–7–209(b), 8–7–205(1), 8–7–207, 8–7–209(a)(1), (5), (6), (7), (8), (10), & (12), 8–7–209(b)(5) & (6), 8–7–210(b), 8–7–212, 8–7–213, 8–7–214, APC&E Regulation 23 §§ 268.4(a)(2)(ii) & (iii), 268.7(a)(7), 268.7(b)(3)(ii) Table, 268.7(b)(4)(iv)(v), 268.7(b)(5) & (6), 268.40 Table, 268.40(e), 268.42(e), 268.42(a), 268.45(a), 268.45(d)(3) & (4), 268.48, & 268 Appendices VII & VIII; as amended February 25, 2000, effective May 20, 2000.
65. Bevill Exclusion Revisions and Clarification, [63 FR 28556] May 26, 1998. (Checklist 167 E).	A.C.A. §§ 8–7–209(a)(4), APC&E Regulation 23 §§ 261.4(a)(16)(iii) & 261.38; as amended February 25, 2000, effective May 20, 2000.
66. Exclusion of Recycled Wood Preserving Wastewaters, [63 FR 28556] May 26, 1998. (Checklist 167F).	A.C.A. §§ 8–7–209(a)(4), APC&E Regulation 23 §§ 261.4(a)(9)(iii); as amended February 25, 2000, effective May 20, 2000.
67. Hazardous Waste Combustors Revised Standards, [63 FR 33782] June 19, 1998. (Checklist 168).	A.C.A. §§ 8–7–209(a)(4), APC&E Regulation 23 §§ 261.4(a)(16)(iii) & 261.38; as amended February 25, 2000, effective May 20, 2000.
68. Petroleum Refining Process Waste, [63 FR 42110–42189] August 6, 1998. (Checklist 169).	A.C.A. §§ 8–7–209(a)(4), APC&E Regulation 23 §§ 261.3(c)(2)(ii)(B), 261.4(a)(12), 261.4(a)(18) & (19), 261.6(a)(3)(iv)(C) & (v), 261.31(a) & 266.100(b)(3); 261.3(a)(2)(iv)(C), 261.3(c)(2)(ii)(B), 261.3(c)(2)(ii)(E), 261.4(a)(12)(i), 261.4(12)(ii), 261.4(a)(18), 261.4(a)(18)(i)–(ii), 261.4(a)(19), 261.6(a)(3)(iv)(C), 261.6(a)(3)(v), 261.31(a), and 266.100(b)(3), as amended February 25, 2000, effective May 20, 2000.
69. Land Disposal Restrictions Process—Phase IV, [63 FR 46332] August 31, 1998. (Checklist 170).	A.C.A. §§ 8–7–209(a)(5) and 6, APC&EC Regulation 23 § 268.40(i); as amended February 25, 2000, effective May 20, 2000.
70. Emergency Revisions of LDR Treatment Standards, [63 FR 47409] September 4, 1998. (Checklist 171).	A.C.A. §§ 8–7–209(a)(5) and 8–7–209(a)(6), APC&EC Regulation 23 §§ 268.40(g)–(j), 268.40 Table, & 268.48(a) Table; as amended February 25, 2000, effective May 20, 2000.
71. Emergency Revisions of LDR Treatment Standards, [63 FR 48124] September 9, 1998. (Checklist 172).	A.C.A. §§ 8–7–209(a)(5) and 6, APC&EC Regulation 23 § 268.34(b); as amended February 25, 2000, effective May 20, 2000.
72. Land Disposal Restrictions Treatment Standards (Spent Potliners), [63 FR 51254] September 24, 1998. (Checklist 173).	A.C.A. §§ 8–7–209(a)(5) and 6, APC&EC Regulation 23 § 268.40, Table of Treatment Standards; as amended February 25, 2000, effective May 20, 2000.
73. Standards Applicable to Owners and Operators of Closed/Closing Facilities, [63 FR 56710] October 22, 1998. (Checklist 174).	A.C.A. §§ 8–7–204(b), 8–7–205(1), 8–7–207, 8–7–209(a)(1), (5), (6), (7), (8), (9), (10), & (12), 8–7–209(b)(5) & (6), 8–7–210(b), 8–7–212–218, 8–7–220–222, APC&EC Regulation 23 §§ 270.14 & 270.28; as amended February 25, 2000, effective May 20, 2000.
74. Hazardous Remediation Waste Management Requirements (HWIR-Media), [63 FR 65874] November 30, 1998. (Checklist 175).	A.C.A. §§ 8–7–204(b), 8–7–205(1), 8–7–207, 8–7–209(a)(1), (5), (6), (7), (8), (10), & (12), 8–7–209(b)(5) & (6), 8–7–210(b), (5) & (6), 8–7–210(b), 8–7–212–218, 8–7–220–222, 8–7–505(3), 8–7–507, 8–7–508(a)(1) & (3), 8–7–5–11, APC&EC Regulation 23 §§ 260.10, 264.552(a), 264.553(a), 270.2, 270.11(d), 270.42, 270.68, 270.73(a) & 270. Subsection H (270.79–270.230,23 261.4(g)intro, 261.4(g)(1), 261.4(g)(2) intro, 261.4(g)(2)(ii)–(iii), 264.1(j)(2)–(3), 264.1(j)(3)(i)–(ii), 264.1(j)(4)–(17), 264.101, 264.554(b), 264.554(c) intro, 264.554(c)(1)–(3), 264.554(d) intro, 264.554(d)(1)(i)–(iii), 264.554(d)(2), 264.554(d)(2)(i)–(vi), 264.554(e)intro, 264.554(e)(1)(i)–(ii), 264.554(e)(2), 264.554(f)intro, 264.554(f)(1)–(3), 264.554(g)–(h), 264.554(i)intro, 264.554(i)(1), 264.554(i)(1)(i)–(ii), 264.554(i)(2), 264.554(j) intro, 264.554(j)91, 264.554(j)(1)(i)–(iii), 264.554(j)(2)–(3), 264.554(k) intro, 264.554(k)(1)–(2), 264.554(1)–(2), 264.554(1) intro, 264.554(1)(1), 264.554(1)(i)–(ii), 264.554(1)(2)–(4), 264.554(m), as amended February 25, 2000, effective May 20, 2000.
75. Universal Waste Rule; Technical Amendment, [63 FR 71225] December 24, 1998. (Checklist 176).	A.C.A. §§ 8–7–204(b), 8–7–205(1), 8–7–207, 8–7–209(a)(1), (5), (6), (7), (8), (10), & (12), 8–7–209(b)(5) & (6), 8–7–212–214, APC&EC Regulation 23 §§ 260.10, 261.5(c), 261.5(f)(3)(vi), 261.5(g)(3)(vi), 261.9, 262.10(b), 262.11(d), 264.1(g)(11), 265.1(c)(14), 261.9(a), 264.1(g)(11)(i), 265.1(c)(14)(i), 266.80(a), 266.80(b), 268.1(f)(1), 270.1(c)(2)(viii)(A), 273.1(a)(1), 273.2, 268.1(f), 270.1(c)(2)(viii)–(A), 273.1(a)–(b), 273.5–6, 273.10–11–14, 273.13(a), 273.14(a), 273.15–273.31, 273.32(a)(1) & (2), 273.32(b), 273.33(a), 273.34, 273.34(a), 273.35–273.70; 264.1083(b)(1)(ii), 264.1084(h)(3), 264.1084(h)(3)(i)–(ii), 264.1086(e)(6), and 265.1080(b)(5), as amended February 25, 2000, effective May 20, 2000.
76. Organic Air Emission Standards, [64 FR 3381] January 21, 1999. (Checklist 177).	A.C.A. §§ 8–7–303(1) & (2), 8–7–310(a)(1) & (2), 8–7–310(a)(1) & (2), 8–7–209(b), 8–7–210(d), 8–7–218(c), 8–7–503(7), APC&EC Regulation 23 262.34(a)(1)(9)(i) & (ii), 264, Subsection CC, & 265, Subsection, CC; 262.34(a)(1)(i)–(ii), as amended February 25, 2000, effective May 20, 2000.
77. Petroleum Refining Process Wastes, [64 FR 6806] February 11, 1999. (Checklist 178).	A.C.A. §§ 8–7–209(a)(4), APC&EC Regulation 23 § 261.4(b)(15); as amended February 25, 2000, effective May 20, 2000.

Federal citation	State analog
78. Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards, [64 FR 25408] May 11, 1999. (Checklist 179).	A.C.A. §§ 8–7–209(b), 8–7–205(1), 8–7–207, 8–7–209(a)(1), (5), (6), (7), (8), (10), & (12), 8–7–209(b)(5) & (6), 8–7–210(b), 8–7–212, 8–7–213, 8–7–214, APC&EC Regulation 23 §§ 262.34(d)(4), 268.2(h) & (k), 268.7(a)(1)–(6), 268.7(b)(1)–(3), 268.7(b)(4) intro & (b)(iv), 268.7(e), 268.9(d)(2), 268.9(d)(2)(i), 268.44(h)(3)–(5) & 268.49; 268.4(a)(2)(ii)&(iii), 268.7(a)(7), 268.7(b)(3)(ii) Table, 268.7(b)(4)(iv)(v), 268.7(b)(5)&(6), 268.40 Table, 268.40(e), 268.42(e), 268.42(a), 268.45(a), 268.45(d)(3)&(4), 268.48, & 268 Appendices VII & VIII; as amended February 25, 2000.
79. Test procedures for the Analysis of Oil and Grease and Non-Polar Material, [64 FR 26315] May 14, 1999. (Checklist 180).	A.C.A. §§ 8–7–209(a)(4), APC&EC Regulation 23 § 260.11(a)(11) & 260.11(a)(16); as amended February 25, 2000, effective May 20, 2000.
80. Universal Waste Rule, [64 FR 36466] July 6, 1999. (Checklist 181).	A.C.A. §§ 8–7–209(b), 8–7–205(1), 8–7–207, 8–7–209(a)(1), (5)–(10) & (12), 8–7–209(b)(5) & (6), 8–7–210(b), 8–7–212–214, APC&EC Regulation 23 §§ 260.10, 261.9(b)(d), 264.1(g)(11)(ii)–(iv), 265.1(c)(14)(ii)–(iv), 268.1(f)(2)–(4), 273.1(a)(2)–(4), 270.1(c)(2)(viii)(B)–(D), 273.1(a)(2)–(4), 273.2(a)(1), 273.2(b)(2) & (3), 273.2(a), 273.4(a), 273.5–273.10, 273.13(d), 273.14(e) & 273.30; as amended February 25, 2000, effective May 20, 2000.

### E. What Is the Relationship Between the Resource Conservation and Recovery Act and the Hazardous Waste Combustor MACT? How Does This Affect Delegation of This Standard to Arkansas Department of Environmental Quality's Authorization?

In this authorization document, the State of Arkansas is also seeking authorization for the Post-Closure Permit Requirement and Closure Process, (Checklist 174). On September 30, 1999, the EPA finalized the National Emission Standards for Hazardous Air Pollutants (NESHAP) for three categories waste combustors (HWCs): incinerators, cement kilns and light-weight aggregate kilns (64 FR 52828). The EPA promulgated this rule under joint authority of the Clean Air Act (CAA) and (RCRA). Before this rule went into effect, the air emissions from these three types of HWCs were primarily regulated under the authority of RCRA (see 40 CFR parts 264, 265, 266, and 270). However, with the release of the final HWC NESHAP (see 40 CFR part 63 subpart EEE), the air emissions from these sources are now regulated under RCRA and the CAA. Even though both statutes give us the authority to regulate these emissions, we determined that having emissions standards and permitting requirements in both sets of implementing regulations would be duplicative. For this reason, using the authority provided by section 1006(b) of RCRA, we deferred the RCRA requirements for HWC emission controls to the CAA requirements of 40 CFR part 63 subpart EEE.

Therefore, with today's authorization of the State of Arkansas for the RCRA provisions of the September 30, 1999, HWC NESHAP rule, the RCRA waste management standards for air emissions from these units will no longer apply after the facility has demonstrated

compliance with 40 CFR part 63 subpart EEE. One notable exception concerns section 3005(c)(3) of RCRA, which requires that each RCRA permits contain the terms and conditions necessary to protect human health and the environment. Under this provision of RCRA, if a regulatory authority determines that more stringent conditions than the HWC NESHAP are necessary to protect human health and environment for a particular facility, then the regulatory authority may impose those conditions in the facility's RCRA permit. (See the HWC MACT rule preamble discussion on the interrelationship of the MACT rule with the RCRA Omnibus provision and site specific risk assessment at (64 FR 52828, pages 52839–52843, September 30, 1999, and RCRA Site-Specific Risk Assessment Policy for Hazardous Waste Combustion Facilities dated June, 2000, for more information.

### F. What Decisions Have We Made?

We conclude that Arkansas' application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, Arkansas is granted final authorization to operate its hazardous waste program as revised, assuming no adverse comments are received as discussed above. Upon effective final approval, Arkansas will be responsible 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 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 Arkansas, including issuing permits, until the State is granted authorization to do so.

### G. How Do the Revised State Rules Differ From the Federal Rules ?

On April 1994, Arkansas Department of Pollution Control and Ecology (ADPC&E), revised its Regulation Number 23 from one of "incorporation by reference" to the adoption and incorporation of a version of the full text of the Federal regulatory language. The last authorization that was granted to the State of Arkansas was RCRA Cluster II in 1994 which at that the State incorporated by reference. Since the verbatim adoption, the following regulations are different from the Federal regulations that were incorporated in the State's Program description submitted with clusters III through IX with one Checklist 181 in cluster X.

#### *Areas Where the State program Is More Stringent*

- Arkansas has enacted several requirements under its hazardous waste management program which are either in addition to, more stringent than, or broader in scope than the minimum standards of the Federal RCRA program set forth in 40 CFR Parts 260–279. These additional State requirements are set forth in the Arkansas Regulation No 23 Sections 1–6 and Sections 18–30, and appear in Sections 260–279 in italicized in Arkansas Reg No 23 are typed to distinguish them from the adopted Federal language. The following State requirements are more stringent than the corresponding Federal regulation. The reader is referred to the appropriate Statement of the Independent Legal Counsel in the authorization application for the specific Cluster for detailed

discussion of the significance of these differences.

- In the definition of “Existing hazardous waste management (HWM) facility”, the deadline for the operation or construction of a facility to be included in this definition is 20 months earlier than the date set in the Federal regulations. Thus, more facilities are subject to the more stringent requirements for new facilities than is the case under the Federal requirements.

- Regulation No. 23 § 262.13(g) requires that all generators of hazardous wastes newly characterized as Toxicity Characteristic wastes must notify the Department even if they have previously notified the Department of other hazardous waste activity. The Federal program does not have an analogous requirement, making the State requirement more stringent.

- Arkansas does not have an analog to § 262.20(e) which allows generators under certain specified conditions (e.g., tolling arrangements) not to be subject to the manifest requirements. This difference makes the State provisions more stringent than their Federal counterparts.

- Regulation No. 23 § 262.21(d) requires the use of the Arkansas version of the uniform manifest form; the use of the generic uniform manifest is not allowed.

- Regulation No. 23 § 262.24 contains additional requirements for generators not found in the Federal program including (1) submitting documentation that a weight difference of more than 10% between the initial and final weights on a manifest has been resolved between the generator and the treatment, storage, and disposal facility (TSDF). Under the Federal requirements only the TSDF has to submit such documentation, and (2) submitting a discrepancy report as per the criteria defined by the State’s counterpart to § 265.72. Under the Federal program, only the TSDF has to submit this report.

- Regulation No. 23 § 262.35 contains more stringent management requirements for conditionally-exempt small quantity generators.

- Regulation No. 23 § 262.41 requires that generators submit annual rather than biennial reports. This is a more stringent requirement.

- Under Regulation No. 23 § 262.41(e), Arkansas provision is more stringent in that a generator must report accumulated wastes in addition to stored wastes. Under the Federal program, only stored wastes must be reported.

- Arkansas does not have an analog to § 262.44 which subjects generators of

between 100 and 1000 kg per month to reduced recordkeeping requirements. This difference makes the State program more stringent than the Federal program.

- Regulation No. 23 § 262.50(c) requires that a copy of all export notifications and manifests that are submitted to EPA be also submitted to the Department. This is a more stringent requirement.

- Reg. No. 23 § 260.10, definition of “commingling” prohibits transporters from commingling wastes in any manner that constitutes treatment.

- Reg. No. § 263.11(c) requires that each transfer facility obtain an EPA identification number. This difference makes the State’s provisions more stringent than the Federal program.

- Arkansas has several specific authorities which relate to siting of hazardous waste management facilities. A.C.A. § 8–7–223 specifically prohibits a landfill disposal facility from being located within one-half mile of any occupied dwelling unless the applicant can demonstrate and the Department finds that a lesser distance will provide an adequate margin of safety under normal operating conditions. Likewise, A.C.A. § 8–6–1504 (in the Arkansas Environmental Equity Act (Act 1263 of 1993)) establishes a rebuttable presumption against siting any “high impact solid waste management facility” within 12 mile radius of any other such facility. The definition of a high impact solid waste management facility includes all commercial hazardous waste incinerators and commercial hazardous waste treatment, storage, or disposal facilities.

- Reg. No. 23 § 264.16(f) has no Federal counterpart and requires that at least one person certified by the State be on duty at all times before a commercial hazardous waste treatment, storage, or disposal facility will be permitted to operate. Certified persons must meet certain qualifications including physical capability; a B.S. degree or equivalent related experience in engineering, physical science, health sciences or related disciplines; familiarity with principles of industrial operation; and be a U.S. citizen. Facilities must also maintain records of employees, provide personnel training and review and require annual health physicals. These provisions make the Arkansas program more stringent than the Federal program.

- Reg. No. 23 § 264.18(d)–(i) have no Federal counterpart and state that treatment, storage, and disposal facilities will not be permitted in an active fault zone, regulatory floodway, 100-year floodplain, recharge zone or

wetland area unless it can be proven that there is no risk to public health or the environment. Facilities located within an area containing geologic or pedologic factors will not be permitted nor will any facility located within one half mile of an occupied dwelling, school or hospital. These provisions are more stringent than the Federal location requirements at 40 CFR 264.18.

- Reg. No. 23 §§ 264.19(a), 264.115 and 264.120 restrict the engineers who can develop and implement a CQA to those registered in Arkansas. The Federal regulations allow registration in any State. This difference makes the State more stringent.

- Reg. No. 23 § 264.20 has no Federal counterpart and contains performance standards that are specific to Arkansas. These standards make the State more stringent.

- Reg. No. 23 § 264.75 requires that facilities submit annual rather than biennial reports. This difference makes the State program more stringent than the Federal program.

- Reg. No. 23 § 264.75(i) requires annual submission of groundwater monitoring data. Under the Federal requirements, these data must only be submitted by interim status facilities. This difference makes the Arkansas program more stringent than the Federal program.

- Reg. No. 23 § 264.175(b)(2) has no Federal counterpart and requires an impermeable coating on all surfaces of the secondary containment structure for container storage areas. This difference makes Arkansas’ program more stringent than the Federal program.

- Reg. No. 23 §§ 264.191 through 264.193 restrict those engineers who can inspect or certify a tank system’s integrity to those registered in Arkansas. The Federal requirements allow registration in any State. Arkansas is therefore more stringent.

- Reg. No. 23 § 264.571(b) requires that for immediate protection of the environment, all existing drip pads must have an impermeable coating or cover in place not later than September 30, 1995. This requirement is more stringent than its Federal counterpart.

- Reg. No. 23 §§ 264.571(a)–(c) and 264.573(m)(3) restrict engineers who can certify a drip pad’s integrity or completed repairs to those registered in Arkansas. The Federal counterparts allow engineers to certify that are registered in any state. This difference makes the State’s program more stringent.

- Reg. No. 23 §§ 264.573(a)(4)(i) states that penetrating sealants are not adequate to meet the coating or cover requirements for drip pads. The Federal

requirements do not have this restriction; therefore, the State requirement is more stringent.

- Reg. No. 23 § 264.601(d)&(e) have no Federal counterpart and prohibit open burning or detonation of hazardous wastes on unprotected ground. Open burning or open detonation may only be conducted in or on an elevated containment device which will prevent leaching or migration of waste. Prior to open burning or detonation, a RCRA permit must be obtained and it must be demonstrated that no other feasible alternative is available. These requirements are consistent with Federal requirements at 40 CFR part 264, subpart X. However, the required demonstration that there are no other feasible alternatives is a more stringent provision.

- Reg. No. 23 § 264.1101(c)(2) & (c)(3)(iii) restrict the engineers who can certify a containment design or completed repairs to those registered in Arkansas. Under the Federal requirements the engineer can be registered in any state.

- Because Arkansas law does not distinguish between corrective action on-site and off-site, demonstration of financial responsibility is required for corrective action wherever it is needed.

- Arkansas allows existing facilities to continue operation only if the facility was in existence on March 14, 1979, and submitted an initial State application form to the Department by September 14, 1979. A.C.A. § 8-7-216 requires that an initial State application for interim status be submitted to the Department by September 14, 1979. Thus, Arkansas has a more stringent form of interim status.

- Reg. No. 23 § 265.75 requires that facilities submit annual rather than biennial reports. This difference makes the State program more stringent than the Federal program.

- Reg. No. 23 §§ 265.143(h), 265.143(h) and 265.147(e) require that the engineer who certified closure be registered in Arkansas. Under the Federal requirements, the engineer may be registered in any state.

- Reg. No. 23 §§ 265.191 through 265.193, 265.196(f) and 265.280(e) restrict those engineers who can inspect or certify a tank system's integrity to those registered in Arkansas. The Federal requirements allow registration in any State. Arkansas is therefore more stringent.

- Reg. No. 23 §§ 265.441(a) and (c), 265.443(g) and (m)(3) and 265.444(a) restrict engineers who can certify a drip pad's integrity or completed repairs to those registered in Arkansas. The

Federal counterparts allow engineers to certify that are registered in any state. This difference makes the State's program more stringent.

- Reg. No. 23 § 265.441(b) requires that for immediate protection of the environment, all existing drip pads must have an impermeable coating or cover in place not later than September 30, 1995. This requirement is more stringent than its Federal counterpart.

- Reg. No. 23 § 265.443(a)(4)(i) states that penetrating sealants are not adequate to meet the coating or cover requirements for drip pads. The Federal requirements do not have this restriction; therefore, the State's provision is more stringent.

- Reg. No. 23 § 265.1101(c)(2) and (c)(3)(iii) restrict the engineers who can certify a containment design or completed repairs to those registered in Arkansas. Under the Federal requirements the engineer can be registered in any state.

- At Reg. No. § 270.2 "*existing hazardous waste management facility*", the date to qualify for interim status is prior to the corresponding Federal date. This difference makes the state more stringent because fewer facilities qualify for the interim status requirements.

- Reg. No. 23 § 270.7 has no direct analog in the Federal requirements and includes additional requirement relative to permit application. Some of the requirements are a restatement of the Federal requirements, but others are additional demonstrations which must be made or information which must be provided. Included are such things as evidence that the contingency plan has been developed in consultation with the fire department, the Mayor/City Manager/County Judge in the municipality/county in which the facility is to be located; provision of contracts, agreements, and such other documentation to demonstrate that the waste which will be disposed of is waste which resulted from the treatment of waste to the full extent of known technology and economics or is waste for which there is no technically and economically feasible means of treatment available; demonstration of full fee ownership of lands and all mineral rights; location and places where public notice must be made; proof of public notice of application submission prior to any permit decision; written notice to all landholders and tenants of property contiguous to the proposed or existing facility; evidence of good faith effort to contact all contiguous landholders; and permittee must submit as part of the annual permit review process a plat of any landfill disposal area in which waste

has been disposed. These requirements make the state's provision more stringent.

- Reg. No. 23 § 270.10(e)(1) requires that any facility in existence on March 14, 1979, submit a permit application on or before September 4, 1979. The State requirement is more stringent because if the application was not submitted to the Department as required under the State Act, the facility is not eligible for interim status.

- Under Reg. No. 23 § 270.10(e)(8), Arkansas can take immediate enforcement action relative to an application deficiency; whereas the Federal requirements allow 30 days to fix the application. This difference makes the state's requirement more stringent.

- Reg. No. 23 § 270.13(o), which does not have a Federal analog, requires disclosure information to be submitted as part of the permit application. A.C.A. § 8-1-106(b) provides the State with the authority to require this information. This requirement makes Arkansas more stringent than the Federal program.

- Reg. No. 23 §§ 270.14(a), 270.16(a), 270.26(c)(15) and 270.30(l)(2)(i) are more stringent because they restrict those registered professional engineers who can certify certain technical data those who are registered in Arkansas. The Federal requirements allow the engineer to be registered in any state.

- In Reg. No. 23 § 270.19(d), Arkansas uses "may" rather than "shall" giving the Director the discretion for non-approval. The Administrator does not have this discretion making the State more stringent.

- Reg. No. 23 § 270.30(l)(9) requires an annual rather than a biennial report.

- Reg. No. 23 § 270.34, which does not have a Federal analog, requires that a survey be conducted by any appropriate health agency to establish baseline health data. In addition, the state requires that if emissions from any hazardous waste management facility are related to disease etiology, the Department shall conduct pertinent epidemiologic investigation. This requirement makes the state more stringent.

- At Reg. No. 23 § 270.70(b), the analog to 40 CFR 270.70(b), Arkansas does not allow the owner/operator 30 days to explain or correct a deficiency. This difference makes the state more stringent.

- Reg. 23 § 273.5(b)(3) specifically excludes broken and crushed lamps as well as the debris from broken or crushed lamps from being managed under the universal waste program.

- Arkansas requires that used oil handlers use the State's Notification of

Regulated Waste Activity form to obtain an EPA identification number; requests via an ordinary letter are not accepted.

- Used oil transporters, processors, re-refiners, burners, and marketers who have previously obtained an EPA identification number must renotify in order to register their used oil activities with the Department.
- At Regulation No. 23 § 279.82, used oil used as a dust suppressant may not exhibit any characteristic of a hazardous waste, and such use must prevent the oil or any component of the oil from entering any waters of the State.

*Areas Where the State Program Is Broader in Scope*

The following State requirements are broader in scope than the corresponding Federal regulation. The reader is referred to the appropriate Statement of the Independent Legal Counsel in the authorization application for the specific Cluster for detailed discussion of the significance of these differences.

- Reg 23 § 6(n), (o), (p), and (q) establishes an annual monitoring and inspection fee for fully-regulated and small quantity generators; § 25 establishes an annual fee on hazardous waste generation.
- Regulation No. 23 §§ 262.13(d) and 262.24(e) require that generators give their wastes only to permitted transporters, because Arkansas requires that transporters be permitted by the Arkansas Highway Police. This is a broader in scope provision.
- Reg. No. 23 §§ 263.10(d) and 263.13 require that any person transporting hazardous waste in, from or through Arkansas must have a permit from the Arkansas Highway Police. § 263.13 outlines the specific requirements for this permit. This difference makes the State's program broader in scope than the Federal program. A.C.A § 8-7-209(a)(6) provides the authority to require such permits.
- In addition to the notification requirements found at 40 CFR 263.30(c)(1)&(2), Arkansas requires

immediate notice to the Arkansas State Police and the principal officer or designated contact for the transporter.

- Reg. No. 23 § 263.30(c)(4) requires that copies of reports required by the U.S. Department of Transportation and the National Response Center be sent simultaneously to ADEQ.
- Reg. No. 23 § 6(a)-(n), (t), (u), (w), (x), and (z) establish a fee system for hazardous waste permitting and related activities; § 25 establishes an annual fee for treatment, storage, or disposal of out-of-state waste.
- Reg. No. 23 § 264.71(e) has no Federal counterpart and requires notification to the State of unpermitted transporters arriving at a transport, storage and disposal( TSD) facility, because all persons who transport hazardous waste in, from or through Arkansas must have a permit. This provision makes the State's program broader in scope.
- State corrective action authority covers hazardous substances (including petroleum and petroleum-based products), rather than only hazardous wastes and hazardous constituents as prescribed by Federal law. Thus, State authorities are broader in scope in this regard than the Federal program's. (See A.C.A. § 8-7-502, § 8-7-503(12), § 8-7-508(a)(1).)
- Reg. No. 23 § 265.71(e) has no Federal counterpart and requires notification to the State of unpermitted transporters arriving at a TSD facility, because all persons who transport hazardous waste in, from or through Arkansas must have a permit. This provision makes the State's program broader in scope.
- Fees are required by A.C.A. § 8-7-226 and Reg. No 23, Section 6 for permitting. This requirement is broader in scope because there is no direct Federal analog addressing permit fees.
- Arkansas distinguishes between commercial and non-commercial waste activities in setting its permit fee schedule.

*Areas Where the State Program Differs From the Federal Program*

- Arkansas does not provide for a State delisting program. To delist a waste in Arkansas, an applicant must first complete the process to obtain a final delisting decision from the EPA Administrator. Once a final federal delisting decision has been published in the **Federal Register**, it is not effective in Arkansas until the Arkansas Pollution Control and Ecology Commission completes rulemaking to approve and incorporate the federal decision in Regulation No. 23.
- Reg. No. 23 § 264.13(a)(1) provides that the analysis must, at a minimum, include a detailed waste characterization by a commercial facility for at least 10% of the waste handled for each large quantity generator shipping to the facility. The Federal requirements at 40 CFR 264.13(a) do not contain this specification; however, this additional State requirement is consistent with the Federal requirements.
- Reg. No. 23 § 265.13(a)(1) provides that the analysis must at a minimum include a detailed waste characterization by a commercial facility for at least 10 % of the waste handled for each large quantity generator shipping to the facility. The Federal requirements at 40 CFR 265.13(a) do not contain this specification; however, this requirement is consistent with the Federal requirements.
- Arkansas does not include an analog to the HSWA provision at 40 CFR 270.10(e)(1)(iii) because the date has passed and the Federal date overrides.
- Reg. No. 23 § 270.12 contains state- and program-specific requirements for the submittal and handling of confidential business information in conjunction with permit applications and processing.

GENERAL COMPARISON BETWEEN ARKANSAS'S HAZARDOUS WASTE REGULATIONS AND THE FEDERAL REGULATIONS

EPA regulation: Code of Federal Regulations (40 CFR)	State regulation	Description
No analogous provisions	Reg. 23 § 1	Authorities.
No analogous provisions	Reg. 23 § 2	Violations.
No analogous provisions	Reg. 23 § 3	Amendments and Updates.
No analogous provisions	Reg. 23 § 4	Conflict of Interest.
No analogous provisions	Reg. 23 § 6	Permit and Administrative Fees.
PART 260	Reg. 23 § 260	Hazardous Waste Management System: General.
PART 261	Reg. 23 § 261	Identification and Listing of Hazardous Waste.
PART 262	Reg. 23 § 262	Standards Applicable to Generators of Hazardous Waste.
PART 263	Reg. 23 § 263	Standards Applicable to Transporters of Hazardous Waste.

GENERAL COMPARISON BETWEEN ARKANSAS'S HAZARDOUS WASTE REGULATIONS AND THE FEDERAL REGULATIONS—  
Continued

EPA regulation: Code of Federal Regulations (40 CFR)	State regulation	Description
PART 264 .....	Reg. 23 §264 .....	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
PART 265 .....	Reg. 23 §265 .....	Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
PART 266 .....	Reg. 23 §266 .....	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities.
PART 268 .....	Reg. 23 §268 .....	Land Disposal Restrictions.
PART 270/124 .....	Reg. 23 §270 .....	The Hazardous Waste Permit Program.
PART 273 .....	Reg. 23 §273 .....	Standards for Universal Waste Management.
PART 279 .....	Reg. 23 §279 .....	Standards for the Management of Used Oil.
No analogous provisions .....	Reg. 23 §19 .....	Effect of Federal Regulations.
No analogous provisions .....	Reg. 23 §20 .....	Authority to Enter into Memoranda of Agreement.
No analogous provisions .....	Reg. 23 §21 .....	Definitions: Memoranda of Agreement.
No analogous provisions .....	Reg. 23 §22 .....	State/EPA Memorandum of Agreement.
No analogous provisions .....	Reg. 23 §23 .....	Authority: Remedial Actions Trust Fund.
No analogous provisions .....	Reg. 23 §24 .....	Remedial Action Revolving Loans.
No analogous provisions .....	Reg. 23 §25 .....	Fees on the Generation of Hazardous Waste.
No analogous provisions .....	Reg. 23 §26 .....	Criteria for Listing Hazardous Substance Sites.
No analogous provisions .....	Reg. 23 §27 .....	Remedial Action Trust Fund Priority List.
No analogous provisions .....	Reg. 23 §28 .....	Penalty Policy and Administrative Procedures.
No analogous provisions .....	Reg. 23 §29 .....	Severability.
No analogous provisions .....	Reg. 23 §30 .....	Effective Date.

In the Consolidated Independent Counsel's Statement for RCRA Clusters III, through IX and Checklist 181 in RCRA Cluster X (Universal Waste Rule; Specific Provisions for Lamps ), the EPA considered the following State requirement to be more stringent than the Federal: Under Checklist 118 Liquids in Landfills, at State citation 364.314(a), 264.314(d), 265.314(a), & 265.314(c) which is the counterpart to the Federal citation, the State is more stringent because it prohibits the disposal of any liquids in hazardous waste landfills in lieu of the provisions of 40 CFR 364.314(a), 264.314(d), 265.314(a), & 265.314(c). The State citations 264.571(b), 264.573(a)(4)(i)-(ii), 265.441(a)-(b), 265.443(a)(4)(i)-(ii), the State has retained several more stringent requirements for drip pad construction, specifically a requirement to provide all existing drip pads with a impermeable coating prior to September 30, 1995 and a prohibition against using penetrating sealants to meet any requirements for an impermeable coating. Checklist 137 (Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristic Wastes and Newly Listed Wastes), the State requirements are equivalent to those of the Federal regulations with the exception of the provisions of 40 CFR 268.7(a)(10), which provides an exemption for wastes managed under tolling arrangements as provided under 40 CFR 262.20(e).

Arkansas does not allow the exemptions provided under this federal rule, and thus , does not exempt the wastes listed at 40 CFR 268.7(a)(10). Therefore the State's regulation at § 268.7(a)(10) is more stringent than the Federal rule.

Under RCRA Expanded Public Participation (checklist 148), the requirements set forth at 40 CFR 124.31(a) have been adopted and incorporated into the previous State requirements for public participation in the permit process at Regulation No. 23 § 270.7. State requirements are generally equivalent to the Federal regulations with the following exception: Pursuant to A.C.A. § 8-7-217 Arkansas requires that a public notice be published "in the largest newspaper published in the county in which a facility or facilities are located or proposed to be located, as well as published in the largest newspaper published in the adjoining counties." This provision makes the State requirement more stringent, as the Federal regulation simply specifies a display newspaper advertisement. Arkansas requires additional information to be submitted along with the description and location of the facility. This provision makes the State requirement broader in scope. At § 270.7(e)(2)(i), Regulation 23 requires the facility owner/operate to publish the public notice and then provide proof of such notice (a copy of the notice(s) along with a statement from the newspaper(s) listing when the

advertisements run, and a copy of the paid receipt for the advertisements to the Director as part of the permit application. This provision makes the State requirements more stringent. In the same manner as above, Regulation 23 § 270.62(b)(6) and § 270.66(d)(3) require the owner/operator to provide public notice of the trial burn and provide proof of notice to the Director, instead of this notice being published by the Department. A.C.A § 8-4-203(d), Regulation No. 8 §§ 2.14(c) and 2.1.5(c), and Regulation No. 23 § 6(z) require that the costs of public notices be paid by the permit applicant, example the facility owner/operator. The mechanism for this process is that the Department drafts or approves) the public notice, for which the facility owner/operator arranges for publication and subsequently provides the Department with a copy of the published notice and proof of payment for publication costs for inclusion in the administrative record. This provision makes the State requirements more stringent.

The EPA considered the following State regulations to be broader in scope than the Federal regulations from the Consolidated Independent Counsel's Statement submitted for RCRA Clusters III through IX including Checklist 181, a portion of RCRA Cluster X. Regarding Checklist 121 (Corrective Action Management Units (CAMU)) which is included in this authorization application, the State of Arkansas'

definition of "Facility" when it comes to CAMU is considered consistent and equivalent with the federal definition with the exception of the State's Remedial Action Trust Fund (RATFA) A.C.A. Sections 8-7-501 et.al. which is included in the State's definition of facility. Sections 8-7-212, and 8-7-214 are not considered by EPA to be part of the federally authorized RCRA program because those provisions are discretionary dealing with site-specific management standards.

EPA is approving as part of the State of Arkansas' authorized RCRA program provision A.C.A. 8-7-508(a)(1) of the Remedial Action Trust Fund Act of 1985 (RATFA). This provision provides that:

Upon finding that a hazardous substance exists or may exist, the [ADEQ] may, upon reasonable notice and after opportunity for hearing, issue an order to any person liable for the site under [A.C.A.] 8-7-512, if that person caused or contributed to the release or threatened release of hazardous substances at the site. This order shall require that such remedial action be taken as necessary to investigate, control, prevent, abate, treat, or contain any releases of or threatened releases of hazardous substances from the site.

EPA is approving this provision of RATFA so that Arkansas can "assert without challenge the specific HSWA requirements in RCRA Section 3004(u) which call for authority to assure that permits issued after 11/8/84 require corrective action for releases of hazardous waste or hazardous constituents from **any solid waste management unit at a facility, regardless of when the waste was placed in the unit**".<sup>1</sup> (Emphasis is in the original of the Independent Counsel's Statement, see pages 12 through 13 of the Statement.) Arkansas also cites to the same provision in RATFA in order to have an equivalent provision to RCRA 3004(v). EPA is also approving any other provision of RATFA necessary to effectuate the implementation of A.C.A. 8-7-508(a)(1) of RATFA. EPA notes that A.C.A. 8-7-508(a)(1) provides for the issuance of orders and not permits, ADEQ has explained in its Independent Counsel Statement how State law allows this provision to be used as authority to write RCRA corrective action permit terms. EPA is relying on the accuracy of this legal

<sup>1</sup> As a point of clarification, EPA interprets RCRA sections 3004(u) and (v) as encompassing the statutory definition of hazardous waste found at RCRA section 1004(5) not just the regulatory definition of listed or identified characteristic hazardous waste found in 40 CFR part 261. Therefore, EPA can enforce any permit term issued by Arkansas that includes a solid waste which meets the statutory definition of being a hazardous waste or a hazardous waste constituent.

analysis in finding that Arkansas has equivalent provisions to RCRA 3004(u) and (v). EPA is approving this provision of RATFA as an equivalent permitting authority only and not as an enforcement/order authority. See the discussion below.

The EPA, as a point of clarification on the approval of Arkansas Corrective Action permitting authority,<sup>2</sup> is only approving a permitting program for corrective action and not for an order authority similar to RCRA section 3008(h). The EPA has had a longstanding policy of not authorizing States for corrective action order authority, but retaining that federal enforcement authority<sup>3</sup> (see 55 FR 30798, 30855 July 27, 1990). It is especially important that EPA clarify these matters since Arkansas is in the 8th Circuit Court of Appeals and subject to that Court's ruling in *Harmon Industries, Inc. v. Carol Browner*, 191 F 3rd 897 (8th Cir. Sept 16, 1999). This decision significantly reduced EPA's ability to take enforcement actions in an authorized State. In addition, RATFA is not a permitting program. RATFA is more similar to EPA's Superfund program in that it seeks to remediate releases of hazardous substances to the environment by issuing remediation orders. All of EPA's former and the present actions in revising Arkansas authorized RCRA program to include corrective action authority were done in the context of revising Arkansas' permitting authority to be equivalent to EPA's permitting authority at 40 CFR part 270. Furthermore, Arkansas' RATFA authority is broader in scope than the EPA RCRA program. It covers hazardous substances (as defined in the State Act)—not only hazardous waste, it allows for cost recovery by the State,

<sup>2</sup> The clarification applies not only to this authorization for RCRA Clusters III through IX and Checklist 181 a portion of Cluster X, but also to all previous revisions of the Arkansas Hazardous Waste Management Program where RCRA corrective action authority was discussed particularly the program revision found at 56 FR 47153, September 18, 1991.

<sup>3</sup> EPA is not establishing as part of Arkansas' authorized RCRA corrective action program any type of remedial order authority such as A.C.A. Sections 8-7-214, and 8-7-1101. These other laws/authorities were discussed in the State's Independent Counsel's Statement and its application for this and previous corrective action revisions. While illustrative of the State's overall authority to perform corrective action and order remedial actions, it is unrelated to whether or not its RCRA permit authority is equivalent to the Federal permit authority. The EPA is supportive of the States having broad authority to protect human health and the environment, but those additional authorities are not being approved as part of Arkansas' federally authorized RCRA corrective action program and are considered State only programs.

and provides for responsible parties to share liability.

The State adopted the Federal rules addressed at Checklist 140 (Carbamate Production Identification and Listing of Hazardous Waste), as they were initially promulgated in the **Federal Register**, verbatim at the appropriate citations and without modification from the Federal language. The State conducted an independent rulemaking, and the subsequent vacatur of the Federal rules in *Dithiocarbamate Task Force v. EPA* does not apply to the State regulations. The State provisions included the vacated waste streams, which made the rule broader in scope than Federal provisions. Arkansas has only one generator of these wastes (Zeneca Ag Products), who subsequently applied to the Commission for a one-year variance from the State listing of these wastes. The Commission granted variance, which expired February 28, 1998. The State has listed wastes for K156, K157 and K158 including 3-iodo-2-propynyl n-butylcarbamate (IPBC) which also was vacated by the Federal regulations.

A.C.A. § 8-7-214 does not limit the authority of A.C.A. § 8-7-204(b) to seek immediate relief in any court to retain any violations or compel any specific remedial action. In this sense, A.C.A. § 8-7-204(b) is broader in scope and effect because this statute does not specifically require that the activity be "endangering or causing damage to public health or the environment, it merely requires that there exists a violation. A.C.A. § 8-7-214 authorizes the issuance of an administrative order without notice or hearing as necessary to protect the public health and environment. This statute does require that there be a finding of an "imminent hazard", but is also broader in scope than the Federal provisions in that an order under A.C.A. § 8-7-214 can be issued without there being any "unauthorized activity." A.C.A. § 8-7-204(b), § 8-7-209(a)(7) and (8), and, § 8-7-214 are mutually independent alternatives which do not restrict or limit each other, and which provide a broad range of responses to a particular issue or situation. Broader in scope requirements are not part of the authorized program and EPA can not enforce them.

The EPA is also clarifying that the State has adopted 40 CFR part 268 and the following sections are not delegable to the State because of the national concerns which must be examined when decisions are made relative to them: 40 CFR part 268.5 (case-by-case effective date extensions) and 268.42(b) (application for alternate treatment method). "No migration" petitions

under 268.6 will be handled by EPA, even though States may be authorized to grant such petition in the future. The State also is seeking authorization for Checklist 162 (Clarification Standards for Hazardous Waste LDR Treatment Variances, and has adopted 40 CFR part 268.44(a), however, EPA wants to clarify that the provisions at 40 CFR part 268.44(a)-(g) addresses general treatment standard variances; and the authority for such variances is not delegable to the State because these variances could result in nationally applicable standards for a new waste treatability group.

#### **H. Who Handles Permits After This Authorization Takes Effect?**

The EPA will administer any RCRA permits or portions of permits it has issued to facilities in the State until the State becomes authorized. At the time the State program is authorized for new rules, EPA will transfer all permits or portions of permits issued by EPA to the State. The EPA will not issue any more permits or portions of permits for the provisions listed in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which the State is not yet authorized.

#### **I. Why Wasn't There a Proposed Rule Before Today's Notice?**

The EPA is authorizing the State's changes through this immediate final action and is publishing this rule without a prior proposal to authorize the changes because EPA believes it is not controversial and does not expect comments that oppose this action. The EPA is providing an opportunity for public comment now. In the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State changes. If EPA receives comments which oppose this authorization, that document will serve as a proposal to authorize the changes.

#### **J. Where Do I Send My Comments and When Are They Due?**

You should send written comments to Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8533. Please refer to Docket Number AR-00-0.

We must receive your comments by May 24, 2002. You may not have an opportunity to comment again. If you want to comment on this action, you must do so at this time.

#### **K. What Happens if EPA Receives Comments Opposing This Action?**

If EPA receives comments which oppose this authorization, a second **Federal Register** notice will be published before the time the immediate final rule takes effect. The second notice may withdraw the immediate final rule or identify the issues raised, or respond to the comments and affirm that the immediate final rule will take effect as scheduled.

#### **L. When Will This Approval Take Effect?**

Unless EPA receives comments that oppose this action, this final authorization approval will become effective without further notice on June 24, 2002.

#### **M. Where Can I Review the State's Application?**

You can view and copy the State of Arkansas' application from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following addresses: Arkansas Department of Environmental Quality, 8101 Interstate 30, Little Rock, Arkansas 72219, (501) 682-0876 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-6444. For further information contact Alima Patterson, Regional Authorization Coordinator, Grants and Authorization Section (6PD-G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8533.

#### **N. How Does Today's Action Affect Indian Country in Arkansas?**

Arkansas is not authorized to carry out its Hazardous Waste Program in Indian country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian country.

#### **O. What Is Codification?**

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized Hazardous Waste Program into the CFR. The EPA does this by referencing the authorized State rules in 40 CFR part 272. The EPA reserves the amendment of 40 CFR part 272, subpart E for this codification of Arkansas' program changes until a later date.

#### **Administrative Requirements**

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of

RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for

affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective June 24, 2002.

#### List of Subjects in 40 CFR Part 271

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: April 5, 2002.

**Gregg A. Cooke,**

*Regional Administrator, Region 6.*

[FR Doc. 02-10038 Filed 4-23-02; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 32, 51 and 54

[CC Docket No. 00-199; FCC 02-68]

#### 2000 Biennial Regulatory Review — Comprehensive Review of the Accounting Requirements and Reporting Requirements for Incumbent Local Exchange Carriers

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; withdrawal of amendment and partial delay of effective date.

**SUMMARY:** In this document the Commission reinstates Account 3400, Accumulated amortization—tangible, a Class B Account. Reinstating Account 3400 is less burdensome for the Class B carriers. We also clarify that mid-sized carriers are not required to file ARMIS 43-02 (USOA Report), 43-03 (Joint Cost Report), and 43-04 (Separations and Access Report). The Commission delays the effective date of the changes to the part 32 chart of accounts, and derivative changes to parts 51 and 54 of the Commission rules. This delay would allow the accounting changes to be implemented at the beginning of the year.

**DATES:** The amendment removing § 32.3400, published at 67 FR 5688, (February 6, 2002), which was to become effective August 6, 2002 (however, carriers were permitted to implement part 32 accounting changes as of January 1, 2002) is withdrawn as of April 24, 2002. All other amendments to part 32 and parts 51 and 54 published at 67 FR 5679-5702, which were to become effective August 6, 2002 (however, carriers were permitted to implement part 32 accounting changes as of January 1, 2002) are delayed until January 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Clifford Rand, Deputy Chief, PPD, Wireline Competition Bureau.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Order on Reconsideration adopted March 7, 2002 and released March 8, 2002. The full text of the document is available for public inspection and copying during regulator business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portal 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](mailto:qualexint@aol.com).

### Synopsis of Order

#### I. Background

The Commission undertook a comprehensive review of the accounting rules and Automated Reporting Management Information System (ARMIS) reporting requirements in the *Phase 2 Report and Order*, 67 FR 5669 (February 6, 2002). Among other things, the Commission eliminated many part 32 accounts and reduced ARMIS reporting requirements for mid-sized local exchange carriers (LECs). On the Commission's motion, pursuant to § 1.108 of the Commission's rules, the Commission issues this limited reconsideration of the rules adopted in the *Phase 2 Report and Order*. In this Order, the Commission reinstates Account 3400, Accumulated amortization—tangible, a Class B account, at the request of United States Telecom Association (USTA). At Sprint's request, the Commission clarifies that mid-sized carriers are not required to file ARMIS 43-02 (USOA Report), 43-03 (Joint Cost Report), and 43-04 (Separations and Access Report). Finally, at the request of the Bell Operating Companies (BOCs), the Commission extends the effective date of the changes to the Part 32 chart of accounts, and derivative changes to parts 51 and 54, adopted in the *Phase 2 Report and Order*, to January 1, 2003.

#### II. Discussion

*Account 3400, Accumulated amortization—tangible.* In the *Phase 2 Report and Order*, the Commission consolidated many of the Class A and Class B accounts. The Commission reduced the number of Class A accounts by 45 percent while retaining the accounts needed by the Commission or the states for regulatory purposes. The Commission also added several Class A subaccounts requested by commenters. The Commission concluded that the Class B account consolidation should correspond with the Class A account consolidation; otherwise, the result would be contrary to the intent to adopt a less burdensome accounting system for the Class B carriers. The Commission therefore reduced the number of Class B accounts by 27 percent. One of the Class B accounts eliminated was Account 3400, Accumulated amortization—tangible.

Account 3400, Accumulated amortization—tangible is used by Class B companies to record accumulated amortization of the type and character required of Class A companies in