

US EPA ARCHIVE DOCUMENT



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DEPARTMENT OF JUSTICE
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May 9, 1989

Mr. Timothy W. Hardy, Assistant Secretary
Louisiana Department of Environmental Quality
Office of Solid and Hazardous Waste
P. O. Box 44066
Baton Rouge, Louisiana 70804

RE: Attorney General's Statement
(Cluster I & II)

Tim
Dear Mr. Hardy:

Attached is the signed Attorney General's Statement for Final Authorization of changes to the Federal Resource Conservation and Recovery Act (RCRA) Program through December, 1986.

For your recollection, this statement incorporates the changes to the original draft statement required by EPA Region VI as pointed out in their letter to you of November 15, 1988. In response to that letter, a revised draft Attorney General's Statement was resubmitted to EPA Region VI on December 12, 1988.

Please note that since the submission of the revised draft statement on December 12, 1988, Region VI pointed out one final concern which needed to be addressed. In their February 1, 1989 letter to you, EPA states:

"That concern is the State regulatory reference given in Section VII, titled "Requirements for Permits." Louisiana Hazardous Waste Regulation (LHWR) Section 4305, effective on April 13, 1988, is cited as equivalent to the Federal regulation at 40 CFR Section 270.70(b). However, Revision Checklist 6 that was submitted on July 19, 1988, cites LHWR Section 4303.G. as the equivalent rule. That rule is an equivalent rule."

The correct citation, however, is State Rule 4303(F), not 4303(G). This correction, along with a corrected Checklist Number 6, was pointed out to EPA in your letter to them of

AG Attached
Signed by LA 5/10/89
~~AG PA signature~~

for package
submitted
5/16/89


- Page 2 -
Mr. Timothy W. Hardy

February 27, 1989. The final Attorney General's Statement attached hereto therefore uses the correct citation to Rule 4303(F) rather than the incorrect 4303(G) mentioned in EPA's letter of February 1.

Trusting that this is what you require, I am,

Sincerely,

WILLIAM J. GUSTE, JR.
ATTORNEY GENERAL



Ian Douglas Lindsey
Assistant Attorney General

WJG,jr./IDL/cah

Attachment

cc: Glenn A. Miller
Vince Sagnibene

LOUISIANA ATTORNEY GENERAL'S STATEMENT FOR FINAL
AUTHORIZATION FOR CHANGES TO THE FEDERAL RCRA
PROGRAM FROM JANUARY, 1983 THROUGH DECEMBER, 1986

I hereby certify, pursuant to my authority as Attorney General and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC 6901 et seq.), and 40 CFR 271 that in my opinion the laws of the State of Louisiana provide adequate authority to carry out the revised program set forth in the revised "Program Description" submitted by the Department of Environmental Quality. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now.

I. IDENTIFICATION AND LISTING

A. State statutes and regulations contain lists of hazardous waste which encompass all wastes controlled under the following Federal regulations as indicated in the designated Revision Checklist:

- (1) Listing of spent pickle liquor from steel finishing operations, 40 CFR 261.32, as amended May 28, 1986 [51 FR 33612], Revision Checklist 26.
- (2) Warfarin and zinc phosphide listing, 40 CFR 261.33(e) and (f), as amended May 10, 1984, [49 FR 19923], Revision Checklist 7.

(Federal Authority: RCRA Sec. 3001(b).)

Citation of Laws and Regulations; Date of Enactment and Adoption

Louisiana Hazardous Waste Regulations (hereinafter "LHWR") Secs. 4901.C and E., effective April 13, 1988.

B. State statutes and regulations define hazardous waste so as to not exclude household waste other than those household wastes excluded in 40 CFR 261.4(b)(1), as amended November 13, 1984 [49 FR 44980], and as indicated in Revision Checklist 9.

(Federal Authority: RCRA Sec. 3001; 40 CFR 261.4(b)(c).)

Citation of Laws and Regulations; Date of Enactment and Adoption

LHWR Sec. 105.D.10, effective April 13, 1988, as amended November 21, 1988.

- C. State statutes and regulations incorporate the most recent edition and updates to "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" (SW-846) as indicated in Revision Checklist 11.

(Federal Authority: RCRA Secs. 2002, 3001 and 40 CFR 260.11, 260.21 and 270.6(a) as amended December 4, 1984 (49 FR 47391).)

Citation of Laws and Regulations; Date of Enactment and Adoption

LHWR Sec. 105.I.1., effective April 13, 1988, as amended November 21, 1988.

Remarks of the Attorney General

The State of Louisiana cannot adopt prospectively, nor can it incorporate by reference. Thus, as the test methods manual is amended, Louisiana will be required to adopt a new regulation specifically referring to the amended test methods manual.

- D. State statutes and regulations define hazardous waste so as to exclude waste pickle liquor sludge generated by lime stabilization, but only to the extent that such waste is excluded by 40 CFR 261.3(c)(2), as amended June 5, 1984, [49 FR 23287], as indicated in Revision Checklist 8.

(Federal Authority: RCRA Sec. 3001; 40 CFR 261.3(c).)

Citation of Laws and Regulations; Date of Enactment and Adoption

LHWR Sec. 105.D, effective April 13, 1988.

II. DEFINITION OF SOLID WASTE

- A. State statutes and regulations define hazardous waste and impose management standards so as to control all the hazardous waste controlled under 40 CFR Parts 261, 264, 265 and 266 as amended January 4, 1985 [50 FR 614-669], April 11, 1985 [50 FR 14216-20], and August 20, 1985 [50 FR 33541-43] as indicated in Revision Checklist 13.

(Federal Authority: RCRA Secs. 3001, 3004)

Citation of Laws and Regulations; Date of Enactment and Adoption

LHWR Secs. 105.B; 105.D.28-35; 109; 3105; 3907; 4105.A and B; 4113; 4115; 4139.A.2; 4139.B.2 and 3; 4141.A.1 and 2, B.1, C.1 and 2, D, E and F; 4143.A, B, C and D; 4513; 4523; 4901.A and C, effective April 13, 1988, as amended November 21, 1988.

III. SATELLITE ACCUMULATION

State statutes and regulations allow generators to accumulate at the site of generation, without a permit or interim status, as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste provided that the generator complies with the requirements specified in Sec. 262.34(c) as indicated in Revision Checklist 12.

(Federal Authority: RCRA Secs. 2002, 3002, 3004, 3005 and 40 CFR 262.34(c) as amended December 20, 1984 (49 FR 49571).)

Citation of Laws and Regulations; Date of Enactment and Adoption

LHWR Sec. 1109.E.4, effective April 13, 1988, as amended November 21, 1988.

IV. APPLICABILITY OF INTERIM STATUS STANDARDS

- A. State statutes and regulations contain the following

requirements regarding interim status standards as indicated in Revision Checklist 10:

- (1) Interim status standards apply to facilities identified in 40 CFR 265.1(b).

(Federal Authority: RCRA Sec. 3004; 40 CFR Part 265 as amended November 22, 1983 (48 FR 52718) and November 21, 1984 (49 FR 46095.)

Citation of Laws and Regulations; Date of Enactment and Adoption

LHWR Sec. 4301.A and B, effective April 13, 1988, as amended November 21, 1988.

V. STANDARDS FOR FACILITIES

- A. State statutes and regulations require that closure and post-closure requirements and special requirements for containers apply to interim status landfills as indicated in Revision Checklist 15.

(Federal Authority: RCRA Sec. 3004; 40 CFR 265.310, .315 as amended April 23, 1985 (50 FR 16044).)

Citation of Laws and Regulations; Date of Enactment and Adoption

LHWR Secs. 2521.A and B; 2517.A and B, effective April 13, 1988.

- B. State statutes and regulations require compliance with closure/post-closure and financial responsibility requirements applicable to owners and operators of hazardous waste treatment, storage and disposal facilities, as indicated in Revision Checklist 24.

(Federal Authority: RCRA Secs. 3004 and 3005, 40 CFR 260, 264, 265, and 270 as amended May 2, 1986 (51 FR 16422).)

Citation of Laws and Regulations; Date of Enactment and Adoption

LHWR Secs. 109; 321.C and C.4; 517.N-P; 3501.B and C;

3507; 3511-3517; 3521-3527; 3703.A.7; 3705.A-C;
3707.A.10, B.4, C.5, D.8, E.5, F.1, I; 3709.A-C;
3711.A.11, B.4, C.5, D.9, E.5, F.1 and 2, I; 3715.E;
3719.13; 4377-4387; 4389.A-D; 4391-4395; 4397.A; 4399;
4401; 4403.A.10, B.4, C.1 and C.8, D.5, E.1 and 2, H;
4405.A-C; 4407.A.11, B.4, D.5 and 9, E.1 and 2, H;
4411.E, effective April 13, 1988, as amended November
21, 1988.

VI. AVAILABILITY OF INFORMATION

State statutes and regulations provide that:

- (1) All records shall be available to the public unless they are exempt from the disclosure requirements of the Federal FOIA, 5 U.S.C. 552;
- (2) All nonexempt records will be available to the public upon request regardless of whether any jurisdiction or need for such records has been shown by the requestor;
- (3) The same types of records would be available to the public from the State as would be available from EPA.
- (4) Information is provided to the public in substantially the same manner as EPA as indicated in 40 CFR Part 2 and Revision Checklist Appendix D.

(Federal Authority: RCRA Sec. 3006(f); 40 CFR Sec. 271.17(c).)

Citation of Laws and Regulations; Date of Enactment and Adoption

La. R.S. 30:1076; La. R.S. 44:1(A)(2); 44:31-33, 44:35.

VII. REQUIREMENTS FOR PERMITS

- A. Facility owners or operators are given the opportunity to cure deficient Part A applications in accordance with 40 CFR 270.70(b) before failing to qualify for interim status as indicated in Revision Checklist 6.

(Federal Authority: RCRA Sec. 3005; 40 CFR Part 270 as amended April 24, 1984, (49 FR 17716).)

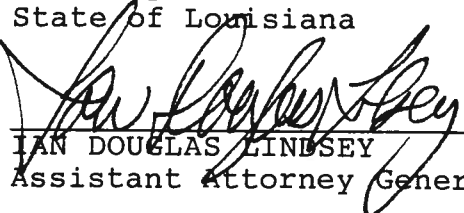
Citation of Laws and Regulations; Date of Enactment and Adoption

LHWR Sec. 4303(F), effective April 13, 1988.

Dated this 10th day of May, 1989

WILLIAM J. GUSTE, JR.
Attorney General
State of Louisiana

BY:


IAN DOUGLAS LINDSEY
Assistant Attorney General