

under FFDCA section 408(d) do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 30, 2018.

Anita Pease,

Acting Director, Antimicrobial Division,
Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

- 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

- 2. Add § 180.1364 to subpart D to read as follows:

§ 180.1364 Chlorate; exemption from the requirement of a tolerance.

Residues of chlorate in or on tomato and cantaloupe are exempt from the requirement of a tolerance when resulting from the application of gaseous chlorine dioxide as a fungicide, bactericide, and antimicrobial pesticide.

[FR Doc. 2018-27908 Filed 12-21-18; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA-R06-RCRA-2018-0395; FRL-9987-30-Region 6]

Louisiana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On September 5, 2018, the Environmental Protection Agency (EPA) published a notice of proposed rulemaking to approve a revision to the State of Louisiana hazardous waste program under the Resource Conservation and Recovery Act (RCRA) and provided for a thirty-day public comment period. The public comment period closed on October 5, 2018, and EPA received fifteen comments. The EPA has reviewed and analyzed all submitted comments, and now issues this final rule. After consideration of all comments, EPA confirms that the program revisions to the State of Louisiana hazardous waste program satisfy all requirements needed to qualify for final authorization.

DATES: This final authorization is effective December 26, 2018.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-RCRA-2018-0395. All documents in the docket are listed in www.regulation.gov index. Although listed in the index, some of the information is not publicly available. *e.g.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard

copy. Publicly available docket materials are available either electronically through www.regulation.gov or in hard copy. You can view and copy Louisiana’s application and associated publicly available materials from 8:30 a.m. to 4:00 p.m., Monday through Friday, at the following locations: Louisiana Department of Environmental Quality, 602 N Fifth Street, Baton Rouge, Louisiana 70884-2178, phone number (225) 219-3559 and EPA, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, phone number (214) 665-8533.

FOR FURTHER INFORMATION CONTACT:

Alima Patterson, Region 6, Regional Authorization/Codification Coordinator, Permit Section (6MM-RP), Multimedia Division, (214) 665-8533, EPA Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733, and Email address patterson.alima@epa.gov.

SUPPLEMENTARY INFORMATION:

A. What revisions is EPA authorizing with this action?

On March 13, 2018, LDEQ submitted a final complete program revision application seeking authorization of its program revision in accordance with 40 CFR 271.21. EPA now makes a final decision that LDEQ’s hazardous waste program revisions satisfy all the requirements necessary to qualify for final authorization. EPA will continue to implement and enforce Hazardous and Solid Waste Amendments of 1984 (HSWA) provisions for which the State is not authorized. For a list of rules that become effective with this Final Rule, please see the Proposed Rulemaking published in the September 5, 2018, **Federal Register** at 83 FR 45061.

B. What were the comments and responses to EPA’s proposal?

EPA received fifteen comments. Twelve comments were supportive of EPA to grant the State of Louisiana portions of the Subtitle C Hazardous Waste Management Program and two were irrelevant to the proposed rulemaking. EPA received a written adverse comment from TD*X Associates LP, Beaumont Texas, (TD*X) requesting that EPA not authorize the State of Louisiana to implement the regulatory provisions commonly known as the “Verified Recycler Exemption,” or “VRE.” EPA received only one adverse comment, from TD*X, opposing EPA’s proposal to authorize revisions to Louisiana’s hazardous waste regulations. The full set of comments can be found in the docket for this action. The commenter asserts that the

Louisiana program that employs both the VRE and the associated Verified Reclamation Facility (VRF) variance is not protective of human health and the environment, and does not implement the State's legally mandated requirement to enforce regulations for the management of designated hazardous waste materials that are at least as stringent as the RCRA regulations. TD*X's extensive comments address two issues related to (1) EPA's proposed authorization of the Louisiana Department of Environmental Quality (LDEQ) revised hazardous waste management program as published in the **Federal Register** on September 5, 2018, at 83 FR 45061, and (2) Louisiana's April 19, 2018, proposal to issue a site-specific feedstock variance from the classification as a solid waste to Thermaldyne LLC—Thermaldyne Port Allen Facility, in accordance with the Louisiana Administrative Code (LAC) 33:V.105.O.1.b and 105.O.2.b [analogous to 40 CFR 260.30(b) and 260.31(b)] (Further information about the LDEQ proposal to issue a site-specific variance to Thermaldyne LLC can be found at <http://www.deq.louisiana.gov/public-notices>). In accordance with the approval process found at 40 CFR part 271, EPA provides the following responses to comments regarding authorization of Louisiana's requested program revision:

1. The commenter stated that EPA Region 6 should either: Not authorize the LDEQ State program if it includes any of the court vacated VRE language and conditions; or issue a limited program authorization that excludes any reference to either the VRE or VRF variance process. Specifically, the commenter argued that if Louisiana is authorized, including any of the VRE language, then all references to LDEQ being allowed to issue a VRF variance should be struck and that a specific reference or condition should be included in the EPA authorization requiring that LDEQ not issue any VRF variance for a "recycling" facility that employs a treatment method that EPA has designated as requiring a specific RCRA permit. The commenter also requested EPA to eliminate the following statement in the **Federal Register** at 83 FR 45061 (September 5, 2018), on page 45066, Section G: "For the purposes of RCRA section 3009, the Agency has determined that the broader in scope provisions are more protective/stricter, thus being within the State's authority to maintain them as part of the State's RCRA program." For the reasons set forth below, EPA does not agree with the commenter.

EPA did not propose to authorize Louisiana for the VRE requirements that were vacated by the Court of Appeals for the District of Columbia Circuit, *Am. Petroleum Inst. v. EPA*, 862 F.3d 50 (D.C. Cir. 2017) and *Am. Petroleum Inst. v. EPA*, 883 F.3d 918 (D.C. Cir. 2018). On page 83 FR 45066, column 3 of the proposed rulemaking, EPA specified that the Agency considers the Louisiana VRE requirements broader in scope than EPA regulations. EPA further clarified that the LDEQ provisions that are broader in scope than the federal regulations are not part of the proposed program authorization because EPA cannot enforce requirements that are broader in scope, even if compliance with such provisions is required by Louisiana law. LDEQ may implement these state regulations because they are at least as stringent as federal law, but because they are broader in scope than federal law, they are not federally enforceable. EPA addressed this question in the Final Rule, "Response to Vacatur of Certain Provisions of the Definition of Solid Waste Rule" in the **Federal Register** at 83 FR 24664, 24666, May 30, 2018: "For states that have adopted rules similar to the verified recycler exclusion and the 2015 definition of legitimate recycling, but have not yet been authorized for them, the vacatur of the federal rules will not change the authorization status of the state program. . . . The vacatur and subsequent reinstatement of various provisions of the prior federal rules will result in state provisions that are broader in scope than the federal program as it pertains to the specific vacated provisions."

With respect to the issuance of variances, if the material receives an exclusion or variance from being a solid waste, it is by definition not a hazardous waste and does not have to be treated as such, subject to any conditions in the exclusion or variance. The State of Louisiana has the authority to issue site-specific variances from classification as a solid waste under 40 CFR 260.30(a) through (c) and 260.31(a) through (c) in lieu of EPA since EPA first authorized the state for the initial Definition of Solid Waste (DSW) final rule (50 FR 614, January 4, 1985; as amended by the final rules published at 50 FR 14216, April 11, 1985; and 50 FR 33541, August 20, 1985). In accordance with 40 CFR 260.30 and 260.31, the granting of variances for reclaimed materials is site-specific and the variances are granted on a case-by-case basis. In granting variances, an authorized state must evaluate the particular waste material managed and types of processing

operations conducted. Authorized states that implement hazardous waste programs have reasonable flexibility to evaluate case-by-case situations within their state.

Finally, RCRA 3009 states that nothing prohibits a state from imposing ANY requirements which are more stringent than our rules. Also, under 40 CFR 271.1(i), states are not precluded from having requirements that are more stringent or more extensive; or operating a program with a greater scope of coverage but the greater in scope coverage is not part of federally approved program. For the purposes of federal authorization and enforcement, the EPA RCRA hazardous waste regulations distinguish between these two kinds of allowable state requirements. While state requirements that are more stringent may be authorized as part of the state's RCRA program, broader in scope state provisions cannot be authorized. The preamble of the 2015 DSW rule (80 FR 1694; January 13, 2015) documented in detail the additional requirements that must be met to qualify for the state's verified recycler exclusion, compared to the transfer-based exclusion that was reinstated by the court. EPA stated in the preamble that the changes to the standards and criteria for variances from classification as a solid waste discussed in section IX (Revisions to Solid Waste Variances and Non-Waste Determinations) are more stringent than the existing federal hazardous waste program, including the transfer-based exclusion (see 80 FR 1732—1735; January 13, 2015). Based on the EPA guidance document, "Determining Whether State Hazardous Waste Requirements are More Stringent or Broader in Scope than the Federal RCRA Program" (December 23, 2014), as discussed in Section G.1 of the proposed rulemaking preamble, EPA affirms that the LDEQ provisions that are broader in scope than the federal regulations are not part of the program proposed to be authorized by the September 5, 2018, **Federal Register** document (83 FR 45061). EPA cannot enforce requirements that are broader in scope, although compliance with such provisions is required by Louisiana law.

2. The commenter presented an example involving LDEQ's proposal to issue a VRF variance to the Thermaldyne facility in Port Allen, Louisiana, as an example of why EPA should not authorize LDEQ for the VRE requirements. The commenter stated that the Thermaldyne facility uses a hazardous waste combustor to treat RCRA regulated listed and characteristic hazardous waste materials, and that

"the facility embodies all of the aspects of sham recycling that the 1989 Lowrance Memo [RO 11426], and both the 2008 and 2015 DSW rulemakings were intended to prohibit." EPA responds to this comment as follows:

Issues regarding individual facilities are beyond the scope of this rulemaking. The purpose of the proposed rulemaking published at 83 FR 45061, September 5, 2018, was not to evaluate recycling activities at particular facilities or VRF variance applications. The Louisiana proposed rulemaking addresses regulations that the state adopted and EPA reviewed. EPA concluded that the state regulations, except for the court vacated provisions, are equivalent and consistent with the federal RCRA Subtitle C program, as amended through April 17, 2015. EPA reiterates that the Agency determined the Louisiana VRE standard is broader in scope than the federal regulations and, accordingly, did not propose to authorize the State of Louisiana for the VRE standard.

C. Final Action

Based on the comments received in response to the proposed authorization of the State of Louisiana hazardous waste program, EPA's responses to the comments, and consideration of the administrative record, EPA is granting final authorization of the state's program, except for the VRE and other state provisions which are broader in scope than federal rules and remain unaffected by the vacatur ordered by the United States Court of Appeals for the District of Columbia Circuit, on July 7, 2017, as modified on March 6, 2018. EPA retains its authority under RCRA sections 3007, 3008, 3013 and 7003 which include, among others, authority to: (1) Take enforcement actions regardless of whether the state has taken its own action, (2) enforce RCRA requirements and suspend or revoke permits; and (3) perform inspections, and require monitoring, tests, analyses or reports.

D. What is codification and is the EPA codifying Louisiana's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272 subpart T for this authorization of Louisiana's program changes until a later date. In this authorization application, the EPA is

not codifying the rules documented in this **Federal Register** notice.

E. Administrative Requirements

This final authorization revises Louisiana's authorized hazardous waste management program pursuant to RCRA section 3006 and imposes no requirements other than those currently imposed by state law. For further information on how this authorization complies with applicable executive orders and statutory provisions, please see the proposed rulemaking published in the **Federal Register** (83 FR 45061, September 5, 2018).

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action 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 18, 2018.

Anne Idsal,

Regional Administrator, Region 6.

[FR Doc. 2018-27794 Filed 12-21-18; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[WT Docket Nos. 12-40 and 16-138; RM-11510, RM-11660; FCC 18-92]

Cellular Service, Including Changes in Licensing of Unserved Area

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the information collection requirements associated with the Commission's *Third Report and Order*, WT Docket Nos. 12-40 and 16-138, RM Nos. 11510 and 11660, FCC 18-92. This notification is consistent with the *Third Report and Order*, which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the requirements.

DATES: The amendment to 47 CFR 22.303, published at 83 FR 37760 (Aug. 2, 2018), is effective on January 2, 2019.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Cathy Williams, *Cathy.Williams@fcc.gov*, (202) 418-2918.

SUPPLEMENTARY INFORMATION: This document announces that, on November 27, 2018, OMB approved the revised information collection requirements contained in the Commission's *Third Report and Order*, FCC 18-92, published at 83 FR 37760, Aug. 2, 2018. The OMB Control Number is 3060-0508. The Commission publishes this document as an announcement of the effective date of the requirements. If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Cathy Williams, Federal Communications Commission, Room 1-C823, 445 12th Street SW, Washington, DC 20554. Please include the OMB Control Number, 3060-0508, in your correspondence. The Commission will also accept your comments via email at *PRA@fcc.gov*.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Commission is notifying the public that it received OMB approval on November 27, 2018, for the revised information collection requirements contained in the Commission's rule at 47 CFR 22.303. Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060-0508.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, and 44 U.S.C. 3507.

The total annual reporting burdens and costs for the respondents are as follows:

OMB Control Number: 3060-0508.