Arkansas: Final Authorization of State-Initiated Changes and Incorporation by Reference of Approved State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: During a review of Arkansas’ regulations, the Environmental Protection Agency (EPA) identified State-initiated changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). We have determined that these changes are minor and satisfy all requirements needed to qualify for final authorization and are authorizing the State-initiated changes through this direct final action.

DATES: This regulation is effective November 13, 2017, unless the EPA receives adverse written comment on this regulation by the close of business October 16, 2017. If the EPA receives such comments, it will publish a timely withdrawal of this direct final rule in the Federal Register informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R06–RCRA–2016–0680 by one of the following methods:


2. Email: patterson.alima@epa.gov.

3. Mail: Alima Patterson, Region 6, Regional Authorization Coordinator, RCRA Permit Section (RPM), Multimedia 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, RCRA Permit Section (RPM), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Direct your comments to Docket ID No. EPA–R06–RCRA–2016–0680. EPA’s policy is that all comments received will be included in the public docket without change and may be available online at http://www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be Confidential Business Information (CBI) or otherwise protected through http://www.regulations.gov or email. The Federal http://www.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 email comment directly to the EPA without going through http://www.regulations.gov, your email 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 the documents that form the basis for this authorization and codification and associated publicly available materials from 8:30 a.m. to 4:00 p.m. Monday through Friday at the following location: 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, EPA Region 6 Regional Authorization Coordinator, RCRA Permit Section (RPM), Multimedia Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–8533 Email address: patterson.alima@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA), allows the EPA to authorize States to operate their hazardous waste management programs in lieu of the Federal program. The EPA uses the regulations entitled “Approved State Hazardous Waste Management Programs” to provide notice of the authorization status of State programs and to incorporate by reference those provisions of the State statutes and regulations that will be subject to the EPA’s inspection and enforcement. This rule also codifies in the regulations the prior approval of Arkansas’ hazardous waste management program and incorporates by reference authorized provisions of the State’s statutes and regulations.

The EPA is publishing this rule to authorize the State-initiated changes and incorporate by reference the State’s hazardous waste program without a prior proposal because we believe these actions are not controversial and do not expect comments that oppose them. Unless we receive written comments which oppose the authorization in this codification document during the comment period, the decision to authorize Arkansas’ State-initiated changes to its hazardous waste program will take effect. If we receive comments that oppose the authorization, 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 State-initiated changes.

II. Authorization of State-Initiated Changes

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 hazardous waste program. As the Federal program changes, the States must change their programs and ask the EPA to authorize the changes. Changes to State hazardous waste 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 268, 270, 273 and 279. States can also initiate their own changes to their hazardous waste program and these changes must then be authorized.

B. What decisions have we made in this rule?

We conclude that Arkansas’ revisions to its authorized program meet all of the
statutory and regulatory requirements established by RCRA. We found that the State-initiated changes make Arkansas’ rules more clear or conform more closely to the Federal equivalents and are so minor in nature that a formal application is unnecessary. Therefore, we grant Arkansas final authorization to operate its hazardous waste program with the changes described in the table at Section G below. Arkansas has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out all authorized aspects of the RCRA program, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, 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 this 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 regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the statutes and regulations for which Arkansas is being authorized by this direct final action are already effective and are not changed by this action.

D. Why wasn’t there a proposed rule before this rule?

The EPA did not publish a proposal before this 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 this Federal Register we are publishing a separate document that proposes to authorize the State program changes.

E. What happens if EPA receives comments opposing this action?

If the EPA receives comments that oppose the authorization of the State-initiated changes in this codification document, we will withdraw this rule by publishing a timely 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 Federal Register document. You may not have another opportunity to comment, therefore, 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 may 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 above. The Federal Register withdrawal document will specify which part of the authorization of the State program will become effective and which part is being withdrawn.

In addition to the authorization of the rules described above in this document, the purpose of this Federal Register document is to codify Arkansas’ base hazardous waste management program and its revisions to that program. The EPA has already provided notices and opportunity for comments on the Agency’s decisions to codify the Arkansas program, and the EPA is not now reopening the decisions, nor requesting comments, on the Arkansas authorization as published in the Federal Register documents in Section I.F. of this preamble.

F. For what has Arkansas previously been authorized?


G. What changes are we authorizing with this action?

The State has made amendments to the provisions listed in the table which follows. These amendments clarify the State’s regulations and make the State’s regulations more internally consistent. The State’s laws and regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than, and not broader in scope than the Federal laws and regulations. These State-initiated changes satisfy the requirements of 40 CFR 271.21(a). We are granting Arkansas final authorization to carry out the following provisions of the State’s program in lieu of the Federal program. These provisions are analogous to the indicated RCRA regulations found at 40 CFR as of July 1, 2014. The Arkansas provisions are from the Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, adopted on September 25, 2015, effective October 18, 2015.

<table>
<thead>
<tr>
<th>State requirement (APC&amp;E Regulation No. 23)</th>
<th>Analogous Federal requirement (40 CFR)</th>
</tr>
</thead>
<tbody>
<tr>
<td>262.13(f)</td>
<td>No direct Federal analog; 262 related.</td>
</tr>
<tr>
<td>262.26(a)</td>
<td>No direct Federal analog; 262 related.</td>
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</tbody>
</table>
### H. Who handles permits after the authorization takes effect?

This authorization does not affect the status of State permits and those permits issued by the EPA because no new substantive requirements are a part of these revisions.

### I. How does this action affect Indian Country (18 U.S.C. 1151) in Arkansas?

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

### III. Incorporation by Reference

#### A. What is codification?

Codification is the process of placing a State’s statutes and regulations that comprise the State’s authorized hazardous waste management program into the CFR, Section 3006(b) of RCRA, as amended, allows the EPA to authorize State hazardous waste management programs to operate in lieu of the Federal hazardous waste management regulatory program. The EPA codifies its authorization of State programs in 40 CFR part 272 and incorporates by reference State statutes and regulations that the EPA will enforce under sections 3007 and 3008 of RCRA and any other applicable statutory provisions.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public’s ability to discern the current status of the authorized State program and the program requirements that can be Federally enforced. This effort provides clear notice to the public of the scope of the authorized program in each State.

#### B. What is the history of codification of Arkansas’ hazardous waste management program?

The EPA incorporated by reference Arkansas’ then authorized hazardous waste program effective December 13, 1993 (58 FR 52674), August 21, 1995 (60 FR 32112), August 27, 2010 (75 FR 36538), December 1, 2014 (79 FR 59438), and March 29, 2016 (81 FR 4961). Note that at 79 FR 59443, the Arkansas agency acronym should be referenced as “(ADEQ)” with regard to the State’s Memorandum of Agreement with the EPA. In this document, the EPA is revising subpart E of 40 CFR part 272 to include the authorization revision actions effective October 11, 2016 (81 FR 53025).

#### C. What codification decisions have we made in this rule?

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Arkansas rules described in the amendments to 40 CFR part 272 set forth below. The EPA has made, and will continue to make, these documents available electronically through http://www.regulations.gov and in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

The purpose of this Federal Register document is to codify Arkansas’ base hazardous waste management program and its revisions to that program. The document incorporates by reference Arkansas’ hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program. By codifying Arkansas’ authorized program and by amending the CFR, the public will be more easily approved of the status of the Federally approved requirements of the Arkansas hazardous waste management program. The EPA is not requesting comments on its decisions published in the Federal Register documents referenced in Section I.F of this preamble concerning revisions to the authorized program in Arkansas.

The EPA is incorporating by reference the Arkansas authorized hazardous waste management program in subpart E of 40 CFR part 272. Section 272.201 incorporates by reference Arkansas’ authorized hazardous waste statutes and regulations. Section 272.201 also references the statutory provisions (including procedural and enforcement provisions) which provide the legal basis for the State’s implementation of the hazardous waste management program, the Memorandum of Agreement, the Attorney General’s Statements, and the Program Description, which are approved as part of the hazardous waste management program under Subtitle C of RCRA.

#### D. What is the effect of Arkansas’ codification on enforcement?

The EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013, and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in authorized States. With respect to these actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than any authorized State analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Arkansas
Arkansas has adopted but is not authorized for the following Federal rules published in the Federal Register on July 15, 1985 (50 FR 28702), April 12, 1996 (61 FR 16290), and January 8, 2010 (75 FR 1236). Therefore, these Federal amendments included in Arkansas’ regulations, are not part of the State’s authorized program and are not part of the incorporation by reference addressed by this Federal Register action. Arkansas has adopted and was authorized for the Federal Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas rule which has since been vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 08–1144; June 27, 2014). The gasification exclusion rule was published on January 2, 2008 (73 FR 57) and added 40 CFR 260.10 “Gasification” and revised 40 CFR 261.4(a)(12)(i).

E. What State provisions are not part of the codification?

The public needs to be aware that some provisions of Arkansas’ hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

1. Provisions that are not part of the RCRA subtitle C program because they are “broader in scope” than RCRA subtitle C (see 40 CFR 271.1(i));
2. Federal rules for which Arkansas is not authorized, but which have been incorporated into the State regulations because of the way the State adopted Federal regulations by reference;
3. Unauthorized amendments to authorized State provisions;
4. New unauthorized State requirements; and
5. Federal rules for which Arkansas is authorized but which were vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 08–1144, June 27, 2014).

State provisions that are “broader in scope” than the Federal program are not part of the RCRA authorized program and the EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.201(c)(3) lists the Arkansas regulatory provisions which are “broader in scope” than the Federal program and which are not part of the authorized program being incorporated by reference. “Broader in scope” provisions cannot be enforced by the EPA; the State, however, may enforce such provisions under State law.

Additionally, Arkansas’ hazardous waste regulations include amendments which have not been authorized by the EPA. Since the EPA cannot enforce a State’s requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to be precise in delineating the scope of a State’s authorized hazardous waste program. Regulatory provisions that have not been authorized by the EPA include amendments to previously authorized State regulations as well as certain Federal rules and new State requirements.

IV. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 31735, October 4, 1993), and therefore this action is not subject to review by OMB. This rule incorporates by reference Arkansas’ authorized hazardous waste management regulations 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 rule merely incorporates by reference certain existing State hazardous waste management program requirements which the EPA already approved under 40 CFR part 271, and with which regulated entities must already comply, 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).

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). This rule incorporates by reference existing State hazardous waste management program requirements; and prohibitions, and then to seek authorization for those revisions pursuant to 40 CFR part 271.

Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), the EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State’s 40 CFR part 272 incorporation by reference. Until then, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

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2. Federal rules for which Arkansas is not authorized, but which have been incorporated into the State regulations because of the way the State adopted Federal regulations by reference;
3. Unauthorized amendments to authorized State provisions;
4. New unauthorized State requirements; and
5. Federal rules for which Arkansas is authorized but which were vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 08–1144, June 27, 2014).

State provisions that are “broader in scope” than the Federal program are not part of the RCRA authorized program and the EPA will not enforce them. Therefore, they are not incorporated by reference in 40 CFR part 272. For reference and clarity, 40 CFR 272.201(c)(3) lists the Arkansas regulatory provisions which are “broader in scope” than the Federal program and which are not part of the authorized program being incorporated by reference. “Broader in scope” provisions cannot be enforced by the EPA; the State, however, may enforce such provisions under State law.

Additionally, Arkansas’ hazardous waste regulations include amendments which have not been authorized by the EPA. Since the EPA cannot enforce a State’s requirements which have not been reviewed and authorized in accordance with RCRA section 3006 and 40 CFR part 271, it is important to be precise in delineating the scope of a State’s authorized hazardous waste program. Regulatory provisions that have not been authorized by the EPA include amendments to previously authorized State regulations as well as certain Federal rules and new State requirements.
requirements without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also does not have Tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000).

This action also is not subject to Executive Order 13045 (62 FR 19985, 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.

The requirements being codified are the result of Arkansas’ voluntary participation in the EPA’s State program authorization process under RCRA Subtitle C. 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 8533, 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.). Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes Federal executive policy on environmental justice. Because this rule codifies pre-existing State rules which are at least equivalent to, and no less stringent than existing federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 et seq., as amended 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 copy of the rule, 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).

List of Subjects
40 CFR Part 271
Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 272
Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This rule 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).


Samuel Coleman,
Acting Regional Administrator Region 6.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), EPA is granting final authorization under 40 CFR part 271 to the State of Arkansas for revisions to its hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq. This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Arkansas statutes that are incorporated by reference in this paragraph from LexisNexis, 9443 Springboro Pike, Miamisburg, Ohio 45342; Phone: (800) 833–9844; Web site: http://www.lexisnexis.com/store/us. Copies of the Arkansas regulations that are incorporated by reference are available from the Arkansas Department of Environmental Quality (ADEQ) Web site at http://www.aedq.state.ar.us/regs/default.htm or the Public Outreach Office, ADEQ, 5301 Northshore Drive, North Little Rock, Arkansas 72118–5317; Phone number: (501) 682–0923. You may inspect a copy at EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733; Phone number: (214) 665–8533, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: http://www.archives.gov/federal-register/cfr/ibr-locations.html.


(ii) [Reserved]
(2) **Legal basis.** The following provisions provide the legal basis for the State’s implementation of the hazardous waste management program, but they are not being incorporated by reference and do not replace Federal authorities:


(viii) Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended September 25, 2015, effective October 18, 2015, Chapter One; Chapter Two, Sections 1, 2, 3(a), 3(b)(3), 4, 260.2, 260.20(c) through (f), 261 Appendix IX, 270.7(h) and (j), 270.10(o)(6), 270.34, 19, Chapter Three, Sections 21 and 22; Chapter Five, Section 28.


(3) **Related legal provisions.** The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:


(ii) Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended September 25, 2015, effective October 18, 2015, Chapter Two, Sections 6, 262.13(c), 262.26(d), 263.10(e), 263.13, 264.71(e), and 265.71(e).

(4) **Unauthorized State amendments and provisions.** (i) Arkansas has partially or fully adopted, but is not authorized to implement, the Federal rule listed in the following table. The EPA will continue to implement the Federal HSWA requirements for which Arkansas is not authorized until the State receives specific authorization for those requirements.

<table>
<thead>
<tr>
<th>Federal requirement</th>
<th>Federal Register reference</th>
<th>Publication date</th>
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<tbody>
<tr>
<td>(ii) The Federal rules listed in the following table are not delegable to States. Arkansas has adopted these provisions and left the authority to the EPA for implementation and enforcement.</td>
<td></td>
<td></td>
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<tr>
<td>Federal requirement</td>
<td>Federal Register reference</td>
<td>Publication date</td>
</tr>
<tr>
<td>75 FR 1236........................</td>
<td>January 8, 2010.</td>
<td></td>
</tr>
<tr>
<td>(5) <strong>Vacated Federal rule.</strong> Arkansas adopted and was authorized for the following Federal rule which has since been vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. 08–1144; June 27, 2014). As a result, the Arkansas provisions at Reg. 23, 260.10 “Gasification” and 261.4(a)(12)(i) are no longer considered to be part of the State’s authorized program. Consistent with the Court’s vacatur, EPA removed the vacated provisions from the CFR on April 8, 2015.</td>
<td></td>
<td></td>
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<tr>
<td>Federal requirement</td>
<td>Federal Register reference</td>
<td>Publication date</td>
</tr>
<tr>
<td>(6) <strong>Memorandum of Agreement.</strong> The Memorandum of Agreement between EPA Region VI and the State of Arkansas, signed by the Executive Director of the Arkansas Department of Environmental Quality (ADEQ) on June 2009.</td>
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</tbody>
</table>
June 13, 2010, or August 12, 2012. Arkansas made subsequent changes to these provisions but these changes have not been authorized by EPA. The provisions from the January 21, 1996, March 23, 2006, June 13, 2010, or August 12, 2012 regulations are noted below.

Appendix A to part 272—State Requirements

Arkansas

The statutory provisions include:


Arkansas Code of 1987 Annotated (A.C.A.), 1911 Replacement, as amended by the 2015 Supplement, Title 8, Environmental Law, Chapter 10, Subchapter 3: Section 8–10–301(d).

Copies of the Arkansas statutes that are incorporated by reference are available from LexisNexis, 9443 Springboro Pike, Miamisburg, Ohio 45342; Phone: (800) 833–9844; Web site: http://www.lexisnexis.com/store/us.

The regulatory provisions include:

Arkansas Pollution Control and Ecology (APC&E) Commission Regulation No. 23, Hazardous Waste Management, as amended September 25, 2015 effective October 18, 2015. Please note that the 2015 APC&E Commission Regulation No. 23, is the most recent version of the Arkansas authorized hazardous waste regulations. For a few provisions, the authorized versions are found in the APC&E Commission Regulation 23, effective January 21, 1996, March 23, 2006,
DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 161017970–6999–02]

RIN 0648–XF651

Fisheries of the Northeastern United States: Scup Fishery; Adjustment to the 2017 Winter II Quota

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS adjusts the 2017 Winter II commercial scup quota and per trip Federal landing limit. This action is intended to comply with Framework Adjustment 3 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan that established the rollover of unused commercial scup quota from the Winter I period to the Winter II period. This notice is intended to inform the public of this quota and trip limit change.


FOR FURTHER INFORMATION CONTACT: Cynthia Hanson, Fishery Management Specialist, (978) 281–9180.

SUPPLEMENTARY INFORMATION: NMFS published a final rule in the Federal Register on November 3, 2003 (68 FR 62250), implementing a process to roll over unused Winter I commercial scup quota (January 1 through April 30) to be added to the Winter II period quota (November 1 through December 31). This framework also allows adjustment of the commercial possession limit for the Winter II period dependent on the amount of quota rolled over from the Winter I period.

For 2017, the initial Winter II quota is 2,929,762 lb (1,329 mt). The best available landings information indicates that 2,231,152 lb (1,012 mt) remain of the 8,291,190 lb (3,761 mt) of Winter I quota. Consistent with Framework 3, the full amount of unused 2017 Winter I quota is being transferred to Winter II, resulting in a revised 2017 Winter II quota of 5,160,914 lb (2,341 mt). Because the amount transferred is greater than 2,000,000 lb (907 mt), the Federal per trip possession limit will increase from 12,000 lb (5,443 kg) to 18,000 lb (8,165 kg), as outlined in the final rule that established the possession limit and quota rollover procedures for this year, published on December 28, 2015 (80 FR 80689).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this in-season adjustment because it would be contrary to the public interest. If implementation of this in-season action is delayed to solicit prior public comment, the objective of the fishery management plan to achieve the optimum yield from the fishery could be compromised; deteriorating weather conditions during the latter part of the fishing year will reduce fishing effort and could prevent the annual quota from being fully harvested. This would conflict with the agency’s legal obligation under the Magnuson-Stevens Fishery Conservation and Management Act to achieve the optimum yield from a fishery on a continuing basis, resulting in a negative economic impact on vessels permitted to fish in this fishery. Moreover, the rollover process and potential changes in trip limits were already outlined in the 2016 to 2018 specifications published December 28, 2015, that were provided for notice and comment rulemaking.

Authority: 16 U.S.C. 1801 et seq.

Dated: September 8, 2017.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 161222999–7413–01]

RIN 0648–XF610

Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #5 Through #11

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of fishing seasons.