

US EPA ARCHIVE DOCUMENT

by the HSWA, the State program will operate in lieu of the Federal program. EPA will administer and enforce the prohibitions and requirements of the HSWA in Arkansas until Arkansas receives authorization to do so. Among other things, this will entail the issuance of Federal RCRA permits for those areas in which the State is not yet authorized. 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 provision. Until that time the State will assist EPA's implementation of the HSWA under a Cooperative Agreement.

HSWA-related requirements and prohibitions that are more stringent than the State's program apply in Arkansas. Any State requirement that is more stringent than HSWA provision also remains in effect; thus, the universe of the more stringent provisions in the authorized State program and the HSWA defines the applicable requirements in Arkansas. (Arkansas is not being authorized now for any requirement implementing the HSWA.)

EPA will be publishing a Federal Register notice that explains in detail the HSWA and its effect on authorized States. That notice should be referred to for further information.

Region VI and Arkansas are currently reviewing the Memorandum of Agreement (MOA) to revise it to address the requirements of the HSWA. The current MOA provides that Arkansas shall administer the RCRA program in lieu of EPA and that EPA shall not issue permits in the State. Thus, it is inconsistent with the HSWA and will be revised to reflect EPA's and Arkansas' respective responsibilities under the new Federal/State regulatory scheme. (Because of the strict statutory time clock for processing final authorization applications, the State and EPA did not have ample time to revise the MOA before EPA's final approval of the State's application.)

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this Final Authorization 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 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. It does not impose any new burden on small entities. This Final Determination therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This Final Determination is issued under the authority of sections 3002(a), 3008, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6928, 6974(b) and EPA delegation 8-7.

Dated: December 19, 1984.

Dick Whittington,

Regional Administrator.

[FR Doc. 85-857 Filed 1-10-85; 8:45 am]

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40 CFR Part 271

(SW-6-FRL-2756-4)

New Mexico; Decision on Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on New Mexico's application for final authorization.

SUMMARY: New Mexico has applied for Final Authorization under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed New Mexico's application and has reached a final determination that New Mexico's Hazardous Waste Program satisfies all of the requirements necessary for Final Authorization. Thus, EPA is granting Final Authorization to the State to operate its program.

EFFECTIVE DATE: Final Authorization for New Mexico, for purposes of judicial review, shall be effective January 25, 1985.

FOR FURTHER INFORMATION CONTACT: H.J. Parr, State Programs Section (6AW-HP), Hazardous Materials Branch, U.S. Environmental Protection Agency, Region VI, 1201 Elm St., Dallas, Texas 75270 (214) 767-2645.

SUPPLEMENTARY INFORMATION: Section 3008(b) of RCRA allows the EPA to authorize State hazardous waste management programs to operate in the state in lieu of the Federal program. 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 authorized state programs and (3) provide for adequate enforcement (Section 3008(b) of RCRA, 42 U.S.C. 6228(b)).

On July 26, 1984, New Mexico submitted a complete application to obtain Final Authorization to administer a RCRA program. On October 24, 1984, EPA published a tentative decision announcing its intent to grant New Mexico Final Authorization. Further background on the tentative decision appears at 49 FR 42761, October 24, 1984.

Along with the tentative determination, EPA announced the availability of the State's application for public review and comment and the date of a public hearing on the application and EPA's tentative determination. The public hearing was held on November 28, 1984, at 10:00 a.m. in Albuquerque, New Mexico.

The State of New Mexico received Interim Authorization for Phase I and for Phase II, Components A and B on September 30, 1983. New Mexico chose not to apply for Component C. Upon receiving Final Authorization, New Mexico will implement its program for permitting land disposal facilities. Otherwise, there will be no change in the status of permits or permitting authority on the effective date of this Final Determination.

New Mexico is not authorized by the Federal government to operate the RCRA program on Indian Lands and this authority will remain with EPA.

Responsiveness Summary

In addition to the Federal Register notice of tentative determination cited above, EPA publicized the notice of determination, the availability of the State's application for review and comment, and the public hearing by providing for publication of the notice in enough newspapers of general circulation to ensure State wide coverage and by mailing notices to persons on the State and EPA mailing lists. Approximately one (1) week prior to the hearing EPA mailed a follow-up notice to the major media outlets in the State.

EPA received comments from three (3) persons on the Tentative Decision to grant Final Authorization to New Mexico. Comments are summarized and responded to below. The comments are grouped, to the extent possible, according to common areas for ease of response. This grouping is not meant to indicate any special significance or lack of significance of any comment. All comments have been carefully

considered in reaching the decision to grant Final Authorization to the State of New Mexico.

1. Comment: One commenter maintains that the Government of the United States must keep direct control over the Hazardous Waste Program. The commenter asserts that it is not suitable to let the State of New Mexico or any other state take control of the program, even if a state proves to be a capable agency.

Response: Section 3006 of RCRA requires EPA to grant Final Authorization to the states if they meet the requirements of RCRA. While EPA appreciates the concern of the commenter, EPA has the obligation under federal law to grant the authorization if the state demonstrates compliance with RCRA.

2. Comment: Two commenters support the authorization of the State's Hazardous Waste Management Program.

Response: EPA appreciates these comments and has certainly taken them into consideration in reaching a decision. New Mexico has demonstrated that the State program meets the requirements of Sections 3006 and 7004 of RCRA, the primary standards against which EPA measures the New Mexico program in reaching the decision to grant Final Authorization.

Decision

After reviewing the public comments, re-evaluating the State's submittal in light of those comments, and considering the performance of the State under Interim Authorization, it is my conclusion that New Mexico's application for Final Authorization meets all of the regulatory and statutory requirements established by RCRA.

Accordingly, New Mexico is granted Final Authorization to operate its hazardous waste management program. Subject to the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984), New Mexico now has responsibility for permitting treatment, storage and disposal facilities within its borders and for carrying out all other aspects of the RCRA program. New Mexico 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.

Prior to the Hazardous and Solid Waste Amendments (HSWA) amending RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of the EPA. EPA's regulations no longer applied in the authorized State, and EPA could not

issue permits for any facilities the State was authorized to permit. Now, however, under section 3006(g) of RCRA, 42 U.S.C. 6326(g), the 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 permits, until the State is granted authorization to do so.

As a result of the HSWA, there will be a dual State/Federal regulatory program in New Mexico. To the extent the authorized State program is unaffected by the HSWA, the State program will operate in lieu of the Federal program. EPA will administer and enforce the prohibitions and requirements of the HSWA in New Mexico until New Mexico receives authorization to do so. Among other things, this will entail the issuance of Federal RCRA permits for those areas in which the State is not yet authorized. 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 provision. Until that time the State will assist EPA's implementation of the HSWA under a Cooperative Agreement.

HSWA-related requirements and prohibitions that are more stringent than the State's program apply in New Mexico. Any State requirement that is more stringent than an HSWA provision also remains in effect; thus, the universe of the more stringent provisions in the authorized State program and the HSWA define the applicable requirements in New Mexico. (New Mexico is not being authorized now for any requirement implementing the HSWA.)

EPA will be publishing a Federal Register notice that explains in detail the HSWA and its effect on authorized States. That notice should be referred to for further information.

Region VI and New Mexico are currently reviewing the Memorandum of Agreement (MOA) to revise it to address the requirements of the HSWA. The current MOA provides that New Mexico shall administer the RCRA program in lieu of EPA and that EPA shall not issue permits in the State. Thus, it is inconsistent with the HSWA and will be revised to reflect EPA's and New Mexico's respective responsibilities under the new Federal/State regulatory scheme. (Because of the strict statutory time clock for processing final authorization applications, the State and EPA did not have ample time to revise the MOA before EPA's final approval of the State's application.)

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this Final Authorization 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 entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of New Mexico's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burden on small entities. This Final Determination therefore, does not require a regulatory flexibility analysis.

List of Subject in 40 CFR Part 271

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This Final Determination 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) and EPA delegation 8-7.

Dated: December 19, 1984.

Dick Whittington,

Regional Administrator.

(FR Doc. 85-860 Filed 1-10-85; 8:45 am)

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 71

Foreign Quarantine

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the regulations in 42 CFR Part 71 necessary to prevent the introduction, transmission, or spread of communicable diseases from foreign countries into the United States. In 1967, the Public Health Service was reorganized, and the Quarantine Program was transferred to the Centers for Disease Control (CDC). Since the transfer, the Quarantine Program has been modernized and streamlined. The regulations have been updated to reflect