

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000) do not apply to this rule. In addition, this rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note).

## VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: August 3, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

## PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.438 is amended by:

i. Revising the entries "hog, fat;" "hog, meat;" "hog, meat byproducts;" and "milk, fat (reflecting 0.4 ppm in whole milk)" in the table in paragraph (a) (1).

ii. Adding alphabetically the following commodities to the table in paragraph (a)(1) to read as follows:

**§180.438 Lambda-cyhalothrin and an isomer gamma-cyhalothrin; tolerances for residues.**

(a) \* \* \*  
(1) \* \* \*

| Commodity                                          | Parts per million |
|----------------------------------------------------|-------------------|
| * * * *                                            | *                 |
| Barley, bran .....                                 | 0.2               |
| Barley, grain .....                                | 0.05              |
| Barley, hay .....                                  | 2.0               |
| Barley, straw .....                                | 2.0               |
| * * * *                                            | *                 |
| Buckwheat, grain .....                             | 0.05              |
| * * * *                                            | *                 |
| Grass, forage, fodder and hay, group 17 .....      | 7.0               |
| Hog, fat .....                                     | 0.2               |
| Hog, meat .....                                    | 0.01              |
| Hog, meat byproducts .....                         | 0.02              |
| * * * *                                            | *                 |
| Milk, fat (reflecting 0.4 ppm in whole milk) ..... | 10.0              |
| * * * *                                            | *                 |
| Oat, grain .....                                   | 0.05              |
| Oat, forage .....                                  | 2.0               |
| Oat, hay .....                                     | 2.0               |
| Oat, straw .....                                   | 2.0               |
| * * * *                                            | *                 |
| Pistachio .....                                    | 0.05              |
| * * * *                                            | *                 |
| Rice, wild, grain .....                            | 1.0               |
| Rye, bran .....                                    | 0.2               |
| Rye, grain .....                                   | 0.05              |
| Rye, forage .....                                  | 2.0               |
| Rye, straw .....                                   | 2.0               |
| * * * *                                            | *                 |
| Vegetable, cucurbit, group 9 ....                  | 0.05              |
| * * * *                                            | *                 |
| Vegetable, tuberous and corm, subgroup 1C .....    | 0.02              |
| * * * *                                            | *                 |

[FR Doc. E7-16050 Filed 8-14-07; 8:45 am]

BILLING CODE 6560-50-S

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-8455-5]

## Arkansas: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Immediate final rule.

**SUMMARY:** Arkansas has applied to the EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Arkansas' changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

**DATES:** This final authorization will become effective on October 15, 2007 unless the EPA receives adverse written comment by September 14, 2007. If the EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

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

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. *E-mail:* [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).
3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.
4. *Hand Delivery or Courier.* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD-O), Multimedia Planning

and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

**Instructions:** Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or e-mail. The Federal regulations.gov Web site is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. You can view and copy Arkansas’ application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Arkansas Department of Environmental Quality, 8101 Interstate 30, Little Rock, Arkansas 72219–8913, (501) 682–0876, and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

**FOR FURTHER INFORMATION CONTACT:** Alima Patterson, Region 6 Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, (214) 665–8533, EPA Region 1445 Ross Avenue, Dallas, Texas 75202–2733, and Email address [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Why Are Revisions to State Programs Necessary?**

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the 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 the EPA’s regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273, and 279.

##### **B. What Decisions Have We Made in This Rule?**

We conclude that Arkansas’ application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Arkansas Final Authorization to operate its hazardous waste program with the changes described in the authorization application. Arkansas has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Arkansas including issuing permits, until the State is granted authorization to do so.

##### **C. What Is the Effect of Today’s Authorization Decision?**

The effect of this decision is that a facility in Arkansas subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Arkansas has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits and
- Take enforcement actions after notice to and consultation with the State.

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 under State law, and are not changed by today’s action.

##### **D. Why Wasn’t There a Proposed Rule Before Today’s Rule?**

The EPA did not publish a proposal before today’s rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today’s **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

##### **E. What Happens if the EPA Receives Comments That Oppose This Action?**

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified in this document. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

##### **F. For What Has Arkansas Previously Been Authorized?**

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 on 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; October 7, 1994 (59 FR 51115), effective December 21, 1994, and April 24, 2002 (67 FR 20038), effective June 24, 2002. The authorized Arkansas RCRA program was incorporated by reference into the Code of Federal Regulations effective December 13, 1993 (58 FR 52674). On August 1, 2006, Arkansas submitted a final complete program revision

application seeking authorization of its program revision in accordance with 40 CFR 271.21.

The 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 in April 1994. The specific authorities provided are contained in statutes and regulations lawfully adopted at the time the Independent Counsel signed the certification which are in effect now. The statutory authorities for the State are documented in the Arkansas RCRA Statutory Checklists, dated July 31, 2006. The provisions for which the State is seeking authorization are documented in this **Federal Register** Notice. The official State regulations are found in Arkansas Pollution Control and Ecology Commission Regulations Number 23 (Hazardous Waste Management), adopted on December 9, 2005, and

effective on March 23, 2006. All previous authorization applications have not been amended, notified or revised by statute or judicial decision in a way that diminishes and interferes with the authority to carry out the previously authorized hazardous waste program to meet the requirements of Code of Federal Regulations part 271.

The provisions for which the State is seeking authorization are documented in the Rule Revision Checklists 194 through 207, known collectively as RCRA Clusters X through XV which are listed in the chart in this document.

Reference to Arkansas Code Annotate (A.C.A.) of 1987, as amended and effective in August 2005. Reference to Arkansas of Pollution Control and Ecology Commission (APC&E) Regulations Number 23 (Hazardous Waste Management) (formerly titled the Arkansas Hazardous Waste Management Code), last amended on December 9, 2005, to adopt all final rules promulgated by EPA through June 30,

2005 and which was effective March 23, 2006. Dates of enactment and adoption for other statutes or regulations are given when cited on the Rule Revision Checklists submitted to EPA Region 6.

#### G. What Changes Are We Approving With Today's Action?

On August 1, 2006, the State of Arkansas submitted a final complete program application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that the State of Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. The State of Arkansas revisions consist of regulations which specifically govern Federal Hazardous Waste revisions promulgated from July 1, 1999 to June 30, 2005 (RCRA Clusters X–XV). Arkansas requirements are included in a chart with this document.

| Description of federal requirement (include checklist #, if relevant)                    | Federal Register date and page (and/or RCRA statutory authority) | Analogous state authority                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------------------------------------------------------------|------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Land Disposal Restrictions Phase IV—Technical Correction. (Checklist 183).            | 64 FR 56469–56472, effective October 20, 1999.                   | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.32, 262.34(a)(4), 268.7(a)(iii), 268.40(j), 268.40/Table, 268.49(c)(1)(A)–(B), as amended December 9, 2005 effective March 23, 2006.                                                                                                                   |
| 2. Accumulation Time for Waste Water Treatment Sludges. (Checklist 184).                 | 65 FR 12378–12398, effective March 8, 2000.                      | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 262.34(a)4, 262.34(g) intro, 262.34(g)(1), 262.34(g)(2)–(3), 262.34(g)(4), 262.34(g)(4)(i)(A)–(B), 262.34(g)(i)(C) intro, 262.34(g)(C)(1)–(2), 262.34(g)(4)(ii)–(iv), 262.34(g)(4)(v), 262.34(h)–(i) as amended December 9, 2005 effective March 23, 2006. |
| 3. Organobromine Production Waste Vacatur. (Checklist 185).                              | 65 FR 14472–14475, March 17, 2000.                               | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.32(f)/Table, 261 Appendices VII and VIII, 268.33, 268.40/Table; as amended December 9, 2005, effective March 23, 2006.                                                                                                                                 |
| 4. Petroleum Refining Process Waste—Clarification. (Checklist 187).                      | 64 FR 36365–36367, June 8, 2000.                                 | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.31(a)/Table, 268 and Appendix VII; as amended December 9, 2005, effective March 23, 2006.                                                                                                                                                              |
| 5. Hazardous Air Pollutant Standards; Technical Corrections. (Checklist 188).            | 65 FR 42292–42302, July 10, 2000.                                | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.38(c)(2)(iv), 264.340(b)(1), 264.340(b)(3), and 270.42(j)(1); as amended December 9, 2005, effective March 23, 2006.                                                                                                                                   |
| 6. Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes. (Checklist 189). | 65 FR 67068–67133, November 8, 2000.                             | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.32, 261 Appendices VII and VIII, 268.33(a), 268.33(b) intro, 268.33(b)(1)–(5), 268.33(c)–(d) intro, 268.33(d)(1)–(2), 268.40/Table, and 268.48(a)/Table; as amended December 9, 2005, effective March 23, 2006.                                        |

| Description of federal requirement<br>(include checklist #, if relevant)                | Federal Register date and page<br>(and/or RCRA statutory authority) | Analogous state authority                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7. Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil. (Checklist 190).      | 65 FR 81373–81381, December 26, 2000.                               | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 268.32(a), 268.32(b) intro, 268.32(b)(i)–(ii), 268.32(b)(3), 268.32(b)(4) and 268.48(a)/Table UST; as amended December 9, 2005, effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 8. Mixed Waste Rule. (Checklist 191).                                                   | 66 FR 27218–27266, May 16, 2001.                                    | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 266.210 intro, 266.210, 266.220, 266.225, 266.230(a), 266.230(b) intro, 266.230(b)(1)–(5), 266.235, 266.240(a) intro, 266.240(a)(1) intro, 266.240(a)(i)–(iii), 266.240(a)(2), 266.240(b), 266.245(a) intro, 266.245(a)(1), 266.245(a)(2) intro, 266.245(a)(2)(i)–(iv), 266.245(b), 266.250(a) intro, 266.250(a)(1)–(4), 266.250(b), 266.255(a)–(b), 266.260, 266.305, 266.310 intro, 266.310(a)–(b), 266.315 intro, 266.315(a)–(d), 266.320, 266.325, 266.330 intro, 266.330(a)–(d), 266.335, 266, 266.340 intro, 266.340(a)–(c), 266.345(a), 266.345(b) intro, 266.345(b)(1)–(7), 266.350 intro, 266.350(a)–(e), 266.355(a) intro, 266.355(a)(1)(i)–(iii), 266.355(a)(2), 266.355(b), 266.360(a) intro, 266.360(a)(1), 266.360(a)(2) intro, 266.360(a)(2)(i)–(iv) and 266.360(b); as amended December 9, 2005 effective March 23, 2006. |
| 9. Mixture and Derived—From Rules Revisions. (Checklist 192 A).                         | 66 FR 27266–27297, May 16, 2001.                                    | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.3(a)(2)(iii), 261.3(a)(2)(iv), 261.3(c)(2)(i), 261.3(g)(1)–(2), 261.3(g)(2)(i)–(ii), 261.3(g)(3), 261.3(h)(1), 261.3(h)(2), 261.3(h)(2), 261.3(h)(2)(i)–(ii), 261.3(h)(3); as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 10. Land Disposal Restrictions Corrections. (Checklist 192 B).                          | 66 FR 27266–27297, May 16, 2001.                                    | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections Appendix VII/Table 1; as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 11. Change of Official EPA Mailing Address. (Checklist 193).                            | 66 FR 34374–34376, June 28, 2001.                                   | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 260.11(a)(11); as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 12. Mixed and Derived—From Rules Revision II. (Checklist 194).                          | 66 FR 50332–50334, October, 3, 2001.                                | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.3(a)(2)(iv)(A–G), and 261.3(g)(4); as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 13. Inorganic Chemical Manufacturing Waste Identification and Listing. (Checklist 195). | 66 FR 58258, November 20, 2001; 67 FR 17119–17120, April 9, 2002.   | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.4(b)(15), 261.4(b)(15)(i), 261.4(b)(15)(ii)–(iv), 261.4(b)(15)(v), 261.32, 261 Appendix VII, 268.36(a), 268.36(b) intro, 268.36(b)(1), 268.36(b)(2)–(5), and 268.36(c); as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| Description of federal requirement<br>(include checklist #, if relevant)                                                       | Federal Register date and page<br>(and/or RCRA statutory authority) | Analogous state authority                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|--------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 14. Corrective Action Management Units Amendments. (Checklist 196).                                                            | 67 FR 2962–3029, January 22, 2002.                                  | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 260.10, 268.40/Table, 264.550(a)–(b), 264.551, 264.551(a) intro, 264.552(a), 264.552(a)(1), 264.552(a)(1)(i)–(ii), 264.552(a)(1)(ii)(A)–(B), 264.552(a)(1)(iii), 264.552(a)(2)–(3), 264.552(a)(3)(i)–(iv), 264.552(a)(4)–(5), 264.552(b)(1), 264.552(b)(1)(i)–(ii), 264.552(b)(2), 264.552(c), 264.552(c)(1)–(7), 264.552(d), 264.552(d)(1)–(3), 264.552(e), 264.552(e)(1)–(3), 264.552(e)(3)(i)–(ii), 264.552(e)(3)(ii)(A)–(B), 264.552(e)(4), 264.552(e)(4)(i), 264.552(e)(4)(i)(A), 264.552(e)(3)(ii)(A)–(B), 264.552(e)(4), 264.552(e)(4)(i), 264.552(e)(4)(i)(A), 264.552(e)(4)(i)(B)–(C), 264.552(e)(4)(ii)–(iv), 264.552(e)(4)(iv)(A)–(F), 264.552(e)(4)(v), 264.552(e)(v)(A)–(E), 264.552(e)(4)(v)(E)(1)–(5), 264.552(e)(4)(vi)–(vii), 264.552(e)(5), 264.552(e)(5)(i)–(iii), 264.552(e)(6), 264.552(e)(6)(i), 264.552(e)(6)(i)(A)–(B), 264.552(e)(6)(ii)(A)–(B), 264.552(e)(6)(iii), 264.552(e)(6)(iii)(A)–(F), 264.552(e)(6)(iv), 264.552(e)(6)(iv)(A), 264.552(e)(6)(iv)(A)(1)–(5), 264.552(e)(6)(iv)(B), 264.552(e)(6)(v), 264.552(f), 264.552(f)(1)–(2), 264.552(f)(i)–(ii), 264.552(g)–(h), 264.552(i), 264.552(j), 264.552(k), 264.554(a)(1)–(2), 264.555(a), 264.555(a)(1), 264.555(a)(2), 264.555(a)(i)–(ii), 264.555(a)(2)(iii), 264.555(a)(3), 264.555(b)–(e), 264.555(e), 264.555(e)(1)–(6), and 264.555(f)–(g); as amended December 9, 2005 effective March 23, 2006. |
| 15. Hazardous Air Pollutant Standards for Combustors: Interim Standards. (Checklist 197).                                      | 67 FR 6792–6818, February 13, 2002.                                 | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 264.340(b)(1), 264.340(b)(4), 264.340(b)(i)–(ii), 265.340(b)(1), 265.340(b)(3), 264.340(b)(1), 264.340(b)(1), 264.340(b)(1), 266.100(b)(20)(i)–(v), 270.19(e), 270.62 intro, 270.66 intro, 270.235(a), 270.235(a)(1), 270.235(a)(1)(i), 270.235(a)(1)(i)(A)–(B), 270.235(a)(1)(ii)270.235(a)(1)(ii)(A), 270.235(a)(1)(ii)(A)(1)–(B), 270.235(a)(1)(ii)(B)(1)–(2), 270.235(a)(1)(ii)(B)(2)(i)–(iii), 270.235(a)(1)(iii), 270.235(a)(1)–(iii)(A)–(B), 270.235(a)(2), 270.235(a)(2)(i), 270.235(a)(2)(i)(A)(1), 270.235(a)(2)(i)(A)(2), 270.235(a)(2)(ii), 270.235(a)(2)(ii)(A), 270.235(a)(2)(ii)(A)(1)–(2), 270.235(a)(2)(ii)(B)(2)(i)–(ii), 270.235(a)(2)(iii), 270.235(a)(iii)(A)–(B), 270.235(b), 270.235(b)(1)(i)–(ii), and 270.235(b)(2); as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 16. Hazardous Air Pollutant Standards for Combustors: Corrections. (Checklist 198).                                            | 67 FR 6968–6996, February 14, 2002.                                 | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 266.100(a), 266.100(b)(1), 266.100(b)(1), 266.100(d)(1)(i)(B), 266.100(d)(2)(i), 266.100(d)(2)(ii), 266.100(d)(3) intro, 266.100(d)(3)(i) intro, 266.100(d)(3)(i)(D), and 270.42(j)(1), 261.24(a); as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 17. Vacatur of Mineral Processing Spent Materials Being Reclaimed as Solid Waste and TCLP Use with MGP Waste. (Checklist 199). | 67 FR 11251–11254, March 13, 2002.                                  | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.2(c)(3), 261.4(a)(17), 261.4(a)(17)(i)–(iv), 261.4(a)(17)(iv)(A)–(C), 261.4(a)(17)(v)–(vi); as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 18. Zinc Fertilizer Rule. (Checklist 200).                                                                                     | 67 FR 48393–48415, July 24, 2002.                                   | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.4, 261.4(a)(20), 261.4(a)(i)–(ii), 261.4(a)(20)(ii)(A)–(B), 261.4(a)(20)(ii)(B)(1)–(3), 261.4(a)(20)(ii)(C)–(D), 261.4(a)(20)(ii)(D)(1)–(3), 261.4(a)(20)(iii), 261.4(a)(20)(iii)(A)–(D), 261.4(a)(iv)–(v), 261.4(a)(21), 261.4(a)(21)(i), 261.4(a)(21)(i)(A)–(B), 261.4(a)(21)(ii)–(iii), 261.4(a)(21)(iii)(A)–(F), 266.20, 266.20(d), 266.20(d)(1)–(2), and 268.40; as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 19. Treatment Variance for Radioactively Contaminated Batteries. (Checklist 201).                                              | 67 FR 62618–62624, October 7, 2002.                                 | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Section 268.40/Table; as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| Description of federal requirement<br>(include checklist #, if relevant)             | Federal Register date and page<br>(and/or RCRA statutory authority) | Analogous state authority                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|--------------------------------------------------------------------------------------|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 20. Hazardous Air Pollutant Standards for Combustors—Corrections 2. (Checklist 202). | 67 FR 77687–77692, December 19, 2002.                               | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 270.19(e), 270.22 intro, 270.62 intro, 270.66 intro; as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 21. Recycled Used Oil Management Standards; Clarification. (Checklist 203).          | 68 FR 44659–44665, July 30, 2003.                                   | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.5(j), 279.10, 279.10(j), 279.74, 279.74(b), 279.74(b)(1)–(4); as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 22. Performance Track. (Checklist 204).                                              | 69 FR 21737–21754, April 22, 2004.                                  | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 262.34, 262.34(j), 262.34(j)(1)–(2), 262.34(j)(2)(i)–(iv), 262.34(j)(3), 262.34(j)(3)(i)–(iv), 262.34(j)(4)–(5), 262.34(j)(5)(i)–(ii), 262.34(j)(6)–(9), 262.34(j)(9)(i)–(iv), 262.34(k), 262.34(k)(1); as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 23. NESHAP: Surface Coating of Automobiles and Light-Duty Trucks. (Checklist 205).   | 69 FR 22601–22661, April 26, 2004.                                  | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 264.1050, 264.1050(h), 265.1050, 265.1050(g); as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 24. Nonwastewaters from Dyes and Pigments. (Checklist 206).                          | 70 FR 9138–9180, February 24, 2005.                                 | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 261.4, 261.4(b)(15), 261.4(b)(15)(i)–(v), 261.32, 261.32(a)–(d), 261.32(d)(1)–(2), 261.32(d)(2)(i)–(iv), 261.32(d)(2)(iv)(A)–(C), 261.32(d)(3), 261.32(d)(3)(i)–(iii), 261.32(d)(3)(iii)(A)–(D), 261.32(d)(3)(iv)(A)–(B), 261.32(d)(3)(v)–(viii), 261.32(d)(ix)–(x), 261.32(d)(x)(A)–(D), 261.32(d)(3)(xi), 261.32(d)(xi)(A)–(C), 261.32(d)(4)–(5), 261 Appendices VII and VIII, 268.20, 268.20(a)–(b), 268.20(b)(1)–(5), 268.20(c), 268.40/Table; as amended December 9, 2005 effective March 23, 2006.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 25. Uniform Hazardous Waste Manifest Rule. (Checklist 207).                          | 70 FR 10776–10825, March 4, 2005.                                   | Arkansas Code of 1987 Annotated (A.C.A.) as amended, effective August 2005. Arkansas Pollution Control and Ecology (APC&E) Regulation Number 23, (Hazardous Waste Management) (HWM) Sections 260.10, 261.7(b)(1)(iii)(A)–(B), 262.20, 262.20(a)(1), 262.20(a)(2), 262.21, 262.21/Section heading, 262.21(a)(1)–(2), 262.21(b), 262.21(b)(1)–(5), 262.21(5)(i)–(iii), 262.21(b)(6)–(8), 262.21(c), 262.21(d)(1), 262.21(d)(2), 262.21(d)(2)(i)–(iv), 262.21(d)(3), 262.21(e)–(f), 262.21(f)(1)–(6), 262.21(f)(6)(i)–(vi), 262.21(f)(7), 262.21(f)(7)(i), 262.21(f)(7)(i)(A)–(C), 262.21(f)(7)(ii), 262.21(f)(7)(ii)(A)–(C), 262.21(g)(1), 262.21(g)(1)(i)–(iv), 262.21(g)(2), 262.21(h)(1)–(3), 262.21(i)–(k), 262.21(1), 262.21(m)(1), 262.21(m)(1)(i)–(ii), 262.21(m)(2), 262.27, 262.27 heading, 262.27(a)–(b), 262.32, 262.32(b), 262.33, 262.34, 262.34(m), 262.34(m)(1)–(2), 262.54, 262.54(c), 262.54(e), 262.60, 262.60(c)–(e), 262/Appendix, 262/Appendix/8700–22, 262/Appendix 8700–22/I. Instructions for Generators, 262/Appendix/8700–22/II, Instructions for International Shipment Block, 262/Appendix/8700–22/III, Instructions for Transporters, 262/Appendix 8700–22/IV, Instructions for Owners and Operators of Treatment, Storage, and Disposal Facilities, 262/Appendix 8700–22A/Continuation Sheet, 263.20, 263.20(a)(1), 263.20(a)(2)–(3), 263.20(g), 263.20(g)(1)–(4), 263.21, 263.21(b)(1)–(2), 263.21(b)(2)(i)–(ii), 264.70, 264.70(a)–(b), 264.71, 264.71(a)(1)–(2), 264.71(a)(2)(i)–(v), 264.71(a)(3), 264.71(b)(4), 264.71(e), 264.72, 264.72(a), 264.72(a)(1)–(3), 264.72(b)–(c), 264.72(d)(1)–(2), 264.72(e), 264.72(e)(1)–(7), 264.72(f), 264.72(f)(1), 264.72(f)(7), 264.72(g), 264.76, 264.76(a), 264.76(a)(1)–(7), 264.76(b), 265.70, 265.70(a)–(b), 265.71, 265.71(a)(1)–(2), 265.71(a)(2)(i)–(v), 265.71(a)(3)–(4), 265.71(f), 265.72, 265.72(a), 265.72(a)(1)–(3), 265.72(b)–(c), 265.72(d)(1)–(2), 265.72(e), 265.72(e)(1)–(7), 265.72(f), 265.72(f)(1)–(7), 265.72(g), 265.76, 265.76(a)–(g); as amended December 9, 2005 effective March 23, 2006. |

## H. Where Are the Revised State Rules Different From the Federal Rules?

The State of Arkansas does not have an analog to 40 CFR 262.20(e) which allows generators under certain specified conditions not to be subject to the manifest requirements. This difference makes the State provisions more stringent than the Federal regulations. The State does not have an analog to 40 CFR 262.44 which subjects generators of between 100 and 1000 kilograms per month to reduced recordkeeping requirements. This difference makes the State program more stringent than the Federal program. The State does not have direct statutory analogs to RCRA sections 3004(d)–(k) and (m) which specifically addresses land disposal restrictions. Instead, the State has a number of very broad authorities to implement a hazardous waste management program. Those authorities which are most relevant to the land disposal restrictions include A.C.A. Sections 8–7–209(a)(10) which gives the Department the authority to establish policies and standards for effective hazardous waste management. Universal Treatment Standards 268.48/Table, and Generator's EPA Identification (ID) Number, ADEQ inadvertently left the entries in Regulations 23 which the State will add in the fall 2006 to update its regulations. Therefore, the Universal Treatment Standards 268.48/Table and the Generator's EPA ID will not be part of this authorization **Federal Register** notice.

To provide additional authority for corrective and remedial actions that would be consistent on a statewide basis at active or inactive sites, the State additionally cite to provisions of the Remedial Action Trust Fund Act (Act 479 of 1985, as amended, Ark Code, Ann. Sections 8–7–501 *et seq.* hereafter (RATFA)), provides ADEQ with broad authority to compel a site investigation and clean-up. While illustrative of the State's overall authority to perform corrective action and order remedial actions, 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.

## I. Who Handles Permits After the Authorization Takes Effect?

The State of Arkansas will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue

to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which ADEQ is not yet authorized.

## J. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Arkansas?

The State of Arkansas Hazardous Program is not being authorized to operate in Indian Country.

## K. What Is Codification and Is the EPA Codifying Arkansas' Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart E for this authorization of Arkansas' program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this **Federal Register** notice.

## L. Administrative Requirements

The Office of Management and Budget (OMB) 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 preexisting 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), the 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 the 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, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The 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. The 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 October 15, 2007.

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

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 25, 2007.

**Lawrence Starfield,**

*Acting Regional Administrator, Region 6.*

[FR Doc. E7-16009 Filed 8-14-07; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 99-325; FCC 07-33]

#### Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission adopts rules to foster the development of a vibrant terrestrial digital radio service for the public and to ensure that radio stations successfully implement digital audio broadcasting. The Commission's goals in this *Second Report and Order* are to begin to adopt service rules and other requirements for terrestrial digital radio.

**DATES:** Effective September 14, 2007, except for the rules in 47 CFR 73.404(b), 47 CFR 73.404(e), and 47 CFR 73.1201, which contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

**FOR FURTHER INFORMATION CONTACT:** For additional information on this proceeding, contact Brendan Murray,

Brendan.Murray@fcc.gov of the Media Bureau, Policy Division, (202) 418-2120.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Second Report and Order*, *First Order on Reconsideration*, and *Second Further Notice of Proposed Rulemaking*, FCC 07-33, adopted on March 22, 2007, and released on May 31, 2007. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS (<http://www.fcc.gov/cgb/ecfs/>). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

#### Initial Paperwork Reduction Act of 1995 Analysis

This document contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. It will be submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the PRA. The Commission will publish a separate **Federal Register** Notice seeking public comments on the modified information collection requirements. Therefore, OMB, the general public, and other Federal agencies will be invited to comment on the modified information collection requirements contained in this proceeding once the **Federal Register** Notice is published. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

In this present document, we have assessed the effects of easing the filing requirements imposed on entities that wish to implement IBOC, and find that the steps taken will reduce paperwork burdens on small entities because they

will no longer be required to seek prior authorization to implement certain technologies for use with digital audio broadcasting.

#### Summary of the Report and Order

##### I. Introduction and Executive Summary

1. In the *Digital Audio Broadcasting Report and Order*, we selected in-band, on-channel ("IBOC") as the technology enabling AM and FM radio broadcast stations to commence digital audio broadcasting ("DAB"). We note that in this *Second Report and Order* as well as in the *Second Further Notice of Proposed Rulemaking* (published elsewhere in this issue), DAB generally refers to the digital service broadcast by radio stations whereas IBOC generally refers to the technical system supporting DAB service. This terminology, and the subject matter discussed herein, applies to terrestrial over-the-air broadcasting. Satellite radio service, offered by XM and Sirius, is not a subject under consideration in this proceeding. In the *DAB R&O*, we adopted notification procedures allowing existing AM and FM radio stations to begin digital transmissions immediately on an interim basis using the IBOC system developed by iBiquity Digital Corporation ("iBiquity"). We concluded that the adoption of a specific technology would facilitate the development of digital services for terrestrial broadcasters. We deferred consideration of final operational requirements and related broadcast licensing and service rule changes to a future date. In a *Further Notice of Proposed Rule Making* ("FNPRM"), 69 FR 27874, we addressed issues left unresolved in the *DAB R&O*, 69 FR 78193, and sought comment on what changes and amendments to Part 73 of the Commission's rules were necessary to facilitate the adoption of DAB.

2. Through this proceeding, we seek to foster the development of a vibrant terrestrial digital radio service for the public and to ensure that radio stations successfully implement DAB. Our statutory authority for implementing these goals is derived from, *inter alia*, Sections 1, 4, 303, 307, 312, and 315 of the Communications Act. Our goals in this *Second Report and Order* are to begin to adopt service rules and other requirements for terrestrial digital radio. However, we find it necessary to ask additional questions, in a *Second Further Notice of Proposed Rulemaking*, on how to preserve free over-the-air radio broadcasting while permitting licensees to offer new services on a subscription basis. We also resolve and dispose of several petitions for