

US EPA ARCHIVE DOCUMENT

the metals are already below health-based levels or background.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that Boeing's residually-contaminated soils should be excluded from hazardous waste control. The Agency, therefore, is granting a final, onetime exclusion to the Boeing Commercial Airplane Company, located in Auburn, Washington, for its residually-contaminated soils, described in its petition as EPA Hazardous Waste No. F006.

Although management of the soils covered by this petition is relieved from Subtitle C jurisdiction, Boeing must either (1) continue to manage the waste on site at its present location in accordance with applicable state regulations; or (2) treat, store, or dispose of the soils in another on-site unit, or ensure that the soils are delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Limited Effect on Final Exclusion

The final exclusion being granted today is being issued under the Federal (RCRA) delisting program. States however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Since the petitioner's waste may be regulated under a dual system (i.e., both Federal [RCRA] and State [non-RCRA] programs), petitioners are urged to contact their State regulatory authority to determine the current status of their waste under State law.

IV. Effective Date

This rule is effective immediately upon publication in the Federal Register. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In

light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this rule should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This rule to grant an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling the facility to treat its waste as nonhazardous. There is no additional economic impact, therefore, due to today's rule.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations and is limited to one facility. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. § 3501, et seq.).

and have been assigned OMB Control Number 2050-0053.

VIII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: March 15, 1990.

Jeffery D. Denit,

Deputy Director, Office Of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. §§ 6905, 6912(a), 6921, and 6922).

2. In Table 1 of Appendix IX to part 261, add the following wastestream in alphabetical order:

Appendix IX—Wastes Excluded Under § 260.20 and § 260.22.

Table 1.—Wastes Excluded from Non-Specific Sources

Facility	Address	Waste description
Boeing Commercial Airplane Co.	Auburn, Washington.	Residually contaminated soils in an inactive sludge pile containment area on March 27, 1990, previously used to store wastewater treatment sludges generated from electroplating operations (EPA Hazardous Waste No. F006).

[FR Doc. 90-6918 Filed 3-26-90; 8:45 am] BILLING CODE 6560-50-M

40 CFR Part 271

[FRL-3749-2]

Arkansas: Final Authorization of Revisions to the State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Arkansas has applied for final authorization of revisions to its hazardous waste

Program Revisions

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program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the Arkansas application and has made a decision, subject to public review and comment, that the Arkansas hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is approving the Arkansas hazardous waste program revision application, unless adverse public comment shows the need for further review. The Arkansas application is available for public review and comment.

DATES: Final authorization for the Arkansas revision shall be effective May 29, 1990, unless EPA publishes a prior Federal Register notice withdrawing this immediate final rule. All comments on the Arkansas program revision application must be received by the close of business April 26, 1990.

ADDRESSES: Copies of the Arkansas program revision application, which includes materials which EPA used in evaluating the revision, are available from 8:30 a.m. to 4 p.m., Monday through Friday, at the following addresses for inspection and copying: Arkansas State Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209, phone (501) 562-7444; U.S. EPA Region 6, Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-6444; and U.S. EPA Headquarters, Library, PM 211A, 401 M Street SW., Washington, DC 20460, phone (202) 382-5926. Written comments, referring to document AR-89-1, should be sent to Ms. Lynn Prince, Grants and Authorization section (6H-HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-6760.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Prince, Grants and Authorization section (6H-HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-6760.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to the Federal program, that is consistent with the Federal or State programs applicable in other states, and

that provides adequate enforcement of compliance with the requirements of RCRA. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. These State program revisions are necessitated by changes to EPA's regulations.

B. Arkansas

The State of Arkansas received final authorization on January 25, 1985, (50 FR 1513, published on January 11, 1985) to implement its base hazardous waste management program. In a letter dated October 15, 1987, Arkansas submitted a program revision application for additional program approvals. That application was amended by Arkansas to include additional State program revisions in a letter dated July 11, 1988. Arkansas is seeking approval of all of these program revisions in accordance with 40 CFR 271.21(b), except that approval was not requested for revisions which are required as a result of the Hazardous and Solid Waste Amendments of 1984 (Pub. L. No. 98-616, November 8, 1984, hereinafter "HSWA").

EPA has reviewed the Arkansas application, and has made a decision that the Arkansas non-HSWA hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA is granting final authorization for these non-HSWA modifications to the Arkansas program subject to further review based on adverse public comment.

The public may submit written comments on EPA's decision to authorize the revisions in an immediate final rule until April 26, 1990. Copies of the Arkansas application for program revision, which includes the materials which EPA used in evaluating the revision, are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

Approval of the Arkansas program revision application will become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the 30-day comment period. If an adverse comment is received, EPA will publish either (1) A withdrawal of the immediate final rule or (2) a notice containing a response to comments which either affirms that the immediate final rule takes effect or reverses the decision.

The Arkansas program revision application is based on changes to State regulations which were intended to

make them equivalent to the analogous Federal regulations which had been promulgated through June 30, 1987, in 40 CFR parts 260-266, 124, and 270.

Although these changes included the provisions of the Hazardous and Solid Waste Amendments of 1984 (HSWA), the State is not seeking HSWA authorization at this time. EPA does not propose authorization of HSWA provisions, including the availability of information provisions, with this notice. This proposed approval is, therefore, limited to the non-HSWA provisions that were promulgated through June 30, 1987.

State rules listed in the following chart adopt by reference the corresponding Federal regulations as they have been changed up through June 30, 1987. Some of the State rules adopt more than one regulation; consequently, these State rules appear on the chart more than once. As explained elsewhere in this notice, Arkansas will not be authorized for certain Federal regulations at this time. Some of the State rules listed adopt Federal regulations for which the State will not be authorized at this time; however, the listing of these State rules is only for ease of reference, and it does not mean that the entire State rule is authorized

Federal Citation	State Analog
1. Interim status standards for landfills—changes in 40 CFR Part 265, Subparts K, M, and N—as published in the FEDERAL REGISTER on April 23, 1985.	Section 3(a)(6) of the Arkansas Hazardous Waste Management Code (AHWMC).
2. Financial responsibility: Settlement Agreement—changes in 40 CFR Parts 260, Subpart B; 264, Subparts G and H; 265, Subparts G and H; and 270, Subparts B, D, and G—as published in the FEDERAL REGISTER on May 2, 1986.	Section 3(a) (1), (5), (6), and (9) of AHWMC.
3. Listing of spent pickle liquor from steel finishing operations—changes in 40 CFR Part 261, Subpart D—as published in the FEDERAL REGISTER on May 28, 1986, and September 22, 1986.	Section 3(a)(2) of AHWMC.
4. Liability coverage—corporate guarantee changes in 40 CFR Parts 264, Subpart H and 265, Subpart H—as published in the FEDERAL REGISTER on July 11, 1986.	Sections 3(a) (5), and (6) of AHWMC.

Federal Citation	State Analog
5. Correction to the tank standards—changes to 40 CFR Parts 260, 261, 262, 264, 265, and 270—published in the FEDERAL REGISTER on July 14, 1986.	Sections 3(a) (1), (2), (3), (5), (6), and (9) of AHWMC.
6. Corrections to the listing of commercial chemical products and Appendix VIII constituents—changes to 40 CFR Part 261, Subpart D—as published in the FEDERAL REGISTER on August 6, 1986.	Section 3(a)(2) of AHWMC.
7. Add the hazardous components of radioactive mixed wastes to the definition of solid waste—changes to 40 CFR Parts 261 and 271—as published in the FEDERAL REGISTER on July 3, 1986.	Section 3(a) of AHWMC.
8. Revisions to Manual SW-846; amended incorporation by reference—changes to 40 CFR Parts 260 and 270—as published in the FEDERAL REGISTER on March 16, 1987.	Section 3(a) (1) and (9) of AHWMC.
9. Closure, post-closure care for interim status surface impoundments—changes to 40 CFR Part 265, Subpart K—as published in the FEDERAL REGISTER on March 19, 1987.	Section 3(a)(6) of AHWMC.
10. Definition of solid waste technical correction—changes to 40 CFR Parts 261, Subpart D and 266, Subpart C—as published in the FEDERAL REGISTER on June 5, 1987.	Section 3(a) (2) and (7) of AHWMC.
11. Amendments to Part B information requirements for disposal facilities—changes to 40 CFR Part 270, Subpart B—as published in the FEDERAL REGISTER on June 22, 1987.	Section 3(a)(9) of AHWMC.

EPA can authorize State rules which are more stringent than the Federal program (RCRA section 3010, 42 U.S.C. 6929). Since Arkansas regulations include many more stringent "HSWA-type" requirements, EPA plans to authorize these regulations as more stringent provisions of the Arkansas authorized RCRA program. The "HSWA-type" requirements are not being authorized for HSWA purposes at this time. The reason the HSWA program is not being authorized at this time is that the State requested that they

not be authorized at this time. EPA, therefore, will retain its responsibilities to carry out the HSWA provisions in Arkansas.

The Arkansas provisions incorporating the Federal HSWA provisions concerning research, development, and demonstration permits have not been evaluated and are not a part of the authorized revisions, since Arkansas has not applied, nor is it required at this time to apply for authorization of these Federal HSWA requirements. Furthermore, this particular HSWA rule is less stringent than the base RCRA permitting requirements. Therefore, the following rule is not being authorized at this time:

Research, Development, and Demonstration Permits

Arkansas Hazardous Waste Management Code, chapter 2, section 3(a)(9) (portion) September 25, 1987: R, D, and D permits (See 40 CFR § 270.10(a) and § 270.65). That portion of section 3(a)(9) which includes provisions for R, D, and D permits is not being authorized at this time.

The following State rules were determined to be broader in scope than the Federal requirements, and, therefore, are not part of the authorized Arkansas program:

Fees

(1) AHWMC chapter 2, section 11: Fees and costs. Entire section is broader in scope.

(2) AHWMC chapter 4, section 23: Fees on the generation of hazardous wastes. Entire section is broader in scope.

PCB's

(1) AHWMC chapter 2, section 2(a)(5) (portion): The definition of hazardous waste contained in section 2(a)(5) contains a portion which includes PCBs as a hazardous waste. The portion of this definition which includes PCB's as a hazardous waste is broader in scope.

(2) AHWMC chapter 2, sections 2(b)(11) and 16(c)(10) (portion): PCB Identification numbers. All of section 2(b)(11), and that portion of section 16(c)(10) which refers to PCB identification numbers are broader in scope.

(3) AHWMC chapter 2, section 16(a): Requirements for the transportation of PCBs. The entire subsection is broader in scope.

The following State rules were added by adoption of the HSWA provisions. Because the State has not applied for these HSWA authorities, these Federal requirements will not become part of the

Arkansas authorized program until the State applies for and receives authorization for them. References to the Arkansas AHWMC are to the regulations as promulgated on June 30, 1987.

Additional Wastes

(1) AHWMC chapter 2, section 3(a)(2) (portion): Dioxin wastes (See 50 FR 1978, January 14, 1985); TDI, DNT, and TDA wastes (See 50 FR 42936, October 23, 1985); Spent solvents (See 50 FR 53315, December 31, 1985); EDB wastes (See 51 FR 5330, February 13, 1986); Additional spent solvents (See 51 FR 6541, February 25, 1986); and EBDC (See 51 FR 37725, October 24, 1986). Those portions of section 3(a)(2) which include the regulation of the above listed wastes are broader in scope.

The State of Arkansas is not authorized to operate on Indian lands.

C. Decision

In conclude that the Arkansas program revision application meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Arkansas is granted final authorization to operate its hazardous waste program as revised. Arkansas now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its revised program application and previously approved authorities. Arkansas also has primary enforcement responsibilities, and EPA will exercise its enforcement responsibilities in accordance with the Memorandum of Agreement between EPA and Arkansas.

D. Codification Part 272

EPA uses 40 CFR part 272 for codification of the decision to authorize the Arkansas program and for incorporation by reference of those provisions of the Arkansas statutes and regulations that EPA will enforce under subtitle C of RCRA. Therefore, EPA will amend part 272, subpart E, under a separate notice.

Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Compliance under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial

number of small entities. This authorization does not create any new requirements, but simply approves requirements that are already State law. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

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 in 42 U.S.C. 6912(a), 6928 and 6974(b).

Dated: August 31, 1989.

Robert E. Layton, Jr.,
Regional Administrator.

[FR Doc. 90-6919 Filed 3-26-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[GEN Docket 88-550; DA 90-442]

Accommodation of the Government Next Generation Weather Radars in the 2900-3100 MHz band; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule concerning accommodation of the Government next generation weather radars in the 2900-3100 MHz band (55 FR 6392, February 23, 1990) which contained errors in the Table of Frequency Allocations, part 2, § 2.106 and the list of footnotes at the end of the Table.

EFFECTIVE DATE: March 30, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Damon C. Ladson, Office of Engineering and Technology, (202) 653-8106.

SUPPLEMENTARY INFORMATION: In FR Doc 90-4083, published in the February 23, 1990, Federal Register on page 6392, amendatory item number 2 is corrected to read as follows:

"2. In § 2.106, the Table of Frequency Allocations, under columns 4 and 5, revise 2900-3100 MHz band to read as follows:

§ 2.106 Table of Frequency Allocations

United States table	
Government allocation (MHz)	Non-Government allocation (MHz)
(4)	(5)
2900-3100..... Maritime Radionavigation..	2900-3100. Maritime Radionavigation.
775A..... Radiolocation.....	775A. Radiolocation
US44 US316 G56.....	US44 US316

United States (US) Footnotes

US316 The band 2900-3100 MHz is also allocated on a primary basis to the Meteorological Aids Service. Operations in this service are limited to Government Next Generation Weather Radar (NEXRAD) systems where accommodation in the 2700-2900 MHz band is not technically practical and are subject to coordination with existing authorized stations."

Federal Communications Commission.

Donna R. Searcy,
Secretary.

[FR Doc. 90-6608 Filed 3-26-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 73

[MM Docket No. 89-494, DA 90-24]

Broadcast Services; Prohibitions Against Broadcast Indecency

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; extension of comment period.

SUMMARY: The Commission extends the time for filing reply comments in its proceeding regarding a 24-hour ban on broadcast indecency from March 20, 1990, to April 19, 1990. This action is taken to further the Commission's goal of developing a complete and reliable evidentiary record in this proceeding.

DATES: Reply comments are due April 19, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marilyn Mohrman-Gillis, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Order Extending Time to File Reply Comments

Adopted: March 19, 1990.
Released: March 19, 1990.
By the Chief, Mass Media Bureau.

In the matter of enforcement of prohibitions against broadcast indecency in 18 U.S.C. 1464.

1. On October 26, 1989, the Commission adopted a *Notice of Inquiry*, 4 FCC Rcd 8358 (1989), in response to a remand of their record in *Action for Children's Television v. FCC*, No. 88-1916 (DC Cir. Sept. 13, 1989) (*ACT II*) to solicit public comment regarding the validity of a total ban on the broadcast of indecent material. The Commission established a deadline of January 19, 1990 for filing comments, and a deadline of February 16, 1990 for filing reply comments. These deadlines were extended to February 20, 1990 for comments and March 20, 1990 for reply comments pursuant to a request filed jointly by Capital Cities/ABC and other parties.¹

2. Before the Commission are two motions for extension of time to file reply comments, one filed by the American Family Association, Inc. (AFA) and others² seeking a 20-day extension, and one filed by Salem Communications Corp. (Salem), supported by Focus on the Family and Family Research Council, seeking a 30-day extension. Both parties state that they require additional time to fully review and respond to the comments filed. AFA notes that they participated in another rulemaking procedure before the Commission related to telephone indecency for which they were required to file comments and reply comments within the 30 day reply comment period for this proceeding. Both parties assert that the extension will permit them to submit more meaningful replies that will assist the Commission, and the ACT II Court, in compiling a complete record in this proceeding.

3. An opposition to the requests for extension of time was filed jointly by

¹ See *Order Extending Time To File Comments* in MM Docket No. 89-494, 55 FR 2236 (Jan. 23, 1990).

² The motion was filed jointly by American Family Association, Inc., Children's Legal Foundation, Inc., Advent Christian General Conference, Assembly of God, Baptist General Conference, Associate Reformed Presbyterian, Catholic Center, Central Presbyterian Church, Christian Standard, Conservative Baptist Association, Conservative Congregational Christian Conference, Diocese of Eau Claire, Evangelical Free Church of America, General Association of General Baptists, General Conference of Mennonite Church, International Pentecostal Church of Christ, Missionary Church, North American Christian Convention, Open Bible Standard Churches and Wesleyan Church.