

US EPA ARCHIVE DOCUMENT

Dated: December 29, 1983.
 Dick Whittington, P.E.,
 Regional Administrator.
 (PR Doc. 84-1889 Filed 1-23-84; 8:45 am)
 BILLING CODE 6980-50-M

40 CFR Part 271

[SW-6-FRL 2511-6]

Hazardous Waste Management Program, Louisiana: Interim Authorization, Phase II, Components A, B and C

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Hazardous Waste Management Program.

SUMMARY: The State of Louisiana has applied for Interim Authorization, Phase II, Components A, B and C. EPA has reviewed Louisiana's application and has determined that Louisiana's hazardous waste program is substantially equivalent to the Federal program covered in Phase II, Components A, B and C. The State of Louisiana is hereby granted Interim Authorization for Phase II, Components A, B and C, to operate the State's hazardous waste program in lieu of the Federal program in the State of Louisiana.

EFFECTIVE DATE: Interim Authorization for Phase II, Components A, B and C, for Louisiana shall become effective January 24, 1984.

FOR FURTHER INFORMATION CONTACT: H. J. Parr, Hazardous Materials Branch, Air and Waste Management Division, Environmental Protection Agency, 1201 Elm St., Dallas, Texas 75270, Telephone (214) 767-2845.

SUPPLEMENTARY INFORMATION:

Background

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. 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 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. Phase I of the program contains standards for persons that generate or transport hazardous waste and Interim Status Standards that persons treating, storing or disposing of hazardous waste must comply with pending the receipt of a permit under Phase II of the program.

The State of Louisiana received Interim Authorization for Phase I on December 19, 1980.

In the January 28, 1981 *Federal Register* (46 FR 7985), the Environmental Protection Agency announced the availability of portions or 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 A was subsequently modified on July 28, 1982 (47 FR 14146) to contain standards for permitting the storage of hazardous waste only in tanks and containers. Component B, published in the *Federal Register* January 23, 1981 (46 FR 7866), contains standards for permitting hazardous waste incinerators.

In the July 28, 1982 *Federal Register* (47 FR 32378), the Environmental Protection Agency announced that states with qualified programs can be authorized for Phase II Interim Authorization, Component C. Component C published in the *Federal Register* includes standards for permitting land disposal facilities (including surface impoundments and waste piles).

Draft Application

The State of Louisiana submitted its draft application for Phase II, Components A, B and C, on May 27, 1983. After detailed review, EPA transmitted comments to the State on June 30, 1983, for consideration. Major issues were identified for resolution before the State could be authorized. These issues involved the substantial equivalence of the State's regulations.

Complete Application

These issues were basically resolved at the time of submittal of the complete application. The Environmental Control Commission adopted emergency rules on August 29, 1983, which resolved the issues.

On October 24, 1983, Louisiana submitted to EPA an official application for Phase II, Components A, B and C. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of Louisiana's hazardous waste management program.

EPA comments were forwarded to the State on November 30, 1983. No major questions were raised in the comments; however, some minor clarifications were requested. By letter dated December 5, 1983, the State responded to all the issues raised by EPA.

Public Hearing and Comment Period

As noticed in the *Federal Register* on November 3, 1983, EPA gave the public the opportunity to comment on the State's application. EPA also issued a public notice for a hearing to be held in Baton Rouge, Louisiana, on December 6 and 7, 1983.

At the hearing, held in two sessions, one in the evening and one in the morning of the next day, no comments were presented. Region VI received four (4) written comments on the Louisiana application.

All comments were considered before reaching a decision on the Louisiana application for Phase II, Components A, B and C, Interim Authorization.

Responsiveness Summary

In response to the notice published announcing the availability of the Louisiana application for Phase II for review, EPA received four (4) comments. All four commenters objected to the disposal of hazardous waste in Louisiana or in the Gulf of Mexico.

Response: The specific issues on siting disposal facilities or the disposal of hazardous waste is not a consideration under this authorization. Rather, the issue is whether the State's hazardous waste program is substantially equivalent to the Federal RCRA program.

While EPA recognizes the concern citizens have regarding the siting of facilities or the disposal of hazardous wastes in their communities, concerned individuals are assured that they will have the opportunity to comment on any facilities proposed in their area. The State of Louisiana has demonstrated equivalence with Section 7004(b)(2) of RCRA which requires that an opportunity for comments be afforded to

everyone and that, on request, a public hearing will be held in the area of such a proposed facility.

Disposal of hazardous waste in the Gulf of Mexico is primarily governed by the Marine Protection Research and Sanctuaries Act, 33 U.S.C. 1401 *et seq.* [Ocean Dumping Act]. Public notice and hearings are also provided under this Act before issuance of a permit.

Decision

EPA has reviewed Louisiana's complete application for Interim Authorization, Phase II, Components A, B and C, and has determined that the State program is substantially equivalent to Phase II, Components A, B and C, of the Federal program as defined in 40 CFR Part 271, Subpart B, as amended at 47 FR 32373 (July 28, 1982). In accordance with Section 3008(c) of RCRA and implementing regulations, Louisiana is hereby granted Interim Authorization for Phase II, Components A, B and C, to operate the State's hazardous waste program in lieu of the Federal program in Louisiana.

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.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

List of Subjects in 40 CFR Part 271

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

Authority

This notice is issued under the authority of Secs. 2002(a), 3008, 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).

Dated: December 29, 1983.

Frances E. Phillips,

Deputy Regional Administrator.

(FR Doc. 84-1865 Filed 1-23-84; 8:45 am)

BILLING CODE 6560-60-01

40 CFR Part 271

(SW-1-FRL 2511-7)

Vermont; Phase II, Components A, B, and C, Interim Authorization State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Final approval.

SUMMARY: The State of Vermont has applied for Interim Authorization for Phase II Components A, B, and C. EPA has reviewed Vermont's application for Phase II Interim Authorization, Components A, B, and C, and has determined that Vermont's hazardous waste program is substantially equivalent to the Federal program covered by Components A, B, and C. The State of Vermont is hereby granted Interim Authorization for Phase II, Components A, B, and C, to operate the State's hazardous waste program.

EFFECTIVE DATE: January 24, 1984.

FOR FURTHER INFORMATION CONTACT: Mary Jane O'Donnell, State Waste Programs Branch, U.S. E.P.A., Region I, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 Federal Register (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which became effective November 19, 1980, were provisions for a transitional stage in which states would be granted interim program authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program has taken effect.

The State of Vermont received Interim Authorization for Phase I on January 8, 1981.

In the January 26, 1981 Federal Register (46 FR 7965), the Environmental Protection Agency announced the availability of portions of the second phase of Interim Authorization. In order to proceed with authorizing State programs as expeditiously as possible

and because some of the standards for hazardous waste treatment, storage and disposal facilities (40 CFR Part 264) have been promulgated at different times, EPA made the second phase of Interim Authorization available in components. On October 1, 1982, EPA published a notice in the Federal Register (47 FR 43405) inviting the public to comment on the Vermont application for Interim Authorization Phase II, Components A, B, and C, at a public hearing on November 9, 1982. This notice also invited the public to submit written comments on the Vermont application to Region I by November 12, 1982. Notice was also given in three major newspapers in Vermont.

On May 5, 1983, EPA determined that the absence of state regulations corresponding to the federal permitting requirements contained in 40 CFR Part 270 (formerly 40 CFR Part 122) precluded EPA from granting Interim Authorization to Vermont. In addition, uncertainty about the legal status of the State's regulations made it impossible to determine whether the Vermont program was substantially equivalent to Part 264.

On September 17, 1983, Vermont adopted regulations that were intended to clarify the legal status of the portion of the Vermont program that corresponded to the federal Part 270 and Part 264 regulations. On September 27, 1983, Vermont submitted a revised application reflecting the newly adopted regulations and the other associated changes to the Vermont program.

On October 20, 1983 EPA published a notice in the Federal Register (48 FR 48890) inviting the public to comment on the revised Vermont application at a public hearing on November 22, 1983. This notice also invited the public to submit written comments on the Vermont application to Region I by November 22, 1983. Notice was also given in three major newspapers in Vermont.

Discussion

The State submitted its application for Phase II, Components A, B, and C, on September 7, 1982. Several issues were raised concerning the substantial equivalence of the State's program. The issues were: whether or not Vermont's facility exemption provision for generators who store hazardous waste on-site for less than 90 days was substantially equivalent to the federal provisions of 40 CFR 262.34; the extent to which Vermont intended to use compliance schedules in permit and the reporting requirements associated with the use of compliance schedules;