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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-7586-9]

Colorado: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Colorado has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization and is authorizing the State's changes through this immediate final action. We are publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Colorado's changes to their hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on January 13, 2004 unless EPA receives adverse written comment by December 15, 2003. If EPA receives such comment, it will publish a timely withdrawal of this Immediate Final Rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Copies of the Colorado program revision applications and the materials which EPA used in evaluating the revisions are available for inspection and copying at the following locations: EPA Region 8, from 7 AM to 3 PM, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, contact: Kris Shurr, phone number: (303) 312-6139, e-mail: shurr.kris@epa.gov or CDPHE, from 8 AM to 4 PM, 4300 Cherry Creek Drive South, Denver, Colorado 80222-1530, contact: Randy Perila, phone number (303) 692-3364. Send written comments to Kris Shurr, 8P-HW, U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, phone number:

(303) 312-6139 or electronically to shurr.kris@epa.gov.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, 8P-HW, U.S. EPA, Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202-2466, phone number: (303) 312-6139 or shurr.kris@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received Final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that Colorado's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Colorado Final authorization to operate its hazardous waste program with the changes described in the authorization applications. Colorado has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders, except in Indian Country, and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Colorado, including issuing permits, until Colorado is authorized to do so.

C. What Is the Effect of Today's Authorization Decision?

This decision means that a facility in Colorado subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in

order to comply with RCRA. Colorado has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Conduct inspections; require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements; suspend or revoke permits; and,
- Take enforcement actions regardless of whether Colorado has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Colorado is being authorized by today's action are already effective and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change. We are providing an opportunity for the public to comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment, therefore, if you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the Colorado hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective and which part is being withdrawn.

F. What Has Colorado Previously Been Authorized for?

Colorado initially received Final authorization on October 19, 1984,