

US EPA ARCHIVE DOCUMENT

enact equivalent authority within specified timeframes. New Federal requirements did not take effect in an authorized state until the state adopted those requirements as state law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized states at the same time as they take effect in non-authorized states. EPA is directed to carry out these requirements and prohibitions in authorized states, including the issuance of full or partial Federal permits, until the state is granted authorization to do so. While states must adopt HSWA-related provisions as state law to retain final authorization, HSWA provisions apply in authorized states in the interim. As a result of HSWA, there will be a dual State/Federal regulatory program in New York. To the extent the authorized State program is unaffected by HSWA, the State program is hereby authorized to operate in lieu of the Federal program. Where HSWA-related requirements apply, however, EPA will administer and enforce them in New York until the State receives authorization to do so. Any State requirement that is more stringent than its analogous HSWA provision also remains in effect; thus, the universe of the more stringent provisions in HSWA and the approved State program defines the applicable Subtitle C requirements in New York.

New York is not now being authorized for any requirement implementing HSWA. Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal program. Until that time, the State will assist EPA's implementation of the HSWA under a Cooperative Agreement.

EPA has published a *Federal Register* notice that explains in detail HSWA and its effect on authorized states. That notice was published in the July 15, 1985 *Federal Register* (at 50 FR 28702), and should be referred to for further information.

Effective Date

Final authorization of New York's program takes effect at 1:00 p.m. eastern standard time, on May 29, 1986.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 505(b), I hereby certify that this authorization will not have a significant impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of New

York's program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. 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: Sec. 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6926 and 6974(b), EPA Delegation 8-7.

Dated: March 28, 1986.

Christopher J. Daggett,
Regional Administrator.

FR Doc. 86-10941 Filed 5-14-86; 8:45 am]

BILLING CODE 5560-50-M

40 CFR Part 271

(SW-3-FRL-3015-9)

West Virginia; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Final Determination on West Virginia's Application for Final Authorization.

SUMMARY: The State of West Virginia has applied for Final Authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed West Virginia's application and has reached a final determination that West Virginia's hazardous waste management program satisfies all of the requirements necessary to qualify for Final Authorization. Thus, EPA is granting Final Authorization to the State of West Virginia to operate its hazardous waste program in lieu of the Federal program, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984) (HSWA).

EFFECTIVE DATE: Final Authorization for the State of West Virginia shall be effective at 1:00 pm May 29, 1986.

FOR FURTHER INFORMATION CONTACT: Renee Gruber, Program Manager, VA/WV Section, Waste Management Branch (3HW31), U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597-3436.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984. To qualify for Final Authorization, a State's program must: (1) Be "equivalent" to the Federal program, (2) be consistent with the Federal program and other State programs, and (3) provide for adequate enforcement (Section 3006(b) of RCRA, 42 U.S.C. 6926(b)).

B. The State of West Virginia

On October 29, 1985, the State of West Virginia submitted an official application to obtain Final Authorization to administer the RCRA program. On January 13, 1986, EPA published a tentative decision announcing its intent to grant West Virginia Final Authorization. Further background on the tentative decision to grant authorization appears at 51 FR 1394, January 13, 1986.

Along with the tentative determination EPA announced the availability of the application for public review and comment and the date of a public hearing on the application. The public hearing was not held as scheduled on February 13, 1986, since neither EPA nor the State received sufficient interest in holding the hearing. In addition, no written comments were received on the application.

C. Decision

I conclude that West Virginia's application for Final Authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, the State of West Virginia is granted Final Authorization to operate its hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984) (HSWA). In accordance with 40 CFR 271.21(e)(1) (i), official State applications shall be reviewed on the bases of Federal self-implementing statutory provisions that were in effect twelve months prior to the State's submission of its official application and the regulations in 40 CFR Parts 124, 260-266, 270 and 271 that were promulgated twelve months prior to the State's submission of its official application. In addition, a State may receive Final Authorization for any

provision of its program corresponding to a Federal provision in effect on the date of the State's authorization. Therefore, West Virginia is receiving Final Authorization for its program corresponding to any Federal self-implementing statutory provisions that were in effect on October 29, 1984, and to the Federal regulatory program promulgated up to October 29, 1984, as well as for the technical amendment issued on November 21, 1984 (49 FR 46094), and the amended interim status standards for landfills issued on April 23, 1985 (50 FR 16044-48).

West Virginia now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program, subject to the HSWA. West Virginia also has primary enforcement responsibility, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA. The State has not sought the authority to operate the RCRA program on Indian Lands.

As stated above, West Virginia's authority to operate a hazardous waste program under Subtitle C of RCRA is limited by the November 1984 HSWA amendments to RCRA. Prior to that date, a State with Final Authorization administered its hazardous waste program entirely in lieu of the EPA. The Federal requirements no longer applied 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 enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under section 3008(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial Federal permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain Final Authorization, the HSWA applies in authorized States in the interim.

As a result of HSWA, there will be a dual State and Federal regulatory program in West Virginia. To the extent the authorized State program is unaffected by the HSWA, the State

program is authorized to operate in lieu of the Federal program. Where HSWA-related requirements apply, however, EPA will administer and enforce them in West Virginia until the State receives authorization to do so. Any State requirement that is more stringent than a HSWA provision also remain in effect; thus, the universe of more stringent provisions in the HSWA and the approved State program define the applicable Subtitle C requirements in West Virginia.

West Virginia is not being authorized now for any requirement implementing HSWA. Once the State is authorized to implement a HSWA requirement or prohibition, West Virginia's program in that area will operate in lieu of the Federal program. Until that time the State will assist EPA's implementation of the HSWA under a Cooperative Agreement.

EPA has published a Federal Register notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702-28755, July 15, 1985.

Compliance With Executive Order 12291: The Office of Management and Budget (OMB) 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 5 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 West Virginia's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. 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: Sec. 2002(a), 3008, and 7004(b) of the Solid Waste Disposal Act is amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: April 22, 1986.

James M. Seif,

Regional Administrator.

[FR Doc. 86-10942 Filed 5-14-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50518A; FRL-2926-9]

Benzoic Acid, 3,3'-Methylenebis [6-Amino-, Di-2-Propenyl Ester; Significant New Uses

Correction

In FR Doc. 86-10102 beginning on page 16684 in the issue of Tuesday, May 6, 1986, make the following correction: On page 16684, in the third column, in the DATES paragraph, in the fifth line, remove "14 days".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 310

Merchant Marine Training

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: The Maritime Administration (MARAD) is amending its merchant marine training regulations to effect a reduction in the entering classes at the United States Merchant Marine Academy.

EFFECTIVE DATE: May 15, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Edwin M. Hackett, Academies Program Officer, Office of Maritime Labor & Training, Maritime Administration—DOT, 400 Seventh Street, SW., Room 7302, Washington, DC 20590. Telephone: (202) 426-5759.

SUPPLEMENTARY INFORMATION: MARAD is amending Subpart C of 46 CFR Part 310—Admission and Training of Midshipmen at the United States Merchant Marine Academy—to lower quotas for all geographical areas that are eligible to send students to the United States Merchant Marine Academy (Academy). State quotas are set in proportion to a state's representation in Congress (House and Senate), with no state having a quota of less than one.

The Academy regulations were amended in 1983 and 1984 to reduce the size of the classes entering the Academy in each of those years. The two reductions were necessary because it was estimated that there would be substantially more deck and engine officers than needed to sustain an adequate deck and engine officer work force for our current and projected active fleet of large oceangoing ships.