

US EPA ARCHIVE DOCUMENT

**PART 165—[AMENDED]**

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. A temporary § 165.T01-160 is added to read as follows:

**§ 165.T01-160 Safety Zone: First Night Vineyard Haven Fireworks Display.**

(a) **Location.** The following area is a safety zone: All waters within a 400 yard radius of the anchored fireworks barge which will be in approximate position 41° 27' 36" North 70° 35' 48" West (approximately 300 yards north of the Vineyard Haven jetty).

(b) **Effective date.** This section becomes effective at 10 p.m. on December 31, 1994. It terminates at 10:45 p.m. on December 31, 1994, unless terminated sooner by the Captain of the Port.

(c) **Regulations.** The general regulations governing safety zones contained in 33 CFR 165.23 apply.

Dated: December 13, 1994.

**P.A. Turlo,**

*Captain, U.S. Coast Guard, Captain of the Port, Providence, RI.*

[FR Doc. 94-31627 Filed 12-22-94; 8:45 am]

**BILLING CODE 4910-14-M**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 271**

[FRL-5127-6]

### **Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Immediate final rule.

**SUMMARY:** The State of Louisiana has applied for Final Authorization for revisions to its hazardous waste program under the Resource Conservation and Recovery Act. The Environmental Protection Agency (EPA) reviewed Louisiana's application and decided that its hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Unless adverse written comments are received during the review and comment period provided for public participation in this process, EPA intends to approve Louisiana's hazardous waste program revision subject to the authority retained by EPA in accordance with the

Hazardous and Solid Waste Amendments of 1984. Louisiana's application for the program revision is available for public review and comment.

**DATES:** This Final Authorization for Louisiana shall be effective March 8, 1995, unless EPA publishes a prior Federal Register (FR) action withdrawing this Immediate Final Rule. All comments on Louisiana's program revision application must be received by the close of business February 6, 1995.

**ADDRESSES:** Copies of the Louisiana program revision application and the materials which EPA used in evaluating the revision are available for inspection and copying from 8:30 a.m. to 4 p.m. Monday through Friday at the following addresses: Louisiana Department of Environmental Quality, H. B. Garlock Building, 7290 Bluebonnet, Baton Rouge, Louisiana 70810, phone (504) 765-0617 and EPA, Region 6 Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 665-6444. Written comments, referring to Docket Number LA-95-2, should be sent to Alima Patterson, Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665-8533.

**FOR FURTHER INFORMATION CONTACT:** Alima Patterson, Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, (214) 665-8533.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA or the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR 124, 260-268, and 270.

##### **B. Louisiana**

Louisiana initially received Final Authorization, effective February 7,

1985 (see 50 FR 3348), to implement its base hazardous waste management program. Louisiana received authorization for revisions to its program effective January 29, 1990 (see 54 FR 48889), and October 25, 1991 (see 56 FR 41958), Corrections at (56 FR 51762) and effective January 23, 1995 (see 59 FR 55368-55371). On December 7, 1994, Louisiana submitted a final complete program revision application for additional program approvals. Today, Louisiana is seeking approval of its program revision in accordance with 40 CFR 271.21(b)(3).

In 1983, the Louisiana Legislature adopted Act 97, which amended and reenacted Louisiana Revised Statutes 30:1051 et seq., the Environmental Affairs Act. This Act created the Louisiana Department of Environmental Quality (LDEQ), which has lead agency jurisdictional authority for administering the RCRA Subtitle C program in the State.

EPA reviewed LDEQ's application, and made an immediate final decision that LDEQ's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Final Authorization for the additional program modifications to the State. The public may submit written comments on EPA's final decision until February 6, 1995. Copies of LDEQ's application for program revision are available for inspection and copying at the locations indicated in the ADDRESSES section of this notice.

Approval of LDEQ's program revision shall become effective 75 days from the date this notice is published, unless an adverse written comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse written comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to the comment that either affirms that the immediate final decision takes effect or reverses the decision.

Louisiana's program revision application includes State regulatory changes that are at least equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR Parts 124, 260-262, 264, 265, 266 and 270, that were published in the FR through June 30, 1988. This proposed approval includes the provisions that are listed in the chart below. This chart also lists the State analogs that are being recognized as equivalent to the appropriate Federal requirements.

| Federal citation                                                                                                                                              | State analog                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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| <p>26<br/>26.1<br/>26.2<br/>40<br/>41<br/>43<br/>45</p> <p>1. Listing of Spent Pickle Liquor (062), [51 FR 19320] May 28, 1986. (Checklist 26).</p>           | <p>Louisiana Statutes (LRS) 30: §2180 et seq, as amended June 14, 1991, effective June 14, 1991; Louisiana Hazardous Waste Regulations (LHWR) §4901.C. Table 2, as amended September 20, 1994, effective September 20, 1994.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>2. List (Phase 1) of Hazardous Constituents for Ground-Water Monitoring, [52 FR 25942] September 7, 1987. (Checklist 40).<br/>July 9, 1987</p>             | <p>LHWR §3319.F, as amended July 20, 1990; effective July 20, 1990; LHWR §3325 Table 4, as amended November 20, 1992; effective November 20, 1992; §520.D.2, as amended November 20, 1992; effective November 20, 1992.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>3. Identification and Listing of Hazardous Waste (Container/Inner Liner Correction), [52 FR 26012] October 16, 1987. (Checklist 41).<br/>July 10, 1987</p> | <p>LHWR §4901.E-F, as amended September 20, 1994; effective September 20, 1994; LHWR §3105. Table 1, as amended September 20, 1994; effective September 20, 1994.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <p>4. Liability Requirements for Hazardous Waste Facilities; Corporate Guarantee, [52 FR 44314] November 18, 1987. (Checklist 43).</p>                        | <p>LHWR §3715.G.2-3, as amended July 20, 1992; effective July 20, 1992; LHWR §3719.H.2, as amended July 20, 1992; effective July 20, 1992; LHWR §4411.G.2-3, as amended July 20, 1992; effective July 20, 1992.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p>5. Hazardous Waste Miscellaneous Units, [52 FR 46946] December 10, 1987. (Checklist 45).</p>                                                               | <p>LHWR §3301.E, as amended September 20, 1994; effective September 20, 1994; LHWR §109, as amended October 20, 1994; effective October 20, 1994; LHWR §1501.A, as amended November 20, 1992; effective November 20, 1992; LHWR §1509.B.4, as amended November 20, 1992; effective November 20, 1992; LHWR §1503.B.3.a.ii, as amended November 20, 1992; effective November 20, 1992; LHWR §1529.B.9, as amended September 20, 1994; effective November 20, 1994; LHWR §3301.E, as amended September 20, 1994; effective September 20, 1994; LHWR §3507.C, as amended November 20, 1992; effective November 20, 1992; LHWR §3511.A.2, as amended December 20, 1992; effective December 20, 1992; §3515, as amended July 20, 1990; effective July 20, 1990; LHWR §3521.A.1.a-b, as amended May 20, 1990; effective May 20, 1990; LHWR §3523.B.1-2.b, as amended November 20, 1992; effective November 20, 1992; LHWR §3705.A, as amended July 20, 1992; effective July 20, 1992; LHWR §3709.A, as amended May 20, 1990, effective May 20, 1990; LHWR §3715.B, as amended July 20, 1992; effective July 20, 1992; §3201, as amended May 20, 1990; effective May 20, 1990; LHWR §3203-C.7, as amended May 20, 1990; effective May 20, 1990; LHWR §3205, as amended November 20, 1992; effective November 20, 1992; LHWR §3207, as amended November 20, 1992; effective November 20, 1992; LHWR §517.G, as amended November 20, 1992; effective November 20, 1992; LHWR §517.M, as amended November 20, 1992; effective November 20, 1992; LHWR §5534-34.E, as amended May 20, 1990; effective May 20, 1990.</p> |
| <p>46<br/>6. Technical Correction; Identification and Listing of Hazardous Waste, [53 FR 13382] April 22, 1988. (Checklist 46).</p>                           | <p>LHWR §4901.E-F, as amended September 20, 1994; effective September 20, 1994; and LHWR §3105. Table 1, as amended September 20, 1994; effective September 20, 1994.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

Louisiana is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

#### C. Decision

I conclude that LDEQ's application for a program revision meets the statutory and regulatory requirements established by RCRA. Accordingly, LDEQ is granted Final Authorization to operate its hazardous waste program as revised. Louisiana now has responsibility for permitting treatment, storage, and disposal facilities within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Louisiana also has primary enforcement responsibilities, 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.

#### D. Codification in Part 272

EPA uses 40 CFR part 272 for codification of the decision to authorize LDEQ's program and for incorporation by reference of those provisions of its Statutes and regulations that EPA will enforce under Section 3008, 3013, and 7003 of RCRA. Therefore, EPA is reserving amendment of 40 CFR part 272, subpart T until a later date.

#### Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

#### Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 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. This authorization effectively suspends the applicability of certain Federal regulations in favor of Louisiana's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. This authorization 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

Environmental protection, 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: December 14, 1994.

William B. Hathaway,

Acting Regional Administrator.

[FR Doc. 94-31615 Filed 12-22-94; 8:45 am]

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## GENERAL SERVICES ADMINISTRATION

41 CFR Parts 201-1, 201-3, 201-20,  
and 201-39

[FIRM Amendment 3]

RIN 3090-AF04

### Amendment of FIRM Provisions Relating to FIRM Applicability, FIRM Bulletins, and Present Value Analysis

AGENCY: Information Resources  
Management Service, GSA.

ACTION: Final rule.

**SUMMARY:** This document amends the Federal Information Resources Management Regulation (FIRM) regarding: FIRM applicability provisions relating to the replacement of embedded Federal information processing FIP resources, the delivery of small or inconsequential quantities of FIP resources under non-FIP procurements, and the availability of guidance on interpreting FIRM applicability provisions; the nonmandatory nature of FIRM bulletins; and the use of OMB Circular A-94 in performing present value analysis when evaluating bids and proposals.

**EFFECTIVE DATE:** January 23, 1995.

**FOR FURTHER INFORMATION CONTACT:** Anne Horth, telephone FTS/Commercial (202) 501-0960 (v) or (202) 501-0657 (td).

**SUPPLEMENTARY INFORMATION:** (1) This amendment was published in a notice of proposed rulemaking in the January 3, 1994 issue of the Federal Register. All comments were considered and, where possible, were incorporated into the amendment. Some comments, which would involve amendments beyond what was intended in these revisions, were not adopted so that this amendment could be issued as quickly as possible to allow agencies to take advantage of the new exceptions to the FIRM. The comments that were not fully accommodated are discussed below:

(a) A number of comments related to the new \$500,000 exception to FIRM applicability for small quantities of FIP resources. Several respondents felt that

the exception should be expanded by increasing the amount or basing the exception on a percentage as well as the dollar amount. Others did not have a clear understanding of the meaning of "predominantly for non-FIP resources." The language in the final rule has been modified to clarify the meaning of the exception and will provide additional flexibility. However, the intent of this exception was to capture situations where some FIP resources will be delivered in a contract but are of little consequence to the major purpose of the contract. Many such situations have been the subject of protest decisions issued by the General Services Board of Contract Appeals and an effort is being made to align the regulations with some of these decisions. The amendment should eliminate some of the situations that have created unnecessary protests. It provides broader flexibility to agencies in acquisitions of mixed requirements where the FIP resources required are only a minor portion of and do not constitute the principle purpose of a solicitation or contract, or where the FIP resources are of little consequence to the purpose of the contract. The exception applies to all FIP resources to be delivered to or acquired for use by the Government or users designated by the Government. Additional guidance will be provided in revisions to FIRM Bulletin A-1.

(b) Suggestions were made to extend the exception for replacement of embedded FIP to other acquisitions for spare parts or upgrades. The intent of this exception extends only to replacement of embedded FIP resources that initially meet the criteria for exception from the FIRM. Spare parts or upgrades (unless for the embedded resource) do not meet this description.

(c) Suggestions were made for expansion of the language regarding OMB Circular A-94 or for issuance of guidance. Questions have arisen regarding the mandatory nature of the Circular; its application to purchase (where payments will extend over time) of FIP resources; to services, and to evaluation of sealed bids as well as proposals for FIP resources; and the rates to be applied in specific type acquisitions. The Circular applies to FIP resources, including services. Section 8.c(4) of the Circular specifically addresses information technology requirements. The Circular is mandatory in some situations, but may not be in other situations (e.g., for some acquisitions for less than three years). The rate to be used depends on the type of analysis. An agency must, after review of the Circular, make a determination in each situation as to

whether it applies and whether the use of present value factors would make a difference in final prices/costs. The intent of this amendment is to direct agencies to the Circular as a resource in evaluations of bids and proposals, since it replaces rescinded OMB Circular A-104, which was previously used. Details in the regulation could cause confusion, since the Circular may be applied differently in various situations. OMB will assist agencies with the bulletin. Agencies should provide internal guidance. FAR 7.4 contains some guidance on lease vs. purchase buys that may be helpful. GSA will consider additional guidance for FIP resources as the Acquisition Guides are updated.

(d) There were proposals that GSA provide exceptions for broad categories of equipment, such as building support systems. Exceptions for specific categories of equipment are not listed in the regulation itself. GSA will take these suggestions under consideration in making appropriate revisions in FIRM Bulletin A-1.

(2) Explanations of the amendments follow:

(a) Part 201-1 and subpart 201-39.1 are amended to be responsive to agency concerns that the replacement of FIP resources that initially were excepted from FIRM applicability as embedded FIP equipment should also be excepted. Since the FIP resources would be used in the same manner as used initially, the amendment grants an exception to FIRM applicability for the replacement of any FIP equipment, software, or related supplies used in the embedded FIP equipment that has already been granted an exception under § 201-1.002-2(e), regardless of the cost of the replacement resources. This change also clarifies that the criteria for excepting embedded FIP equipment applies to an individual product and not to all the products being acquired.

(b) Part 201-1 and subpart 201-39.1 are also amended to provide an exception to FIRM applicability for small amounts of FIP resources that will be delivered to the Government when an acquisition is primarily for other purposes and the FIP resources constitute a minimal or insignificant part of the contract. Currently, the FIRM applies to all FIP resources delivered to a Federal agency or users designated by the agency, no matter how minimal. Given the legislative exceptions for FIP resources that are no "significant" or are "incidental to the performance of a Federal contract," GS, believes that a FIRM exception is appropriate for acquisitions of FIP resources with a relatively low dollar value when the principal purpose of the

