

EFFECTIVE DATE: March 25, 1982.

ADDRESS: Copies of the State request and State/EPA agreement for delegation of authority are available for public inspection at the Air Branch, Air and Waste Management Division, Environmental Protection Agency, Region 6, First International Building, 28th Floor, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: William H. Taylor, Jr., Chief, Technical Section, Air Branch, address above, telephone (214) 767-1594 or (FTS) 729-1594.

SUPPLEMENTARY INFORMATION: On March 11, 1982, the State of Arkansas submitted to EPA, Region 6, a request for delegation of additional authority to the ADPCE for the implementation and enforcement of future NSPS and NESHAP programs. After a thorough review of the request and information submitted, the Regional Administrator determined that the State's pertinent laws and the rules and regulations of the ADPCE were adequate and effective to implement and enforce future NSPS and NESHAP requirements. Therefore, Condition 4 of the NSPS/NESHAP agreement letter was amended on March 25, 1982, as follows:

4. The Arkansas Department of Pollution Control and Ecology is authorize to implement and enforce all future NSPS and NESHAP requirements without making a written request to EPA, subject to the delegation conditions and terms as set forth in the delegation agreement letter dated September 14, 1981.

Under Executive Order 12291, EPA must judge whether a publication is "major" and therefore subject to the requirements of a regulatory impact analysis. The delegation of authority is not "major", because it is an administrative change, and no additional burdens are imposed on the parties affected.

The Office of Management and Budget has exempted this action from the requirements of Section 3 of Executive Order 12291.

This delegation is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411 and 7412).

Dated: April 29, 1982

Frances E. Phillips,
Regional Administrator.

[FR Doc. 82-13906 Filed 5-20-82; 6:45 am]

BILLING CODE 6560-50-M

40 CFR Part 123

[A&WM-4-FRL 2128-1]

Hazardous Waste Management Programs; Georgia: Authorization for Interim Authorization Phase II Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination.

SUMMARY: The State of Georgia has applied for Interim Authorization Phase II Components A and B, which allows the State rather than the Environmental Protection Agency to issue or deny permits regulating the operation of facilities that treat and store hazardous waste. EPA has reviewed Georgia's application for Phase II Components A and B and has determined that Georgia's hazardous waste program is substantially equivalent to the Federal program covered by Components A and B. The State of Georgia is hereby granted Interim Authorization for Phase II Components A and B to operate the State's hazardous waste program covered by Components A and B, in lieu of the Federal program.

EFFECTIVE DATE: Interim Authorization Phase II Components A and B for Georgia shall become effective on May 21, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, Telephone (404) 881-3016.

SUPPLEMENTARY INFORMATION: In the May 19, 1980, Federal Register (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. The Act (RCRA) includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive final authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State agency Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program

to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. The Phase I regulations include the identification and listing of hazardous wastes, standards for generators and transporters of hazardous wastes, standards for owners and operators of treatment, storage and disposal facilities, and requirements for State Programs. The Phase II regulations cover the procedures for issuing permits under RCRA and the standards that will be applied to treatment, storage, and disposal facilities in preparing permits. In the January 26, 1981, Federal Register (46 FR 7965), the Environmental Protection Agency announced that States could apply for components of Phase II of Interim Authorization. Component A, published in the Federal Register January 12, 1981 (46 FR 2802) contains standards for permitting containers, tanks, surface impoundments, and waste piles. Component B published in the Federal Register January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123, Subpart F (46 FR 8298), January 26, 1982.

The State of Georgia received Interim Authorization for Phase I on February 3, 1981.

Draft Application

The State of Georgia submitted its draft application for Phase II Interim Authorization on August 21, 1981. After detailed review, EPA identified several areas of major concern and transmitted comments to the State for its consideration. After reviewing these comments, State Officials determined that the issues raised by EPA could be resolved without changes in State regulations or legislation. Georgia subsequently made revisions to the Program Description, Memorandum of Agreement, and Attorney General's Statement to answer those questions or issues that had been raised during the review of the draft application.

Final Application

On February 22, 1982, Georgia submitted to EPA a Final Application for Interim Authorization, Phase II

Components A and B under RCRA. An EPA review team consisting of both Headquarters and Regional Office personnel made a detailed analysis of Georgia's Hazardous Waste Management Program.

One major question raised in the comments submitted to the State was whether the State had the authority to grant exemptions from the hazardous waste permitting requirements. Other issues included: (1) The need to clarify procedures for issuing emergency permits, (2) the need for the Authorization Plan to include a commitment to amend the State's regulations with respect to public participation in the permitting process, (3) the need to explain the procedures for granting trial burn and incineration permits, and (4) the need to explain whether hazardous waste management facilities that have been operating under short term variances could continue to operate when the variances expire.

By letters dated April 6, 1982, and April 12, 1982, the State responded satisfactorily to the issues raised by EPA. In those letters the State clarified certain issues and amended portions of the State's application. It is evident that the State statutes and regulations which give authority to grant exemptions relate only to the universe of waste regulated by the State. They do not allow the State to grant exemptions from permitting requirements. Georgia has agreed in the MOA, with regards to the State procedures for issuing emergency permits, to follow the procedures outlined in 40 CFR 122.27.

The State amended its Authorization Plan to include a commitment to amend section 391-3-11 of its regulations to clarify that the public participation provisions EPA promulgated at 46 FR 36704-36706, July 15, 1981, govern the permitting process for hazardous waste management facilities. Further, the State has agreed in the MOA to hold a public hearing if the Director receives written notice of opposition to issuance of a permit and a request for a public hearing within 45 days of the notice of intent to issue a permit.

The State explained that trial burn and incineration permits will be subject to the public participation requirements of section 7004(b) of RCRA.

The State amended the Program Description to make it clear that hazardous waste management facilities that have been operating under short term variances could continue to operate when the variances expire only if the facility enters into a legally

binding Consent Agreement with the State.

One issue that has arisen in connection with Phase II interim authorization is whether authorization will extend to the permitting of existing storage surface impoundments and existing incinerators. EPA has proposed to temporarily suspend the regulations for existing storage surface impoundments and existing incinerators pending EPA review of their cost effectiveness. Pending a final decision, EPA has tentatively decided to authorize States to permit all facilities covered by components A and B. If EPA does suspend the regulations for these facilities, the State's ability to issue State RCRA permits for those facilities (existing storage surface impoundments and existing incinerators) will automatically be suspended. Accordingly, the State's MOA has been amended adding a statement explaining what effect a suspension of the EPA regulations for existing storage surface impoundments and existing incinerators would have on the State's program.

Public Hearing and Comment Period

As noticed in the Federal Register on March 12, 1982 (47 FR 10861), EPA gave the public until April 19, 1982, to comment on the State's application. EPA held a public hearing in Atlanta, Georgia on April 12, 1982.

No oral comments were received at the public hearing; written comments submitted directly to EPA are summarized below along with EPA's responses. Region IV received four written comments on the Georgia application by the close of the comment period on April 19, 1982.

Comments 1-3: Three of the written comments favored EPA granting Georgia Phase II authorization. One commenter contended that the State has done an outstanding job in carrying out Federal and State environmental regulations. Another emphasized that the State government should have the major responsibility for waste management since the State is more familiar with local problems and would be more responsive to local concerns, and Georgia EPD has an excellent reputation in managing other environmental programs. The third commenter favored authorization because Georgia has demonstrated it has the necessary resources to manage the Hazardous Waste Program.

EPA Response: No response needed.

Comment 4: Georgia also applied for authorization to implement the

temporary Federal permitting program for new land disposal facilities contained in 40 CFR Part 267. This written comment opposed EPA delegating authority to the State for this program.

EPA Response: Temporary regulations which allow EPA to permit new land disposal facilities were promulgated on February 13, 1981 (46 FR 12414-12433). The preamble for the temporary regulations explained that EPA would not authorize State land disposal permit programs based upon temporary regulations.

Decision

EPA has reviewed the State Georgia's complete application for Interim Authorization Phase II Components A and B and has determined that the State program is substantially equivalent to the Phase II Components A and B of the Federal program as defined in 40 CFR Part 123, Subpart F. In accordance with section 3006(c) of RCRA, the State of Georgia is hereby granted Interim Authorization for Phase II Components A and B to operate the State's hazardous waste program governed by Components A and B, in lieu of the Federal program.

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.

Authority

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Certification: Georgia Application for Interim Authorization, 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. The authorization suspends the applicability of certain Federal regulations in favor of the State 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 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Dated: May 4, 1982.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 82-13991 Filed 5-20-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 761

[OPTS-62025; TSH-FRL 2131-3]

Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Incorporations by Reference Update

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In conformance with 1 CFR Part 51 EPA is establishing the necessary section to include incorporations by reference in 40 CFR Part 761.

DATES: This final rule is effective May 21, 1982.

FOR FURTHER INFORMATION CONTACT:

John A. Richards, Office of Pesticides and Toxic Substances (TS-788), Rm. E-125, Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460, (202-382-3637).

SUPPLEMENTARY INFORMATION: In conformance with the requirements of 1 CFR Part 51, EPA is establishing the necessary section to include 40 CFR Part 761 incorporations by reference. Information needed to meet incorporation by reference requirements has been consolidated in § 761.19. Specific test references contained in §§ 761.60 and 761.75 (formerly §§ 761.10 and 761.41, respectively) are being amended to provide citations to this material.

This regulation is a nonsubstantive redesignation and as such requires no opportunity for comment or public participation.

(Sec. 6, 90 Stat. 2020, (15 U.S.C. 2065))

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements.

Dated: May 14, 1982.

John A. Todhunter,

Assistant Administrator for Pesticides and Toxic Substances.

PART 761—POLYCHLORINATED BIPHENYLS (PCBs) MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE AND USE PROHIBITIONS

Therefore, Subpart A of 40 CFR Part 761 is amended by adding § 761.19 to read as follows:

§ 761.19 References.

(a) [Reserved].

(b) *Incorporations by reference.* The following material is incorporated by reference, and is available for inspection at the Office of the Federal Register Information Center, Rm. 8301, 1100 L St. NW., Washington, DC 20408. These incorporations by reference were approved by the Director of the Office of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register**. Copies of the incorporated material may be obtained from the Environmental Protection Agency Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, EPA, Rm. 106, 401 M St., SW., Washington, D.C. 20460, and from the American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, PA 19103.

| | CFR Citation |
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| ASTM D93-77 Standard Test Method for Flash Point by Pensky-Martens Closed Tester. | § 761.60(a)(3)(iii)(B)(6); § 761.75(b)(8)(iii). |
| ASTM D129-64 (Reapproved 1978) Standard Test Method for Sulfur in Petroleum Products (General Bomb Method). | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D240-76 (Reapproved 1980) Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuel by Bomb Calorimeter. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D482-74 Standard Test Method for Ash from Petroleum Products. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D624-76 Standard Test Method for Ramsbottom Carbon Residue of Petroleum Products. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D808-63 (Reapproved 1976) Standard Test Method for Chlorine in New and Used Petroleum Products (Bomb Method). | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D923-74 Standard Test Method for Sampling Electrical Insulating Liquids. | § 761.60(g)(1)(ii); § 761.60(g)(2)(ii). |
| ASTM D1266-70 (Reapproved 1975) Standard Test Method for Sulfur in Petroleum Products (Lamp Method). | § 761.60(a)(3)(iii)(B)(6). |

| | CFR Citation |
|--|----------------------------|
| ASTM D1796-68 (Reapproved 1977) Standard Test Methods for Water and Sediment in Crude Oils and Fuel Oils by Centrifuge. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D2158-85 (Reapproved 1975) Standard Test Method for Residues in Liquefied Petroleum (LP) Gas. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D2709-68 (Reapproved 1977) Standard Test Method for Water and Sediment in Distillate Fuel by Centrifuge. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D2784-70 (Reapproved 1975) Standard Test Method for Sulfur in Liquefied Petroleum Gases (Oxyhydrogen Burner or Lamp). | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D3178-73 (Reapproved 1979) Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coke and Coal. | § 761.60(a)(3)(iii)(B)(6). |
| ASTM D3278-73 Standard Test Methods for Flash Point of Liquid by Setflash Closed Tester. | § 761.75(b)(8)(iii). |
| ASTM E258-67 (Reapproved 1977) Standard Test Method for Total Nitrogen Inorganic Material by Modified KJELDAHL Method. | § 761.60(a)(3)(iii)(B)(6). |

[FR Doc. 82-13969 Filed 5-20-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 81-776; RM-3958]

Radio Broadcast Services, FM Broadcast Station in Gallup, N.M.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns Channel 256 to Gallup, New Mexico, in response to a petition filed by John R. Catsis. The assignment could provide a third FM service to Gallup.

DATE: Effective July 19, 1982.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Gallup, New Mexico), BC Docket No. 81-776, RM-3958.

Report and Order (Proceeding Terminated)

Adopted: May 12, 1982.

Released: May 17, 1982.

1. The Commission herein considers the Notice of Proposed Rule Making, 46 FR 39561, published December 7, 1981, proposing the assignment of Class C Channel 256 to Gallup, New Mexico. The Notice was issued in response to a petition filed by John R. Catsis ("petitioner"). Supporting comments were filed by the petitioner, restating his intention to apply for the channel, if assigned. Comments in opposition to the proposal were filed by Road Runner Radio, Inc. ("RRR"), to which petitioner responded.¹

2. Gallup (population 18,161),² seat of McKinley County (population 54,950), is located approximately 192 kilometers (120 miles) west of Albuquerque, New Mexico. It is served by two full-time AM stations (KGAK and KYVA) and two FM stations (KQNM and KOVO). The AM and FM stations are co-owned.

3. The petitioner incorporated by reference the information in the Notice which demonstrated the need for an additional FM assignment to Gallup. He also noted Gallup's continuing growth pattern, which he says justifies a third assignment. In the Notice we stated that all seven channels would be affected as a result of the proposed assignment. However, numerous other channels are said to be available throughout the precluded area.

4. Road Runner Radio, in opposition to the proposal argues that the petitioner has failed to show good cause for a departure from the Commission's population guidelines governing FM allocations. It contends that Gallup has adequate service, provided by local stations and neighboring communities. One of the stations providing service to Gallup is said to be KYKN(FM), Grants, New Mexico, of which the petitioner (and his wife) is a 29% stockholder. RRR asserts that under the Commission's multiple ownership rules, petitioner would be prohibited from applying for the channel he seeks to have assigned. RRR claims that Gallup's population has

been static in recent years. Since most of the area is owned by either the Navajo Tribe or the Federal Government and is undeveloped, RRR alleges that growth in the area will continue to be restricted. Adding to those factors is the sluggish economy (primarily the uranium industry) and a major decline in tourist trade. The opposition also contends that market conditions in the Gallup-McKinley County area strongly dictate against another FM station in the area. It therefore urges the Commission to dismiss the proposal for a third FM allocation to Gallup.

5. In reply comments, the petitioner argues that Gallup should not be denied a third assignment based on declining tourism, adequate service, static population and a depressed economy. Petitioner alleges that the opponent is a licensee who does not wish to be subject to additional competition. It adds that the population has shown significant growth between 1970 and 1980 (approximately 29%) and continues to increase. While McKinley County is said to be suffering economically from employment cutbacks in the uranium industry, petitioner asserts that the uranium mines are located at Grants, New Mexico, some 60 miles away, with little impact on Gallup's economy. Gallup's main industry is really coal, which is experiencing significant growth as the uranium industry declines. Petitioner characterizes RRR's allegation regarding a decline in the tourist trade as erroneous. Finally, petitioner responded that the multiple ownership issue should not present an obstacle to the assignment since several options are present. Petitioner states that it may have an ownership interest in both stations or it may sell its interest in the Grants station. However, it does not foresee an overlap problem because the mountainous terrain between the two communities would prevent an actual 1 mV/m overlap.

6. The main issue here appears to be the need for an additional assignment at Gallup, in view of the Commission's general policy which calls for assigning two stations to communities with a population under 50,000. This criteria has been employed as a guideline, not a rigid formula, and has not limited itself solely to numerical distribution. Here, we note that Gallup's population has shown a substantial increase in the past

decade (+24%) and this gain allegedly will continue in the foreseeable future. The fact that Gallup has adequate local service and receives the signals of nearby cities should not necessarily foreclose an additional assignment to that community. Where, as here, the preclusion impact is considered to be insignificant due to the availability of channels in the area, the guidelines are applied with flexibility and assignments can be made in excess of the criteria. See, *Waycross, Georgia*, 47 R.R. 2d 319 (1980). We feel that the issues raised by the opposition have been satisfactorily answered by the petitioner. The issues regarding economic impact are of a competitive nature, and should be considered at the application stage. Thus, in view of the expressed interest in a third commercial FM assignment to this growing community and the fact that the preclusion impact is insignificant, we believe that the public interest would be served by granting the requested assignment. The potential multiple ownership problem is more appropriately dealt with at the application stage where an actual coverage area for the proposed station can be evaluated.

7. In view of the foregoing and pursuant to the authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.281 and 0.204(b) of the Commission's Rules, it is ordered, That effective July 19, 1982, the FM Table of Assignments, § 73.202(b) of the Rules, is amended with regard to Gallup, New Mexico, as follows:

| City | Channel No. |
|---------------------|--------------------|
| Gallup, N. Mex..... | 229, 233, and 256. |

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau. (202) 632-7792. (Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-13977 Filed 5-20-82; 8:45 am]

BILLING CODE 6712-01-M

¹Road Runner Radio, Inc. is the licensee of Stations KYVA(AM) and KOVO(FM), Gallup, New Mexico.

²Population figures are taken from the 1980 U.S. Census, Advance Report.