

MINUTE ORDER NO. 83-39

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Findings:

The Resource Conservation and Recovery Act (RCRA) establishes a different and more difficult test for states applying for Final Authorization than was required for Interim Authorization. States applying for Interim Authorization must have programs "substantially equivalent" to the federal program. State programs applying for Final Authorization must have programs equivalent to and consistent with the federal program. Therefore, the Department of Pollution Control and Ecology is seeking permission to hold a public hearing to receive comments on those proposed changes in the Hazardous Waste Code that are necessary to meet these requirements. The proposed changes are: Revision to Section 3(a), the interim provision language, and to adopt federal regulations promulgated from March 2, 1983 through July 1, 1983; Revision to Section 2, to define interstate agreement or compacts and memorandum of agreement; Adding a new section dealing with the effect of the Memorandum of Agreement for Final Authorization Order.

Authorization:

The Department is hereby authorized to hold a public hearing to receive comments on proposed revisions to the Hazardous Waste Code.

COMMISSIONERS

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John P. Sartor
CHAIRMAN

SUBMITTED BY: Wilson Tolefree DATE PASSED: July 22, 1983

Adoption of Federal Regulations
(March 2, 1983-July 1, 1983)

- March 15, 1983 40 CFR Part 261.
Corrections (typographical) to the February 23, 1983 Identification and listing of hazardous waste.
- March 29, 1983 40 CFR 123 and 262.
EPA amends the international shipment requirements to make a minor technical correction. 40 CFR 262.50 and 123.34 incorrectly states the address to which the international shipment notices must be sent. The agency amends both these sections to reflect the correct address.
- April 1, 1983 40 CFR Parts 122, 123, 124, 260, 261, 262, 263, 264, 270 and 271.
This rule reorganizes the presentation of permit program requirements, but makes no substantive changes to any of the affected sections. The EPA is simply physically deconsolidating its Consolidated Permit Regulations. The intent is to make the regulations easier to understand and to use.
---Part 122 is split into portions applicable specifically to RCRA (new part 270).
---Part 123 is split into portions applicable specifically to RCRA (new part 271).
---Part 124 remains applicable to all permit programs and is modified only as necessary to revise the cross references to former Parts 122 and 123.
- April 8, 1983 40 CFR Part 261.
This is an amendment to Appendix III of 40 CFR Part 261 (Chemical Analysis Test Methods) by realigning the lists of test methods and assigning new method numbers. There are no substantive changes.
- June 30, 1983 40 CFR Parts 124, 261, 264, 265, 270, and 271.
This amendment corrects minor typographical errors, incorrect cross references and similar technical errors. This rule makes no substantive changes to the permit requirements.

- (c) "Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
- (dd) "Transport" means the movement of wastes from the point of generation to any intermediate points, or to the point of ultimate storage, treatment, or disposal.
- (ee) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.
- (ff) "Treatment Facility" means a location at which waste is subject to treatment and may include a facility where waste has been generated.
- (gg) "Ultimate Controlling Person" means that person which is not controlled by another person.
- (hh) Unless manifestly inconsistent herewith, other words and phrases used in these regulations shall have the same meaning as used in the Arkansas Hazardous Waste Management Act of 1979 and 40 CFR 260 and 40 CFR 122.3 as published in the Federal Register, May 19, 1980, as amended on or before February 13, 1981.

Section 3. ADOPTION OF FEDERAL REGULATIONS

- (a) Except where manifestly inconsistent with the provisions of the Federal Resource Conservation and Recovery Act (PL 94-580), or with federal regulations adopted pursuant thereto, or with the provisions of this Code, the Department shall have the responsibilities and that authority, with reference to the State of Arkansas, and granted to the Administrator of the United States Environmental Protection Agency under the provision of the following regulation which regulations are hereby adopted and made part of this Code as though set forth herein word for word, and which shall apply to all persons generating, storing, treating or disposing of hazardous wastes in Arkansas:

- 40 CFR Part 260, Subparts, A, B, and C;
- 40 CFR Part 261, Subparts, A, B, C, and D;
- 40 CFR Part 262, Subparts, A, B, C, D, and E;
- 40 CFR Part 263, Subparts, A, B, and C;
- 40 CFR Part 264, Subparts, A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, and T;
- 40 CFR Part 265, Subparts, A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, and R;
- 40 CFR Part 266, Subparts A and B;
- 40 CFR Part 267, Subparts A, B, C, D, E, F, and G;
- 40 CFR Part 270;
- 40 CFR Part 124, Subparts A and B
as published in the Federal Register Volume 45,

No. 98, Monday, May 19, 1980, as amended, on or before July 1, 1983; provided that the following portions of 40 CFR 124 is excepted for adoption in this Code: 124.1; 124.3(d),(e); 124.4; 124.5(e); 124.5(g); 124.10(a),(1),(iv); 124.12(b); 124.12(d); 124.12(e); 124.14; 124.15; 124.16; 124.17(b); 124.20; 124.21; 264.312(b); 264.314(a),(1),(b),(3); 265.312(b); 265.314(a),(1),(b),(3).

Whenever the effect of any of the aforesaid regulations is modified by a formal action of the United States Environmental Protection Agency, as evidenced by publication in the Federal Register, the effect of such action, upon its effective date, shall be extended in full force and effect as Interim Provisions of this Code and shall be enforceable as such, provided that the effect of said action does not conflict with the provisions of Act 406. No Interim Provision of this Code shall remain in effect for more than six months, unless the Commission grants an extension after opportunity for public comment as provided in subsection (e) below.

- (b) Adoption of temporary and/or final waste exclusions resulting from petitions filed with EPA under 40 CFR 260.22 (petitions to amend Part 261 to exclude a waste product produced at a particular facility):

<u>Facility Name & Address</u>	<u>Waste Excluded</u>	<u>Date of FR Notice</u>	<u>Exclusion Status</u>
Monroe Auto Equipment, Paragould	F006	Dec. 31, 1980	Temporary
Whirlpool Corp., Fort Smith	F006	Aug. 6, 1981	Temporary
Bekaert Steel Wire Corp., Van Buren	K063	Dec. 16, 1980	Temporary

- (c) (Reserved for future federal regulation reference.)
- (d) In all instances wherein the federal regulations of 40 CFR 260, 261, 262, 263, 264, 265, 266, 267, 122, and 124 refer to the administrator of the United States Environmental Protection Agency, the reference, for purposes of this Code, shall be deemed to mean the Department, unless the context plainly dictates otherwise.
- (e) The Director, within a reasonable time after the effective date of the Interim Provisions of this Code, shall cause a public notice to be published in a newspaper of statewide circulation stating the existence of such Interim Provisions and giving notice of the public's opportunity to comment on the Interim Provisions. Whenever the Director finds that a public hearing should be held to consider the continued application of Interim Provisions or proposed modifications to such Provisions, a notice of public hearing and formal action of the Commission shall follow in the manner described in subsection (f) below.