

US EPA ARCHIVE DOCUMENT

Dated: September 4, 1991.

Approved:

J.E. Gordon,

Rear Admiral, JAGC, U.S. Navy Judge Advocate General.

[FR Doc. 91-22415 Filed 9-17-91; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS SHILOH (CG 67) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval cruiser. The intended effect of this

rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: September 4, 1991.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Rossi, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS SHILOH (CG 67) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex 1, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a naval cruiser. The Judge Advocate General of the Navy has also

certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table five of § 706.2 is amended by adding the following vessel to the end of the table:

§ 706.2 [Amended]

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex 1, sec. 2(f)	Forward masthead light not in forward quarter of ship. Annex 1, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. Annex 1, sec. 3(a)	Percentage horizontal separation attained
USS Shiloh.....	CG 67		X	X	38

Dated: September 4, 1991.

Approved:

J.E. Gordon,

Rear Admiral, JAGC, U.S. Navy Judge Advocate General.

[FR Doc. 91-22416 Filed 9-17-91; 8:45 am]

BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-3997-2]

Arkansas; Final Authorization of State Hazardous Waste Management Program Revisions

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 under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the State of Arkansas' application and has made a decision, subject to public review and comment, that Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Arkansas' hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. Arkansas' application for program revision is

available for public review and comment.

DATES: This final authorization for the State of Arkansas shall be effective on November 18, 1991, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Arkansas' program revision application must be received by the close of business October 18, 1991.

ADDRESSES: Copies of the Arkansas program revision application and the 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 Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209-8913, 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. Written comments, referring to Docket Number AR-91-1, should be sent to the Authorization Coordinator, 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: Dick Thomas, Grants and Authorization Section, 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 or the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of

equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260-266, 268, and 124 and 270.

B. Arkansas

Arkansas initially received final authorization on January 25, 1985, (See 50 FR 1513) to implement its base hazardous waste management program. Arkansas received authorization for revisions to its program on August 23, 1985 and May 29, 1990 (See 55 FR 11192). On March 15, 1989, Arkansas submitted a complete program revision application for additional program approvals. Today, Arkansas is seeking approval of its program revision in accordance with § 271.21(b)(3).

EPA has reviewed the State of Arkansas' application, and has made an immediate final decision that Arkansas' hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorizations. Consequently, EPA intends to grant final authorization for the additional program modifications to

Arkansas. The public may submit written comments on EPA's final decision up until October 18, 1991. Copies of Arkansas' application for program revision are available for inspection and copying at the locations indicated in the "ADDRESSES" section of this notice.

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

The Arkansas program revision application includes States regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 260 through 266, 268, 270, 124 and 144 that were published in the Federal Register (FR) through April 22, 1988. This proposed approval includes the provisions that are listed in the chart below. This chart lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

Arkansas is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided for in a future statute or regulation.

Federal citation	State analog
13.1 13.2 28B.1 1. Definition of Solid Waste; Corrections, as amended, April 11, 1985 (50 FR 14216) and August 20, 1985 (50 FR 33541).	Arkansas Hazardous Waste Management Code (AHWMC) section 3a, as amended November 17, 1989, effective December 21, 1989.
2. Standards for Hazardous Waste Storage and Treatment Tank Systems; Correction (non-HSWA provisions), as amended, August 15, 1986 (51 FR 29430).	AHWMC section 3a(1), (2), (3), (5), (6) & (9), as amended November 17, 1989, effective December 21, 1989.
40 41 3. List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring, July 9, 1987 (52 FR 25942).	AHWMC section 3a(5) & (9), as amended November 17, 1989, effective December 21, 1989.
4. Identification and Listing of Hazardous Waste, July 10, 1987 (52 FR 26012).....	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
38.1 5. Amendments to Part B Information Requirements for Land Disposal Facilities, as amended, September 9, 1987 (52 FR 33936).	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
43 6. Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee, November 18, 1987 (52 FR 44314).	AHWMC section 3a(5) & (6), as amended November 17, 1989, effective December 21, 1989.
45 7. Hazardous Waste Miscellaneous Units, December 10, 1987 (52 FR 46946).....	Arkansas Code of 1987, Annotated (Ark. Code Ann.) section 8-7-218 & 8-7-219(2), as amended February 24, 1989. AHWMC section 3a(1), (5), (6), (9) & section 12b(4), as amended November 17, 1989, effective December 21, 1989. Arkansas Underground Injection Control Code, section 3(a), effective May 4, 1989.
24.1 24.2 8. Financial Responsibility; Settlement Agreement, as amended, March 10, 1988 (53 FR 7740).	Ark. Code Ann. section 8-7-218 & 8-7-219(2), as amended February 24, 1989. AHWMC section 3a(5), (6), (9) & section 12b(4), as amended November 17, effective December 21, 1989.
46 9. Technical Correction; Identification and Listing of Hazardous Waste, April 22, 1988 (53 FR 13382).	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
DA 10. Direct Action Against Insurers—as required by HSWA section 3004(t), November 8, 1984.	Ark. Code Ann. section 8-7-218(b)(2) & (c), as amended February 24, 1989
14 11. Dioxin Waste Listing and Management Standards, January 14, 1985 (50 FR 1978).	AHWMC section 3a(2), (5), (6), (9) & section 13a(5), as amended November 17, 1989, effective December 21, 1989.
← 12. Fuel Labeling—as required by HSWA section 3004(r)(1), February 7, 1985.....	AHWMC section 3a(2) & (7), as amended November 17, 1989, effective December 21, 1989.
16 13. Paint Filter Test, April 30, 1985 (50 FR 18370).....	AHWMC section 3a(1), (5), (6), (9) & section 13a(5), as amended November 17, 1989, effective December 21, 1989.

Federal citation	State analog
14. Prohibition of Liquids in Landfills—as required by HSWA section 3004(c), May 8, 1985.	Ark. Code Ann. section 8-7-209(a) (1), (5), (b) & section 8-7-218, as amended February 24, 1989. AHWMC section 3a(5), (6), (9) & section 13a(5), as amended November 17, 1989, effective December 21, 1989.
15. Expansions During Interim Status—Waste Piles—as required by HSWA section 3015 (a), May 8, 1985.	Ark. Code Ann. section 8-7-216(b), (c), (d), (e) & (f), as amended February 24, 1989. AHWMC section 3a(9) & 12a(1-8), as amended November 17, 1989, effective December 21, 1989.
16. Expansions During Interim Status—Landfills and Surface Impoundments—as required by HSWA section 3015 (b), May 8, 1985.	Ark. Code Ann. section 8-7-216(b), (c), (d), (e) & (f), as amended February 24, 1989. AHWMC section 3a(9) & 12a(1-8), as amended November 17, 1989, effective December 21, 1989.
17. Sharing of Information With the Agency for Toxic Substances and Disease Registry—as required by HSWA section 3019(b), July 15, 1985.	Ark. Code Ann. section 8-7-209(a)(2) & (10), as amended February 24, 1989.
17A 18A. Small Quantity Generators	AHWMC section 3a, 12a & 16b, as amended November 17, 1989, effective December 21, 1989.
17C 18C. Household Waste	AHWMC section 3a, as amended November 17, 1989, effective December 21, 1989.
17D 18D. Waste Minimization	AHWMC section 3a(3), (5), (6), (9), 12a(7) & (8) & 16b, c & d, as amended November 17, 1989, effective December 21, 1989. Ark. Code Ann. section 8-7-218(b) & (c), as amended February 24, 1989.
17E 18E. Location Standards for Salt Domes, Salt Beds, Underground Mines and Caves.	Ark. Code Ann. section 8-7-209(a) (1), (3), (5), (6), (11), (b) & section 8-7-218, as amended February 24, 1989. AHWMC 3a(5), (6) & 13a(5), as amended November 17, 1989, effective December 21, 1989.
17F 18F. Liquids in Landfills	Ark. Code Ann. section 8-7-209(a) (1), (5), (b) & section 8-7-218, as amended February 24, 1989. AHWMC section 3a(1), (5), (6) & (9) section 13a(5), as amended November 17, 1989, effective December 21, 1989.
17G 18G. Dust Suppression	AHWMC section 3a(7), as amended November 17, 1989, effective December 21, 1989.
17H 18H. Double Liners	Ark. Code Ann. section 8-7-218, as amended February 24, 1985. AHWMC section 3a(5) & (6), as amended November 17, 1989, effective December 21, 1989.
17I 18I. Ground-Water Monitoring	Ark. Code Ann. section 8-7-211 & section 8-7-218(b)(2), as amended February 24, 1989. AHWMC section 3a(5), 12c(3) & 17a, as amended November 17, 1989, effective December 21, 1989.
17J 18J. Cement Kilns	AHWMC section 3a(2) & (7), as amended November 17, 1989, effective December 21, 1989.
17K 18K. Fuel Labeling	AHWMC section 3a(2) & (7), as amended November 17, 1989, effective December 21, 1989.
17L 18L. Corrective Action	Ark. Code Ann. section 8-7-218(b)(2), 8-7-218(c), 8-7-508(a)(1), 8-7-209(a)(6) & (8), 8-7-205(4), 8-7-218(b), 8-7-219, 8-7-502, 8-7-503(12) & 8-7-506, as amended November 17, 1989, effective December 21, 1989.
17M 18M. Pre-construction Ban	Ark. Code Ann. section 8-7-211, as amended February 24, 1989. AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
17N 18N. Permit Life	Ark. Code Ann. section 8-7-220, as amended February 24, 1989. AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
17O 18O. Omnibus Provision	AHWMC section 3a(9) & 14, as amended November 17, 1989, effective December 21, 1989.
17P 18P. Interim Status	Ark. Code Ann. section 8-7-216(b), (c), (d), (e) & (f), as amended February 24, 1989. AHWMC section 3a(9) & 12a(1-8), as amended November 17, 1989, effective December 21, 1989.
17Q 18Q. Research and Development Permits	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
17R 18R. Hazardous Waste Exports	AHWMC section 3a(2), (3), (4) & (16), as amended November 17, 1989, effective December 21, 1989.
17S 18S. Exposure Information	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
18 19. Listing of TDI, TDA, DNT, October 23, 1985 (50 FR 42936)	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
19 20. Burning of Waste Fuel and Used Oil Fuel in Boilers and Industrial Furnaces, November 29, 1985 (50 FR 49164), as amended April 13, 1987 (52 FR 11819).	Ark. Code Ann. section 8-7-203(6) & (7), as amended February 24, 1989. AHWMC section 2a(5), 3a(2), (5), (6) & (7), as amended November 17, 1989, effective December 21, 1989.
20 21. Listing of Spent Solvents, December 31, 1985 (50 FR 53315), as amended January 21, 1986 (51 FR 2702).	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
20 22. Listing of EDB Waste, February 13, 1986 (51 FR 5327)	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
22 23. Listing of Four Spent Solvents, February 25, 1986 (51 FR 6537)	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.
23 24. Generators of 100 to 1000 kg Hazardous Waste, March 24, 1986 (51 FR 10146).	AHWMC section 3a, 12a & 16b, as amended November 17, 1989, effective December 21, 1989.
25 25. Codification Rule, Technical Correction (Paint Filter Test), May 28, 1986 (51 FR 19176).	AHWMC section 3a(1), (5), (6), (9) & 13a(5), as amended November 17, 1989, effective December 21, 1989.
28A 26. Standards for Hazardous Waste Storage and Treatment Tank Systems (HSWA provisions), July 14, 1986 (51 FR 25422), as amended August 15, 1986 (51 FR 29430).	AHWMC section 3a(1), (2), (3), (5), (6) & (9) as amended November 17, 1989, effective December 21, 1989.
30 27. Biennial Report; Correction, August 8, 1986 (51 FR 28556)	AHWMC section 3a(3), (5), (6), (9), 16b, c, d & d(1), 12a(7) & (8), as amended November 17, 1989, effective December 21, 1989.
31 28. Exports of Hazardous Waste, August 8, 1986 (51 FR 28664)	AHWMC section 3a(2), (3), (4) & section 16, as amended November 17, 1989, effective December 21, 1989.
32 29. Standards for Generators—Waste Minimization Certifications, October 1, 1986 (51 FR 35190).	AHWMC section 3a, 3a(2), (3), (5), (6), (9), 12a, 12a(7) & (8), 16, 16b-d, as amended November 17, 1989, effective December 21, 1989. Ark. Code Ann. section 8-7-218(b) & (c), as amended February 24, 1989.
33 30. Listing of EBDC, October 24, 1986 (51 FR 37725)	AHWMC section 3a(2), as amended November 17, 1989, effective December 21, 1989.

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Federal citation	State analog
31. Land Disposal Restrictions, November 7, 1986 (51 FR 40572), as amended June 4, 1987 (52 FR 21010).	Ark. Code Ann. section 8-7-205(3), 8-7-209(a)(1), (3), (5), (6), (11) & (b), 8-7-215, 8-7-216, 8-7-218, 8-7-303 & section 8-7-308(4), as amended February 24, 1989. AHWMC section 3a(5), (6) & section 13a(5), as amended November 17, 1989, effective December 21, 1989.
32. California List Waste Restrictions, July 8, 1987 (52 FR 25760), as amended October 27, 1987 (52 FR 41295).	Ark. Code Ann. section 8-7-205(3), 8-7-209(a)(1), (3), (5), (6), (11) & (b), 8-7-215, 8-7-216 & 8-7-218, as amended February 24, 1989. AHWMC section 3a(3), (5), (6), (8), (9) & section 13a(5), as amended November 17, 1989, effective December 21, 1989.
33. Exception Reporting for Small Quantity Generators of Hazardous Waste, September 23, 1987 (52 FR 35894).	AHWMC section 3a(3) & 16c(2), as amended November 17, 1989, effective December 21, 1989.
34A. Permit Application Requirements Regarding Corrective Action.....	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
34B. Corrective Action Beyond Facility Boundary.....	Ark. Code Ann. section 8-7-218(b)(2), (c) & 8-7-209(a)(8), as amended February 24, 1989. AHWMC section 3a(5), as amended November 17, 1989, effective December 21, 1989.
34C. Corrective Action for Injection Wells.....	AHWMC section 3a(5), (6) & (9), as amended November 17, 1989, effective December 21, 1989. Arkansas Underground Injection Control Code section 3(A), effective May 4, 1989.
34D. Permit Modification.....	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
34E. Permit as a Shield Provision.....	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
34F. Permit Conditions to Protect Human Health and the Environment.....	AHWMC section 3a(9) & 14, as amended November 17, 1989, effective December 21, 1989.
34G. Post-Closure Permits.....	AHWMC section 3a(9), as amended November 17, 1989, effective December 21, 1989.
35. State Availability of Information—as required by HSWA section 3006(f), November 8, 1984.	Ark. Code Ann. section 25-19-103(1), 25-19-105, 25-19-107, 8-4-222, 8-4-223, 5-4-226, 8-4-227, 8-7-204(b) & (g) ((Act 435 of 1991, enacted & effective March 11, 1991)), 8-7-225(d) & 4-75-601(4), effective February 24, 1989. AHWMC section 6, as amended November 17, 1989, effective December 21, 1989. Memorandum of Agreement, between the United States Environmental Protection Agency, Region VI and the Arkansas Department of Pollution Control & Ecology, effective September 6, 1991.

The Arkansas program revision application includes State regulatory changes that are more stringent than the Federal RCRA regulations. AHWMC section 13a(5) does not allow free liquids to be placed in landfills unless before disposal they have been treated or stabilized into cement-like material. Thereby, making the State regulations more stringent than the Federal regulations.

The public also needs to be aware that some provisions of the State's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C. See 40 CFR 271.1(1). As a result, State provisions which are "broader in scope" than the Federal program are not covered for purposes of EPA enforcement in part 272. "Broader in scope" provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

The State's statutory definition of a hazardous waste as found in Ark. Code Ann. section 8-7-206(6), and AHWMC 3a(2) and 2a(5) includes polychlorinated biphenyls (PCB's) in addition to the EPA listed chemical compounds found in 40 CFR part 261. Thus, Arkansas' hazardous waste universe is broader in scope than that controlled under RCRA. This additional group of chemical

compounds is not part of the authorized program, but is enforced by the State.

Sections 12a and 16 of the AHWMC require all generators in Arkansas, to include small quantity generators and conditionally-exempt generators to comply with all Federal requirements as indicated in 40 CFR part 262 regarding the storage, shipment, and manifesting of hazardous wastes (Uniform Hazardous Waste Manifest, EPA Form 8700-22A), and further requires that hazardous waste may be shipped only to authorize treatment, storage and disposal facilities within or outside the State for disposal. Arkansas does not recognize any quantity exclusion. The generator must certify upon signing each manifest that he or she is making a good faith effort to minimize the generation of hazardous waste and select the best available and affordable treatment, storage or disposal alternative. State provisions are thus lacking any quantity exclusion and are broader in scope than Federal requirements.

Federal regulations that generators of between 100 and 1000 kg/mo of hazardous waste, file an exception report in those instances where the generator does not receive confirmation of delivery of his hazardous waste to the designated facility (See 40 CFR 262.42 and 262.44). The State has not adopted the exceptions to recordkeeping and reporting requirements for 100-1000 kg/mo generators as found in 40 CFR 262.44.

Therefore these generators must comply with the same reporting requirements as required of generators of over 1000 kg/mo and thereby making the States requirements broader in scope (See AHWMC section 3a(3) and 16c(2)). This requirement is not part of the authorized program.

C. Effect of HSWA on Arkansas' Authorization

Prior to the Hazardous and Solid Waste Amendments of RCRA, a State with final authorization administered its hazardous waste program instead of, or in lieu of, the Federal program. Except for certain enforcement provisions, EPA no longer directly applied the Federal requirements in the authorized State and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent, Federal requirements were promulgated or enacted, the State was obligated to obtain equivalent authority within specified time frames. New Federal requirements usually did not take effect in an authorized State until the State adopted the requirements as a State law.

In contrast, under the amended section 3006(g) of RCRA, 42 U.S.C. 6929(g), new HSWA requirements and prohibitions take effect in authorized States at the same time they take effect in non-authorized States. EPA carries out those requirements and prohibitions

directly in authorized and non-authorized States, including the issuance of full or partial HSWA permits, EPA grants the State authorization to do so. States must still, at one point, adopt HSWA-related provisions as a State law to retain final authorization. In the interim, the HSWA provisions apply in authorized States.

As a result of the HSWA, there is a dual State/Federal regulatory program in Arkansas. To the extent HSWA does not affect the authorized State program, the State program operates in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA administers and enforces those HSWA requirements in Arkansas until the State is authorized for them.

Once EPA authorizes Arkansas to carry out a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal provision or prohibition. Until that time, the State may assist EPA's implementation of the HSWA under a cooperative agreement.

Today's rulemaking includes authorization of Arkansas' program for most of the requirements commonly known as HSWA Cluster I and some of HSWA Cluster II requirements. It includes some HSWA corrective action rules and some land disposal prohibitions. Any effective State requirement that is more stringent or broader in scope than a Federal HSWA provision will continue to remain in effect; thus, regulated handlers must comply with any more stringent State requirements. Conversely, regulated handlers must also comply with any HSWA requirements retained by EPA; i.e., those HSWA provisions or prohibitions not being authorized in this revision, which may be more stringent than the analogous requirements of the Arkansas program. As a consequence, regulated handlers facing an apparent conflict between State and Federal land disposal prohibitions must always comply with the more stringent of the two requirements.

Among the HSWA provisions being retained or not being authorized at this time are the provisions regarding burning of waste fuel and used oil fuel in boilers and industrial furnaces (56 FR 7134), or the following land disposal restrictions regarding the amendments to the first third (54 FR 18836), (54 FR 36967), second third (54 FR 26594) or third third scheduled wastes (55 FR 22520), or the toxicity characteristics revisions (55 FR 11798, 55 FR 26986, 55 FR 40834).

Upon authorization of the HSWA provisions listed in the chart above, the State of Arkansas will assume primary

authority for permitting those specific provisions in lieu of EPA. The State will also assume primary responsibility for enforcing and administering the HSWA provisions of previously issued Federal permits for which it is currently being authorized under this immediate final rule. Additional public notice of the State's assumption of HSWA responsibility for said provisions in previously issued permits has been given by the State in its adoption of a final rule indicating the State's intention regarding those provisions.

D. Decision

I conclude that the Arkansas application for program revision 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 the aspects of the RCRA program described in its revised program application, subject to the limitations of the nonauthorized HSWA provisions. Arkansas also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

E. Codification in Part 272

EPA uses part 272 for codification of the decision to authorize Arkansas' program and for incorporation by reference of those provisions of Arkansas' statutes and regulations that EPA will enforce under section 3008, 3013, and 7003 of RCRA. EPA is reserving amending part 272, subpart E, until a later date.

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.

Certification 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 effectively suspends the applicability of certain Federal regulations in favor of Arkansas' program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization 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 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: September 6, 1991.

Robert E. Layton Jr.,

Regional Administrator.

[FR Doc. 91-22317 Filed 9-17-91; 8:45 am]

BILLING CODE 6560-50-M

ACTION

45 CFR Part 1228

Clearinghouse Requirements and Procedures

AGENCY: ACTION.

ACTION: Final rule.

SUMMARY: 45 CFR part 1228 implemented Office of Management and Budget Circular A-95 on clearinghouse requirements and procedures which was rescinded and replaced by Executive Order 12372, "Intergovernmental Review of Federal Programs." Thus, part 1228 is now obsolete and should be removed.

EFFECTIVE DATE: September 18, 1991.

FOR FURTHER INFORMATION CONTACT: Lowell B. Genebach, Jr., Director, Budget and Planning Division, Tel. (202) 606-5137.

SUPPLEMENTARY INFORMATION:

List of Subjects in 45 CFR Part 1228

Intergovernmental relations.

PART 1228—CLEARINGHOUSE REQUIREMENTS AND PROCEDURES [REMOVED]

Pursuant to the Director's general rule-making authority, 42 U.S.C. 5042 Sec. 402, 45 CFR part 1228 is removed.

Signed in Washington, DC, September 10, 1991.

Jane A. Kenny,

Director of ACTION.

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