

require a Statement of Energy Effects under Executive Order 13211.

### Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

### Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph 34(g), of the Instruction. This rule involves establishing a temporary safety zone, as described in paragraph 34(g) of the Instruction, on the waters of the New River in Fort Lauderdale, Florida that will be in effect for less than three hours. An environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

**Authority:** 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07-0589 to read as follows:

#### § 165.T07-0589 Safety Zone; Rotary Club of Fort Lauderdale New River Raft Race, New River, Fort Lauderdale, FL.

(a) *Regulated Area.* The following regulated area is a safety zone. All waters of the New River contained within an imaginary line connecting the following points: starting at Point 1 in position 26°07'10" N, 80°08'52" W; thence southeast to Point 2 in position 26°07'05" N, 80°08'34" W; thence southwest to Point 3 in position 26°07'04" N, 80°08'35" W thence northwest to Point 4 in position 26°07'08" N, 80°08'52" W; thence north back to origin. All coordinates are North American Datum 1983.

(b) *Definition.* The term "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the regulated area.

(c) *Regulations.* (1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area unless authorized by the Captain of the Port Miami or a designated representative.

(2) Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Miami via telephone at 305-535-4472, or a designated representative via VHF radio on channel 16, to seek authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or a designated representative.

(3) The Coast Guard will provide notice of the regulated area via Local Notice to Mariners, Broadcast Notice to Mariners, and by on-scene designated representatives.

(d) *Effective Date.* This rule is effective from 11:59 a.m. until 2:30 p.m. on November 19, 2011.

Dated: September 25, 2011.

**C.P. Scraba,**

*Captain, U.S. Coast Guard, Captain of the Port Miami.*

[FR Doc. 2011-25974 Filed 10-6-11; 8:45 am]

**BILLING CODE 9110-04-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 271

[FRL-9476-2]

#### California: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final determination.

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

**DATES:** *Effective Date:* Final authorization for the revisions to California's hazardous waste management program shall be effective at 1 p.m. on October 7, 2011.

**FOR FURTHER INFORMATION CONTACT:** Zac Appleton, WST-3, U.S. EPA Region 9, 75 Hawthorne Street, San Francisco 94105-3901, (415) 972-3321.

#### SUPPLEMENTARY INFORMATION:

#### A. Why are revisions to state programs necessary?

States which have received final authorization from EPA under RCRA Section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of

changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

California initially received final authorization on July 23, 1992, effective August 1, 1992 (57 FR 32726), to implement the RCRA hazardous waste management program. EPA granted authorization for changes to California's program on September 26, 2001, effective September 26, 2001 (66 FR 49118). EPA made the tentative determination to approve subsequent changes to California's program when it invited public comment in a **Federal Register** Notice on September 30, 2010 (75 FR 60398).

#### **B. What were the comments and responses to EPA's proposal?**

On September 30, 2010, EPA published a tentative determination announcing its intent to grant California final authorization for the revisions to its base program. Further background on the tentative decision to grant authorization appears at Vol. 75, No. 189, September 30, 2010 at pages 60398–60403.

Along with the tentative determination, EPA announced the availability of the application for public comment. EPA received no comments.

#### **C. What decisions have we made in this rule?**

EPA has made the final determination that California's application for authorization of the subject revisions meets all of the statutory and regulatory requirements established by RCRA. Therefore, with respect to the revisions, we are granting California final authorization to operate its hazardous waste program as described in the revisions authorization application. California will continue to have responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) 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 Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized states before such states are authorized for the requirements. Thus, for revisions to the Federal program for which California has not yet sought authorization, EPA will continue to implement those HSWA requirements and prohibitions in California, including issuing permits, until the State is granted authorization to do so.

#### **D. What is the effect of today's action?**

A facility in California subject to RCRA must comply with the authorized State requirements in lieu of the corresponding Federal requirements in order to comply with RCRA.

Additionally, such persons must comply with any applicable Federally-issued requirements, such as, for example, HSWA regulations issued by EPA for which the State has not received authorization, and RCRA requirements that are not supplanted by authorized state-issued requirements. California continues to have enforcement responsibilities under its State law to pursue violations of its hazardous waste management program. EPA continues to have independent authority under RCRA Sections 3007, 3008, 3013, and 7003, which include, among others, the authority to:

- Do inspections, and require monitoring, tests, analyses or reports,
- Enforce RCRA requirements (including State-issued statutes and regulations that are authorized by EPA and any applicable Federally-issued statutes and regulations) and suspend or revoke permits, and
- Take enforcement actions regardless of whether the State has taken its own actions.

This action approving the subject revisions does not impose additional requirements on the regulated community because the regulations for which California is being authorized are already effective under State law and are not changed by the act of authorization.

EPA cannot delegate the Federal requirements at 40 CFR part 262, subparts E and H. Although California has adopted these requirements verbatim from the Federal regulations in Title 22 of the California Code of Regulations, Sections 66260–66262, EPA will continue to implement those requirements.

#### **E. What rules are we authorizing with today's action?**

On August 2, 2004 and August 17, 2004 California submitted final complete program revision applications, seeking authorization of changes in accordance with 40 CFR 271.21. California applied for only the Federal changes relating to the corrective action management units, the Beville exclusion and the land disposal restrictions.

What follows is a summary, for each category identified by California in its submittals, of the specific subjects of changes to the Federal program for that category. Although the changes to the Federal program are identified in the

summary, California did not necessarily make revisions to its program as a result of each Federal revision noted. For example, certain revisions to the Federal program may have resulted in less stringent regulation than that which previously existed. Since states may maintain programs which are more stringent than the Federal program, states have the option whether or not to adopt such revisions.

##### *1. Changes California Identified as Relating to Corrective Action Management Units*

We are granting California final authorization for revisions to its program due to certain changes to the Federal Corrective Action Management Unit program.

##### *2. Changes California Identified as Relating to Land Disposal Restrictions Phases 3 and 4*

We are granting California final authorization for revisions to its program due to certain changes to the Federal program in the following areas: (1) Land Disposal Restrictions Phase III—Decharacterized Wastewaters; (2) Emergency Extension of the K088 Capacity Variance; (3) Land Disposal Restrictions Phase IV—Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemptions From RCRA for Certain Processed Materials; (4) Emergency Revision of the Carbamate Land Disposal Restrictions; (5) Clarification of Standards for Hazardous Waste LDR Treatment Variances; (6) Treatment Standards for Metal Wastes and Mineral Processing Wastes; (7) Hazardous Soils Treatment Standards and Exclusions; (8) Administrative Stay for Zinc Micronutrient Fertilizers; (9) Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production; (10) Extension of Compliance Date for Characteristic Slags; (11) Treatment Standards for Spent Potliners from Primary Aluminum Reduction (K088); (12) Chlorinated Aliphatics Listing and LDRs for Newly Identified Wastes; (13) Deferral for PCBs in Soil; and (14) Certain Land Disposal Restrictions Technical Corrections and Clarifications. Note that California has not yet adopted the provisions addressed by the following Federal final rules which are also part of Phase IV of the land disposal restrictions requirements: LDR Revision Checklist 195 (66 FR 58258, November 20, 2001, as amended by 67 FR 17119, April 9, 2002); non-LDR Revision Checklist 200 (67 FR 28393, July 24, 2002); and LDR

Revision Checklist 201 (67 FR 62618, October 7, 2002).

### 3. *Changes California Identified as Relating to the Bevill Exclusion*

We are granting California final authorization for all revisions to its program due to certain changes to the Federal program in the Bevill Exclusion requirements.

EPA published a table in its notice of its tentative decision to authorize the foregoing revisions to California's hazardous waste management program, which shows the Federal and analogous State provisions involved in this decision and the relevant corresponding checklists (75 FR 60398, 60400–6040, September 30, 2010).

### F. Where are the State rules different from the Federal rules?

State requirements that go beyond the scope of the Federal program are not part of the authorized program and EPA cannot enforce them. Although persons must comply with these requirements in accordance with California law, they are not RCRA requirements. EPA considers that the following State requirements, which pertain to the revisions involved in this decision, go beyond the scope of the Federal program.

The following analysis differs in some ways from the areas which California identified as being broader in scope than the Federal program in its application.

1. The definition of “remediation waste” at 22 C.C.R. § 66260.10 is broader in scope than the Federal definition at 40 CFR 260.10 only to the extent California's definition includes hazardous substances which are neither “hazardous wastes” nor “solid wastes.”

2. California regulation subjects CAMUs for non-RCRA hazardous waste to state-specific requirements under 22 CCR 66264.552.5. The state requirement at 22 CCR 66264.552.5 is broader in scope because the federal program does not consider these wastes to be hazardous. In addition, 22 CCR 66264.550(a) is also considered broader in scope to the extent that it subjects non-RCRA wastes to the state-only CAMU requirements.

3. California did not adopt the Federal definitions at 40 CFR 261.1(c)(9)–(12), 261.4(a)(13)–(14), and 261.6(a)(3)(ii) addressing scrap metals or the related Federal changes to 40 CFR 261.2(c)(4)/Table. California's program is broader in scope to the extent that the statutory provisions at HS&C § 25143.2(a) and (e), do not exclude these scrap metals from regulation.

4. The California provisions at 22 CCR 66268.7(a)–(c) are broader in scope than

the Federal land disposal treatment provisions at 40 CFR 268.7(a)–(c) to the extent that the State's provisions also apply to non-RCRA wastes. Similarly, California's variance petition provisions at 22 CCR 66268.44(c) and 66268.44(h) are also broader in scope to the extent that they apply to non-RCRA wastes.

### G. What is EPA's position on California's regulation of conditionally exempt small quantity generators?

When California initially received final authorization for the base RCRA program on July 23, 1992, effective August 1, 1992 (57 FR 32726), EPA Pacific Southwest Region (Region IX) identified California's failure to adopt the federal exclusion for conditionally exempt small quantity generators (CESQGs) (found, generally, at 40 CFR 261.5) as “broader in scope” than the federal program. (See also 40 CFR 270.1(c)(2)(iii).) However, EPA's position regarding the absence of the conditional exclusion for CESQGs in a state program has changed and EPA now clearly regards the absence of any such exclusion as more stringent than the federal program, making state regulation of CESQGs federally enforceable when authorized. See *United States v. Southern Union Co.*, 643 F. Supp. 2d 201 (D.R.I. 2009). In order to harmonize our authorization of California's program with EPA's position with respect to CESQGs, EPA is hereby redesignating California's regulation of CESQGs as more stringent than the federal program. Therefore, the State's regulation of such federally exempt CESQGs will be part of the authorized state program and will be federally enforceable within the State of California. Specifically, this change will allow federal enforcement of State requirements applicable to CESQGs who are conditionally exempt under the federal provisions found at 40 CFR 261.5, 266.100(b)(3) and 270.1(c)(2)(iii). This change will not result in any new requirements on CESQGs, but will only mean that the more stringent State requirements for CESQGs will be federally enforceable.

### H. Who handles permits after this authorization takes effect?

California will issue permits for all the provisions for which it is authorized and will administer the permits it issues. All permits issued by EPA prior to California being authorized for these revisions will continue in force until the effective date of the State's issuance or denial of a State RCRA permit, or the permit otherwise expires or is revoked. California will administer any RCRA hazardous waste permits or portions of

permits which EPA issued prior to the effective date of this authorization until such time as California has issued a corresponding State permit. EPA will not issue any more new permits or new portions of permits for provisions for which California is authorized after the effective date of this authorization. EPA will retain responsibility to issue permits for HSWA requirements for which California is not yet authorized.

### I. How does today's action affect Indian country (18 U.S.C. 1151) in California?

California is not authorized to carry out its hazardous waste program in Indian country within the State. Indian country includes all lands within the exterior boundaries of an Indian reservation, any land held in trust by the United States for an Indian tribe whether or not formally designated as an Indian reservation, and any other land, whether within or outside of an Indian reservation, that qualifies as Indian country under 18 U.S.C. 1151. A list of Indian Tribes in California can be found on the Web at <http://www.bia.gov>, under the section “Region Selector.”

Therefore, this action has no effect on the Indian country within the States' borders. EPA will continue to implement and administer the RCRA program in Indian country within the State.

### J. What is codification and is EPA codifying California'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 Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA is reserving the amendment of 40 CFR part 272, subpart F for codification of California's program at a later date.

### K. Statutory and Executive Order Reviews

1. *Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review 13563*

This action approves the subject revisions and does not impose additional requirements on the regulated community because the regulations for which California is being authorized are already effective under State law and are not changed by the act of authorization. This type of action is exempt from review under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011).

### 2. Paperwork Reduction Act

This rule does not impose an information collection burden under the Paperwork Reduction Act.

### 3. Regulatory Flexibility Act

After considering the economic impacts of this rule on small entities under the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

### 4. Unfunded Mandates Reform Act

Because this rule approves preexisting requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act.

### 5. Executive Order 13132: Federalism

Executive Order 13132 does not apply to this rule because it will not have federalism implications (*i.e.*, substantial direct effects on the State, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government) as described in Executive Order 13132.

### 6. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes). As stated previously, this action would have no effect on the Indian country within the State's borders and EPA will continue to implement and administer the RCRA program in Indian country within the State.

### 7. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks

This rule is not subject to Executive Order 13045 because it is not economically significant and it is not based on health or safety risks.

### 8. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211 because it is not a significant regulatory action as defined in Executive Order 12866.

### 9. National Technology Transfer Advancement Act

EPA approves State programs as long as they meet criteria required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, Section 12(d) of the National Technology Transfer and Advance Act does not apply to this rule.

### 10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations

Because this rule addresses authorizing pre-existing State rules and imposes no additional requirements beyond those imposed by State law and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

### 11. Executive Order 12988

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

### 12. Executive Order 12630: Evaluation of Risk and Avoidance of Unanticipated Takings

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the Executive Order.

### 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.

**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: September 8, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region 9.*

[FR Doc. 2011-25899 Filed 10-6-11; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### 42 CFR Part 110

RIN 0906-AA83

### Countermeasures Injury Compensation Program (CICP): Administrative Implementation, Final Rule

**AGENCY:** Health Resources and Services Administration (HRSA), HHS.

**ACTION:** Final rule; technical amendments.

**SUMMARY:** This document adopts the Countermeasures Injury Compensation Program Administrative Implementation Interim Final Rule as the final rule with technical amendments. The Public Readiness and Emergency Preparedness Act (PREP Act) authorizes the Secretary of Health and Human Services (the Secretary) to establish the Countermeasures Injury Compensation Program (CICP or Program). The Department of Health and Human Services (HHS) is issuing this final rule to adopt the administrative policies, procedures, and requirements for the CICP set out in the interim final rule, which was published and effective on October 15, 2010. This Program is designed to provide benefits to certain persons who sustain serious physical injuries or death as a direct result of administration or use of covered countermeasures identified by the Secretary in declarations issued under the PREP Act. In addition, the Secretary may provide death benefits to certain survivors of individuals who died as the direct result of such covered injuries or their health complications. The Secretary makes only minor technical amendments to the interim final rule, described below, and otherwise adopts the regulation as published on October 15, 2010.

**DATES:** This rule is effective October 7, 2011.

**FOR FURTHER INFORMATION CONTACT:** Dr. Vito Caserta, Director, Countermeasures Injury Compensation Program, Healthcare Systems Bureau, Health Resources and Services Administration, Parklawn Building, Room 11C-06, 5600 Fishers Lane, Rockville, MD 20857. Phone calls can be directed to (855) 266-CICP (2427). This is a toll-free number.

### SUPPLEMENTARY INFORMATION:

#### Background

This regulation adopts the interim final rule that administratively established the compensation program