revisions to the North Carolina State Implementation Plan which were submitted on March 23, 1995.

(i) Incorporation by reference. Addition of new North Carolina rules 15A NCAC 2D .0501, .0516, and .0530 which were state effective on February 1. 1995.

(ii) Other material. None. [FR Doc. 95-23819 Filed 10-3-95; 8:45 am] BILLING CODE 6560-50-F

## 40 CFR Part 271

[FRL-5311-7]

Wyoming; Final Authorization of State **Hazardous Waste Management Program** 

**AGENCY:** Environmental Protection Agency.

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

SUMMARY: Wyoming has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). The United States Environmental Protection Agency (EPA) has reviewed Wyoming's application and has reached a final determination that Wyoming's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to Wyoming to operate its program, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984.

**EFFECTIVE DATE:** Final authorization for Wyoming shall be effective at 1:00 p.m. on October 18, 1995.

FOR FURTHER INFORMATION CONTACT: Marcella DeVargas, (8HWM–WM) 999 18th Street, Suite 500, Denver, Colorado 80202-2466, phone 303/293-1670.

## SUPPLEMENTARY INFORMATION:

## A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows the Environmental Protection Agency (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 July 17, 1995, Wyoming submitted an official application to obtain final authorization to administer the RCRA

program. On July 27, 1995, EPA published a tentative decision announcing its intent to grant Wyoming final authorization. Further background on the tentative decision to grant authorization appears at 60 FR 38537. July 27, 1995.

Ålong 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 on August 29, 1995.

EPA did not receive any written comments. At the public hearing, several oral comments were made expressing support for EPA's tentative determination. One commenter asked if the State had chosen to be more or less stringent than the Federal rules in regard to the RCRA publicly owned treatment works exclusion. The response was the State law requires the State to regulate the same universe of hazardous wastes as is regulated under RCRA, therefore, the State has adopted the federal exclusion for hazardous waste discharged to publicly owned treatment works. The commenter also suggested the Clean Water Act Pretreatment rules also be delegated to the State of Wyoming. Delegation of the pretreatment program is not the subject of this action today.

Because EPA Region VIII and the State worked closely to develop the authorization package, most EPA concerns were addressed before submittal of the application by the State. The State also conducted four (4) public meetings throughout the State, and solicited comments on the draft program description and the draft Memorandum of Agreement from facilities, industry organizations, and environmental

Wyoming's program is "broader in scope" than the Federal program in two significant ways. First, Wyoming rules require an applicant for a permit to demonstrate fitness by requiring that the past performance of the applicant or any partners, executive officers, or corporate directors, be reviewed. Second, county commissions must approve certain hazardous waste management facilities, and certain hazardous waste management facilities must also obtain an industrial siting permit. These portions of Wyoming's program, because they are broader in scope, are not a part of the Federally approved program.

EPA will administer the RCRA permits or portion of permits or administrative orders it has issued to facilities in the State until they expire or are terminated. The State may issue comparable State permits in accordance with the procedures found in Chapter 3 of the Wyoming rules. For facilities without RCRA permits, or for facilities where the State makes technical changes prior to federal permits, the State will call in Part B permit applications.

The regulations under Section 7 of the Endangered Species Act (at 50 CFR Part 402) require that EPA consult with the United States Fish and Wildlife Service (the "Service") regarding this decision. EPA has done so and the Service has concurred with EPA's determination that this authorization is not likely to adversely affect listed species or critical habitat.

The Agency's general policy in authorizing state programs under various federal authorities has been to develop informal coordination procedures with the Service to ensure protection of listed species and critical habitat, and only to consult under section 7 of the ESA after authorization in those instances where EPA is itself the permitting agency subject to section 7 requirements. In addition, the Agency believes that issues related to protection of endangered species and habitat are most effectively addressed in the context of broader programmatic strategies worked out with the states, and EPA will continue to move in this direction with interested parties.

In the case of this RCRA base program authorization for Wyoming, EPA Region VIII and the State have agreed to work closely with the Service to address impacts to listed species or critical habitat that may result from the issuance of RCŘA permits by the State. EPA Region VIII's decision to follow the processes described in the EPA/ Wyoming MOA and correspondence with the Service does not subject EPA after authorization to the consultation requirements of the ESA, nor does it create any rights by any person to enforce the provisions of the ESA against EPA.

Today's decision to authorize the Wyoming hazardous waste regulatory program does not extend to "Indian Country," as defined in 18 U.S.C. 1151, including the Wind River Reservation.

Should Wyoming decide in the future to apply for authorization of its hazardous waste program on Indian Country the State would have to provide an appropriate analysis of the State's jurisdiction to enforce in these areas. In order for a state (or Tribe) to satisfy this requirement, it must demonstrate to the EPA's satisfaction that it has authority either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law to enforce its laws against existing