

carbon monoxide complies with applicable criteria based on these considerations:

(a) A temporary special purpose monitoring site recorded no violations in an expected high concentration area downwind during four months in 1983.

(b) the proposed attainment area is not a part of a U.S. Bureau of Census contiguous urbanized area.

(c) the rural nature of the area leads EPA to believe that no violation has or would occur, and

(d) sources in the area do not contribute significantly to measured or modeled violation in the urban core.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received the public is advised that this action will be effective January 21, 1986.

Final Action

EPA approves the redesignation since the proposed attainment area has satisfied EPA policy and section 107 of the Clean Air Act.

Regulatory Process

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

Under section 307(b)(1), of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 21, 1986. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)).

Under 5 U.S.C. 605(b), I certify that this action will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8704).

List of Subjects in 40 CFR Part 81

Air pollution control. National parks, Wilderness areas.

Dated: October 30, 1985.

Lee M. Thomas,
Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for Part 81 continues to read as follows:

CALIFORNIA—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
San Joaquin Valley Air Basin (SJVAB):		
Fresno County:		
(within Fresno Urbanized Area ¹)	X	
Fresno County:		
(outside Fresno Urbanized Area ¹)		X

¹ For a description of Fresno Urbanized Area, please see publication date.

[FR Doc. 85-26813 Filed 11-19-85; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 271

[SW-9-FRL-2926-3]

Arizona; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

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

SUMMARY: The State of Arizona has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Arizona's application and has reached a final determination that Arizona's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to the State to operate its program, in lieu of the federal hazardous waste program in its jurisdiction, subject to the limitations imposed by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984) (HSWA).

EFFECTIVE DATE: Final Authorization for Arizona shall be effective at 1:00 p.m. on December 4, 1985.

FOR FURTHER INFORMATION CONTACT: Philip Bobel, Chief, Waste Programs Branch, U.S. EPA Region 9, 215 Fremont

Authority: 42 U.S.C. 7401-7642.

2. In § 81.305 the attainment status designation table for carbon monoxide is amended by revising the entries for "Fresno County", under the "San Joaquin Valley Air Basin (SJVAB)" to read as follows:

§ 81.305 California.

Street, San Francisco, CA 94105 (415) 974-8119 (FTS: 454-8119).

SUPPLEMENTARY INFORMATION:

I. 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. 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)).

On October 31, 1984, Arizona submitted a complete application for final authorization. On March 20, 1985, EPA published a tentative decision announcing its intent to grant Arizona final authorization. Further background information on EPA's tentative decision to grant final authorization appears at 50 FR 11186, March 20, 1985.

In addition to announcing its tentative determination, EPA announced the availability of the application for public comment and the dates of public hearings on the application. The public hearings were held in Phoenix on April 18, 1985 and Tucson on April 19, 1985.

II. Response to Public Comments

On March 20, 1985, (50 FR 11186), a notice was published in the **Federal Register** inviting the public to offer

comments at public hearings to be conducted by Region 9 in Phoenix, on April 1, 1985 and in Tucson, on April 2, 1985, on EPA's tentative decision to grant the State of Arizona final authorization. This notice also invited the public to submit written comments on the Arizona application by April 2, 1985.

On April 16, 1985, (50 FR 14945), EPA published a notice in the Federal Register, to correct the dates for the public hearings and the public comment period. The public hearings were scheduled for and took place on April 18, 1985 in Phoenix, and April 19, 1985 in Tucson. The public comment period was extended to April 19, 1985.

In addition, EPA published the notice of determination, the locations of where copies of the State's application were available, and notice of the public hearings in a sufficient number of newspapers of general circulation to ensure state-wide coverage. Further, EPA mailed these notices to persons on the State and EPA mailing lists. Approximately one week prior to the public hearings, EPA again contacted the major newspapers in Arizona.

The public hearing held in Phoenix was attended by forty-two people. Oral comments were made by five people, one of whom followed up with written comments. There were thirteen people at the Tucson public hearing, one of whom made a comment which was unrelated to authorization. A total of six written comments were submitted to EPA. Four commenters were in support of authorization, although some people requested that authorization be delayed until the problems discussed below were resolved. All of these comments were reviewed and considered by Region 9 in reaching a decision on the Arizona application for final authorization.

The authorization process was delayed, in part to allow for further review of Arizona's program and to implement corrective actions designed to rectify problems recognized by EPA during its review of the Arizona program.

Prior to publishing its tentative determination to authorize Arizona, EPA conducted a Capability Assessment of the State program, evaluating its strengths and weaknesses. A number of issues were identified which needed resolution. A corrective action plan designed to resolve these issues was prepared jointly by EPA and the State. The State has made good progress toward resolving these issues. To allow for further review of the program and implementation of some of the corrective actions, the official authorization timeframe was extended.

Since the tentative determination, EPA conducted further review of the State program and developed a Supplementary Capability Assessment. This latter evaluation summarizes changes made to the Arizona program in response to previously identified issues and identifies some new issues which must be resolved. To insure that changes are made, a Letter of Intent, listing corrective actions and schedules, was developed and signed by EPA and the State. In addition, EPA will maintain oversight of the Arizona program and will address other issues that may come up through administration of the Federal grant to the State. The Capability Assessment, Supplemental Capability Assessment, and Letter of Intent are available to the public. Copies may be obtained from EPA Headquarters, EPA Region 9, and ADHS.

Arizona's hazardous waste program is more stringent than the Federal program in the following ways: (1) The State hazardous waste regulations require that the regulated community submit annual, rather than biennial reports; (2) Recyclers are required to submit annual reports; (3) Small quantity generators may be required to submit reports; and (4) The regulated community is required to submit copies of signed manifests to ADHS monthly.

Significant public comments which have a bearing on final authorization and EPA's responses are summarized below.

Comment—Four (4) people requested that authorization be delayed until ADHS demonstrates that it is capable of performing adequately. One (1) commenter added that the decision should be reopened for public comment at the time a final decision is made.

Response—One commenter was concerned that the ADHS had a poor inspections record. EPA delayed final authorization in Arizona to insure that sufficient inspections were conducted in fiscal year (FY) 1985. EPA established a weekly inspection schedule and closely monitored the State's performance. Arizona exceeded this inspection schedule.

Based on a review of Arizona's application for final authorization and program capabilities, EPA has determined that ADHS operates an adequate RCRA program. However, ADHS and EPA are currently working together to further improve Arizona's hazardous waste program by increasing staff training, conducting a greater number of inspections, and expediting compliance efforts. EPA has already noted improvements in the Arizona hazardous waste program, as reflected in the revised Corrective Action Plan.

Even after authorization, this close working relationship will be maintained. In addition, EPA will maintain strong oversight of the State program through the Federal grant process which requires periodic evaluations of State performance and which will provide the support and incentives needed to upgrade ADHS' RCRA program.

Comment—ADHS is understaffed and lacks State funding because Arizona legislators systematically sabotage ADHS. They do this upon the request of the Arizona Chamber of Commerce, mining attorneys and other unidentified entities. If Arizona obtains final authorization, the Chamber of Commerce (representing industry) and legislators will render ADHS harmless to industry.

Response—Even after authorization, EPA will continue to maintain an oversight role in Arizona to ensure that the goals of RCRA are being met. If ADHS becomes unable to operate an acceptable RCRA program, EPA may revoke authorization.

Comment—The staff responsible for maintaining the hazardous waste program in Arizona does not have enough expertise and is not provided enough training.

Response—Based on EPA's review of Arizona's program, the staff people are competent to perform the functions required to maintain a RCRA program. In addition, since the date of the tentative determination, training needs have been identified. EPA is working closely with the State to help provide training designed to meet some of those needs, as well as information about other courses that are available. EPA feels that the State is currently making an adequate effort to procure training for State staff.

Comment—One commenter expressed concern that the State legislature does not support environmental programs and that once EPA grants authorization the legislature will cut hazardous waste program funding. This commenter suggested that prior to authorization the ADHS should demonstrate adequate funding capabilities and the State government should express its commitment to the State hazardous waste program.

Response—ADHS currently has adequate funding to operate an acceptable hazardous waste program. Arizona's application for final authorization projects staffing needs to maintain the program described in the application for the next three years, and assuming that EPA funding remains the same, those staffing needs would be met. In addition, the State legislature

has provided funding for a number of new positions in the hazardous waste program, which indicates its support for the program.

Comment—ADHS has indicated that it lacks resources and has to set priorities for its work, and is therefore unable to take on special projects suggested by the commenter.

Response—EPA provides funds through a grant to help meet Arizona's resource needs. As a first priority, these funds are intended to support a basic RCRA program. The basic RCRA program includes responsibility for issuing permits to hazardous waste facilities, performing inspections and initiating appropriate enforcement actions at regulated facilities. Other projects would be considered if extra resources are available.

Comment—The number of facility inspections performed by the State is too low, and inspection priorities are misguided.

Response—At the time of the tentative determination there was concern about the State's ability to conduct an adequate number of inspections. Since that time, consistent with EPA grant guidance, EPA and the State negotiated an inspection schedule for the remainder of fiscal year (FY) 85. EPA closely tracked Arizona's performance with respect to this schedule, and found that Arizona exceeded this schedule. The State has shown that it considers its inspections commitment a high priority, and EPA expects the State to fulfill its commitment in FY 86. EPA's review of Arizona's program has not identified any problems with inspection priorities. The State considers EPA guidance when deciding which facilities to inspect. To insure that EPA inspection priorities are addressed in FY 86, EPA and the State will negotiate a list of facilities to be inspected during the year, as well as quarterly schedules to complete those inspections.

Comment—One commenter was concerned that ADHS's inspection priorities were misguided. Specifically this commenter stated: (a) ADHS returns Part A permit applications without first conducting a field investigation; (b) ADHS' Inspections Unit does not incorporate EPA RCRA Background Documents; and (c) ADHS does not routinely conduct follow-up inspections at facilities which are subjects of compliance actions.

Response—(a) Many unregulated facilities mistakenly filed Part A permit applications. Although each facility withdrawing a Part A permit application should be inspected, both EPA and ADHS place a high priority on

inspecting facilities which pose a significant impact on human health and the environment. When these criteria apply to facilities which request Part A application withdrawals, the ADHS Permits Unit requests that a high priority inspection be conducted.

(b) EPA Background Documents provide guidance on implementing the regulations. There is no requirement that these documents be incorporated into State programs, and therefore this does not impact EPA's decision to grant a State final authorization.

(c) Many regulatory violations involve inadequately developed plans and other documents. ADHS can conduct in-house review of the materials to establish that the facility is in compliance with the applicable regulation. Where an inspection is needed to determine compliance, it is ADHS's policy to conduct a follow-up inspection.

Comment—ADHS deceived the public at the April 18, 1985 hearing by implying that two new State positions would be for inspectors, when ADHS planned to use those two positions for response to complaints.

Response—It is important that a regulatory agency maintain trained staff who are available to respond to complaints. In the past, this service was provided by the inspectors. With the addition of the two new positions in the Inspections Unit, the inspectors are able to devote their full time to conducting inspections. Hence, EPA believes the overall effectiveness of the Inspections Unit is improved.

Comment—ADHS compliance actions are inappropriate. A company was operating as a TSD with no ID number. The Compliance Unit has not acted, and delayed the Part B permit process for that facility.

Response—EPA is paying close attention to State activities with respect to this facility and is working with the State to assure that appropriate compliance action is taken.

Comment—ADHS policy on enforcement of generators storing in excess of 90 days is inconsistent with EPA's policy, and results in an economic gain to the company in violation. In addition, these cases are very low on ADHS' priority list for enforcement follow-up.

Response—ADHS attempts to achieve compliance in the most timely and efficient manner. In many cases where a generator has stored waste past the 90-day limit, the Department can obtain compliance by sending the generator a warning letter, ordering him to comply with the regulations. The Department believes that formal enforcement actions, which are resource intensive,

should be and are used to deal with recalcitrant violators and for cases which pose direct threats to public health and safety.

Comment—The ADHS enforcement policy for enforcing facilities operating as TSD's which have withdrawn their Part A applications is inadequate.

Response—EPA has investigated the status of the two cases referred to by the commenter. One has been cited by the Compliance Unit, and the other has not yet been referred for compliance action.

Comment—The Compliance Unit makes erroneous interpretations of the regulations.

Response—Based on file reviews and discussions with the Compliance Unit, EPA believes the compliance staff has a good understanding of the regulations. Procedures have been developed to coordinate complicated regulatory decisions with EPA.

Comment—Compliance personnel do not incorporate EPA RCRA Background Documents and do not meet Congressional and EPA intent in enforcement actions by reading preambles in the Federal Register and Background Documents.

Response—There is no requirement that Background Documents be incorporated into State programs, and this has no direct impact on authorization. However, it is important to note that ADHS compliance personnel utilize Background Documents and preambles to regulations to understand EPA's intent. Citations are based on the regulations themselves.

Comment—Compliance Unit's interpretation of drums in poor condition is inadequate.

Response—ADHS consistently cites drums in poor condition as violations and requires documentation by the company that the problem has been corrected. EPA finds the judgment of the Compliance Unit with respect to drums to be adequate.

Comment—Compliance Unit does not consider it a violation to allow cars to park in drum storage areas and within fifty feet of ignitable waste.

Response—The regulations do not prohibit parked cars in drum storage areas or within fifty feet of ignitable waste.

Comment—ADHS Compliance Unit exercises poor judgment when determining whether a fence is adequate.

Response—EPA has no specific regulation or policy governing fences. State and Federal regulations require that hazardous waste management facilities provide adequate security systems. EPA has found that the

Compliance Unit exercises proper judgement with respect to security systems.

Comment—The Compliance Unit does not always review materials submitted in response to an enforcement action.

Response—The Compliance Unit has had to set priorities. Accordingly, some compliance submittal reviews have had to be put off. EPA is working with ADHS to provide training to new Compliance Officers to increase the overall efficiency of the Compliance Unit.

Comment—When subsequent inspections find a facility in continuing violation, the Compliance Unit inappropriately assigns a low priority to those cases.

Response—EPA reviews have shown that the Compliance Unit has used acceptable judgment when it was necessary to set case priorities. The cases referred to by the commenter were researched and EPA determined that ADHS took appropriate compliance actions.

Comment—Although enforcement talk is tough, no enforcement actions are issued.

Response—The Compliance Monitoring and Enforcement Logs submitted to EPA indicate that ADHS initiates an adequate number of enforcement actions.

Comment—Frequently ADHS grants extensions of time for compliance to facilities. Sometimes these extensions are for years.

Response—EPA has reviewed the status of ADHS enforcement cases in which extensions of time for compliance have been granted, and has concluded that ADHS has acted reasonably in these cases. EPA will continue to monitor the timeliness of State enforcement actions to ensure that unreasonable extensions are not granted. If necessary, EPA may take direct enforcement action.

Comment—Information on the number of inspections conducted and compliance actions initiated and completed was not provided when requested by a commenter. This commenter was informed that ADHS did not have such information available.

Response—This information is recorded on Compliance and Inspection Logs which are submitted periodically to EPA. The information is available to the public.

Comment—In the five years ADHS has had a hazardous waste permit program, there have been three facility permits issued. There have been no facility permits denied.

Response—The RCRA permit process is slow for EPA as well as State agencies, due to the policy of obtaining

full compliance with the regulations before issuing a permit. This process can delay permit issuance for months. Based on EPA review, the Arizona permit program adequately meets the requirements for final authorization.

Comment—Support from the State Attorney General's Office is inadequate.

Response—Legal counsel is available through the Environmental Unit of the Attorney General's Office. Procedures have been developed for timely review of enforcement cases by the Attorney General's Office and for formal referral of cases where civil or criminal penalties are indicated. The referral process is described in Arizona's official application and referenced in the State/EPA Enforcement Agreement. The Attorney General's Office has agreed to meet very short timeframes for review of several recent high priority enforcement cases. EPA will maintain oversight of State enforcement actions to assure that such actions are appropriate and timely. EPA reserves the right to take independent action, as set forth in the State/EPA Enforcement Agreement.

Comment—ADHS' reporting activities are irregular and late.

Response—Since the date of the tentative determination, the State has acquired the capability to do direct computer input of some required statistics. This has significantly improved State performance on regular and timely reporting.

Comment—The State Annual Report Form utilized by ADHS does not meet the level of detail required by either State regulations or Federal requirements for the biennial report.

Response—A revised form, which meets State and Federal information requirements, has been concurred on by ADHS staff and must be transmitted to management for approval. The form will be made final in time to distribute to facilities for the next reporting period.

Comment—State laboratory procedures and equipment are inappropriate for testing under RCRA.

Response—Based on EPA's review of the State program, proper procedures and equipment are used for RCRA analysis. Contract laboratories are used for tests which the State laboratory is unable to perform. However, EPA will conduct a follow-up evaluation of State lab procedures to ensure that they are correct.

Comment—Adequate procedures, mechanisms and equipment have not been provided to the staff to maintain confidentiality of business confidential information.

Response—A system to maintain confidential information is being implemented as part of the Action Plan

for final authorization. The procedures have been developed and are undergoing internal review at this time. A staff position has been identified to maintain confidential files. In the meantime, a locking filing cabinet has been designated to store confidential files.

Comment—Arizona doesn't have a mechanism to quickly update State regulations when Federal regulations change. All Federal regulations should be adopted, including those which relax the stringency of requirements, to relieve the economic burden on the regulated community.

Response—In response to public concern, EPA has asked the State to implement an accelerated schedule for promulgating regulations where necessary to maintain compliance with the Federal program. To maintain authorization, the State has one year to make required regulatory changes, with a six month extension if a demonstration that a good faith effort to meet the one year deadline is made. It appears that the State will be able to meet these deadlines. The only future changes EPA requires States to make in order to maintain authorization for the base RCRA program are those which increase the stringency of the Federal program. Concerns about whether Arizona should adopt less stringent Federal program changes do not have a bearing on authorization.

Comment—The Arizona program must be modified to comply with Federal program changes which occur during the time period between submission of the official application and authorization on the program. Based on information presented at the public hearing, the regulations needed to conform to these interim changes in Federal law will not be in place by the target date for final authorization.

Response—The State of Arizona currently has all necessary regulations in effect.

Comment—To ease the economic burden to the regulated community, all Federal regulation changes should be adopted, including those that are less stringent, such as the satellite accumulation rule. Companies which spend money to comply with more stringent regulations will be competing with companies in surrounding states with less extensive requirements.

Response—The RCRA regulations were specifically designed to allow States the option to operate programs which are more stringent than the Federal program. Concerns about whether Arizona should adopt or maintain regulations more stringent than

comparable Federal regulations should be addressed to the State.

Comment—Arizona has not adopted the Uniform Manifest rule. This implies that ADHS is indifferent to the regulatory burden of having to comply with myriad environmental regulations.

Response—ADHS is currently in the process of adopting regulations which include the Uniform Manifest Rule. Despite this delay in adopting this regulation, the rule is effective nationwide under the U.S. Department of Transportation regulations.

III. Decision

After reviewing the public comments and the changes the State has made to its application and program since the tentative decision, I conclude that Arizona's application for final authorization meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Arizona is granted final authorization to operate its hazardous waste program subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984). This means that Arizona now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program. Arizona also has primary enforcement responsibility, although EPA retains the right to conduct inspections and request information under section 3007 of RCRA, to take enforcement actions under sections 3008, 3013 and 7003 of RCRA, and to enforce certain provisions of State law.

Prior to the Hazardous and Solid Waste Amendments (HSWA), a State with final authorization would have administered its hazardous waste program entirely in lieu of the EPA. EPA's regulation no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(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 Arizona after final authorization. To the extent the authorized State program is unaffected by the HSWA, the State program will operate in lieu of the Federal program. If the HSWA-related

provisions are more stringent than Arizona's, EPA will administer and enforce the portions of the HSWA in Arizona until the State 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 Arizona is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal program. Arizona is not being authorized now for any requirement implementing the HSWA. Until that time the State will assist EPA's implementation of the HSWA under a Cooperative Agreement. Any State requirement that is more stringent than a HSWA provision remains in effect. For example, if Arizona had more specific requirements for treatment facilities, they must comply with the more stringent State requirements.

EPA has issued three RCRA permits in Arizona. In accordance with the Memorandum of Agreement negotiated between EPA and the State, EPA will administer these permits until they expire or are terminated.

Arizona is not authorized by the Federal government to operate the RCRA program on Indian Lands. This authority remains with EPA.

Compliance With Executive Order 12291

The Office of Management and Budget 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. The authorization effectively suspends the applicability of certain Federal regulations in favor of Arizona'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 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: This notice 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).

Dated: November 1, 1985.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 85-27678 Filed 11-19-85; 8:45 am]

BILLING CODE 6550-50-M

40 CFR Part 271

[SW-7-FRL-2926-4]

Missouri Decision on Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Determination of Application of Missouri for Final Authorization.

SUMMARY: Missouri has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed Missouri's application and has reached a final determination that its hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to the State to operate its program in lieu of the Federal program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984.

EFFECTIVE DATE: This authorization shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time December 4, 1985. This approval shall become effective December 4, 1985.

FOR FURTHER INFORMATION CONTACT: Chet McLaughlin, Chief, State Programs Section, U.S. Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 236-2852.

SUPPLEMENTARY INFORMATION: Section 3006 of RCRA allows the Environmental Protection Agency to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste 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 state programs, and (3) provide for adequate enforcement (Section 3006(b) of RCRA, 42 U.S.C. 6226(b)).

On July 19, 1985, Missouri submitted an official application to obtain final authorization to administer the RCRA program. On September 25, 1985, EPA published a tentative decision announcing its intent to grant Missouri final authorization. Along with the tentative determination EPA announced

the availability of the application for public comment and the date of a public hearing on the application. The public hearing was held, as scheduled, on October 28, 1985.

No written public comments were received by the Regional Office. At the hearing, representatives of two industry groups spoke in support of final authorization. The two industry groups which commented were the St. Louis Regional Commerce and Growth Association, and the Associated Industries of Missouri. No other comments were presented at the hearing.

The Missouri program does not include jurisdiction over Indian Lands because there are no Indian Lands in Missouri.

Final authorization is hereby granted to Missouri to operate its hazardous waste management program in lieu of the federal program subject to the limitation on its authority by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984). Missouri now has the responsibility for permitting treatment, storage and disposal facilities within its borders and carrying out the other aspects of the RCRA program. Missouri 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. 6226(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 Missouri. To the extent the authorized State program is unaffected by the HSWA, the State program will operate in lieu of the Federal program. Where HSWA related provisions are in effect, EPA will administer and enforce those provisions in Missouri until the State 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 Federal program. Until that time the State will assist EPA's implementation of the HSWA under a Cooperative Agreement. Missouri is not being authorized today for any requirement implementing the HSWA. The Federal HSWA requirements that are more stringent than the States' program will apply in Missouri. Any State requirement that is more stringent than a Federal HSWA provision will also remain in effect.

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

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of Missouri'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

This notice 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).

Dated: November 12, 1985.

Morris Kay,

Regional Administrator.

[FR Doc. 85-27677 Filed 11-19-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 83-1145; Phase I; FCC 85-598]

Clarification of Allocation Plan Orders; Access and Divestiture Related Tariffs Investigation

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order denying petitions for reconsideration and granting in part petitions for clarification of the Commission's *Allocation Order*.

SUMMARY: The Commission determined in the *Allocation Order* that the routing of all default traffic to AT&T was an unreasonable and discriminatory practice. It prescribed instead a uniform allocation plan and ordered to local exchange carriers to file revisions to their interstate tariffs to reflect the prescribed plan. Four parties filed petitions for reconsideration of the *Allocation Order*. In an Order released August 20, 1985, the Chief, Common Carrier Bureau granted petitions filed by a number of local exchange carriers requesting waiver of various sections of the plan. Four petitions for reconsideration, waiver or clarification of the Bureau's *Waiver Order* were subsequently filed. The Commission's Order disposes of all of these petitions. The Order reaffirms the Commission's prior determination that letters of agency are essential to dispute resolution, but modifies the letter of agency requirement to permit interexchange carriers to submit service orders for end users supported by certification that the carrier has on file, or has taken reasonable steps to obtain, signed letters of agency. The Order also directs that customers may not be charged for changes in their selection of an interexchange carrier if made prior to end office conversion.

EFFECTIVE DATE: November 14, 1985.

FOR FURTHER INFORMATION CONTACT: Pat McQuie Nagle, 1919 M St NW, Washington D.C. 20554. (202) 632-6917.

Memorandum Opinion and Order

In the matter of Investigation of Access and Divestiture Related Tariffs, Petitions for Reconsideration and Clarification of Allocation Plan Orders (CC Docket No. 83-1145, Phase I).

Adopted: November 7, 1985.

Released: November 14, 1985.

By the Commission: