

been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 165

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

Temporary Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

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 section 165.T02-047 is added, to read as follows:

§ 165.T02-047 Safety Zone: Upper Mississippi River.

(a) *Location.* The Upper Mississippi River between mile 412.0 and 796.8 is established as a safety zone.

(b) *Effective dates.* This section is effective on June 26, 1995 and will terminate on July 26, 1995, unless terminated sooner by the Captain of the Port.

(c) *Regulations.* The general regulations under § 165.23 which prohibit vessel entry within the described zone without authority of the Captain of the Port apply. The Captain of the Port, St. Louis, Missouri will authorize entry into and operations within the described zone under certain conditions and limitations as announced by Marine Safety Information Radio Broadcast on VHF Marine Band Radio, Channel 22 (157.1 MHz).

Dated: June 26, 1995.

S.P. Cooper,

Commander, U.S. Coast Guard, Captain of the Port, St. Louis, Missouri.

[FR Doc. 95-16960 Filed 7-10-95; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264, 265, and 271

[FRL 5226-9]

Hazardous Waste Management: Liquids in Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule to grant a petition to add a test method.

SUMMARY: On November 18, 1992, the Agency promulgated a final rule on liquids in landfills. That rule satisfied a statutory requirement in the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984 regarding the landfill disposal of containerized liquids. Specifically, the statute required EPA to issue a rule that prohibited the disposal in hazardous waste landfills of liquids that have been absorbed in materials that biodegrade. The November 18, 1992 rule includes two tests that could be used to demonstrate non-biodegradability. Today's rulemaking, which is issued in response to a petition, provides increased flexibility to the regulated community by adding another test to demonstrate that a sorbent is non-biodegradable.

In the proposed rules section of today's **Federal Register**, EPA is proposing to grant the petition to add the additional test for biodegradability and is soliciting public comment on the addition of the third test. If significant adverse comments are received, EPA will withdraw the direct final rule and address the comments received in a subsequent final rule based on the related proposed rule. No additional opportunity for public comment will be provided.

DATES: This final action will become effective on September 11, 1995, unless EPA receives significant adverse comment on the proposal by August 10, 1995. If such comments are received, EPA will withdraw this direct final rule, and publish timely notice in the **Federal Register**.

ADDRESSES: Materials supporting this rulemaking are contained in EPA RCRA Docket No. F-95-ALLF-FFFFF, Room M2616, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays. Call 202-260-9327 for an appointment to examine the docket. Up to 100 pages may be copied free of charge from any one regulatory docket. Additional copies are \$0.15 per page. Those wishing to notify EPA of their intent to submit adverse comments on this action should contact David Eberly, Assistance Branch, Permits and State Programs Division, Office of Solid Waste (5303W), 401 M St. SW, Washington, DC 20460, (Docket No. F-95-ALLP-FFFFF).

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at 1-800-424-9346 (toll free), or 703-412-9810 in the Washington, DC area. For information on technical aspects of this

rule, contact David Eberly, U.S. EPA, Office of Solid Waste (5303W), 401 M St. SW., Washington, DC 20460; 260-4288.

SUPPLEMENTARY INFORMATION:

I. Authority

This rule is being issued under the authority of section 3004(c) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Hazardous and Solid Waste Amendments of 1984; 42 U.S.C. 6924(c).

II. Background

Section 3004(c)(2) of RCRA requires EPA to issue regulations that "prohibit the disposal in landfills of liquids that have been absorbed in materials that biodegrade * * *"

To demonstrate that a sorbent is non-biodegradable, the material must be listed in paragraph (e)(1) of § 264.314 or paragraph (f)(1) of § 265.314 or pass one of two tests cited in paragraph (e)(2) of § 264.314 and paragraph (f)(1) of § 265.314. The two tests are ASTM Method G21-70, a test for resistance of synthetic polymer materials to fungi, and G22-76, a test for determining resistance of plastics to bacteria.

At the time of proposal of the two ASTM tests, the Agency recognized that other biodegradability tests existed, but they were not identified in the proposal or in the comments received on the proposed rule. The Agency, therefore, did not evaluate other tests. Instead, the Agency decided to require that further tests be added under the already established 40 CFR part 260 petition process.

The Agency has received a petition for another test for biodegradability and, based on its review, has decided to include it as one that could be used instead of the ASTM tests. The test is one that has been recently adopted by the Organization for Economic Cooperation and Development (OECD), of which the United States is a member. The test, OECD 301B (Modified Sturm Test), was recommended by an OECD Expert Group on Degradation/Accumulation to determine the biodegradability of organic chemicals in water. The Agency has concluded that the test is applicable, that it effectively measures the biodegradability of sorbents, and that its use in determining biodegradability of sorbents in a hazardous waste landfill will not have a negative environmental impact.

The United States was represented on the OECD Expert Group on Degradation/Accumulation that evaluated and recommended tests for biodegradation in

water, abiotic degradation, bioaccumulation, and behavior of chemicals in soils and sediments. Tests were recommended by the group for each situation.

The OECD adopted three tests for inherent biodegradability (in 1981) and six tests for ready biodegradability (in 1992), all in an aerobic aqueous medium. The guidelines for all nine biodegradability tests are in the docket. The tests for inherent biodegradability require that the material being tested be soluble in water. As the sorbent materials to be tested must clearly not be soluble (otherwise they could not be used as sorbents), those tests are not applicable. In addition, these tests assume ideal conditions for biodegradability in an aerobic environment. Because the conditions to be encountered in a hazardous waste landfill are not ideal for either aerobic or anaerobic biodegradability, the tests for inherent biodegradability are not relevant.

The tests for ready biodegradability, while not simulating the actual conditions to be found in a landfill, do provide an indication of the propensity of the material to biodegrade without enhanced conditions. Of the six tests adopted for ready biodegradability, test 301B is best suited for compounds that are poorly soluble, non-volatile, and absorbing. Sorbents used in spill responses or in sorbing liquid wastes share these properties.

The Agency recognizes that the OECD test 301B is a test for biodegradability in an aerobic environment, as are the two ASTM tests that were promulgated in the November 18, 1992 rule. The Agency also recognizes that the actual environment in which the sorbents will be used, i.e., in a container in a landfill, will be anaerobic. The Agency does not know, however, of any published, widely accepted, tests for the biodegradability of materials in anaerobic conditions that would be practical for the purposes of this rule. The Agency believes, however, that OECD 301B is an acceptable surrogate for determining if a sorbent will biodegrade in containerized liquids in a hazardous waste landfill.

III. State Authority

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under Sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and

requirements for authorization are found in 40 CFR Part 271.

Today's amendment to the provisions of the November 18, 1992 liquids in landfills rule is being promulgated under authority that was added to RCRA by the Hazardous and Solid Waste Amendments (HSWA) of 1984. Under RCRA Section 3006(g), new requirements imposed by HSWA take effect in authorized States at the same time that they take effect in non-authorized States. Today's final rule for containerized liquids in landfills is issued under RCRA Section 3004(c), which was added by HSWA. These HSWA-based requirements are being added to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA.

Today's final rule adds a third test to the two already allowed under existing Federal regulations that were promulgated on November 18, 1992, and therefore does not qualify as a "more stringent" requirement. Instead, today's rule in effect makes a technical amendment to the definition of "biodegradability" that does not affect the current regulations' stringency. Authorized States are only required to modify their programs when EPA promulgates Federal regulations that are more stringent or broader in scope than the existing Federal regulations. Therefore, States that are authorized for the November 18, 1992 rule are not required to modify their programs to adopt today's rule. However, EPA strongly urges States to do so. EPA will implement the provisions of today's rule in other States that have not been authorized for the liquids in landfills requirements in RCRA Section 3004(c)(2) pursuant to RCRA Section 3006(g) until they adopt and receive authorization to implement the November 18, 1992 rule. EPA's authorization guidance to States will link the November 18, 1992 rule and today's final amendments.

Given the minor scope of today's amendment, those States that are authorized for the November 18, 1992 rule may submit an abbreviated authorization revision application to the Region for today's amendment. This application should consist of a letter from the State to the appropriate Regional office, certifying that it has adopted provisions equivalent to and no less stringent than today's final rule (see the December 19, 1994, memorandum from Michael Shapiro, Director of the Office of Solid Waste, to the EPA Regional Division Directors that is in the docket for today's rule). The State should also submit a copy of its final

rule or other authorizing authority. A revised Program Description, Memorandum of Agreement, and Attorney General's statement is not necessary (see 40 CFR 271.21(b)(1)). EPA expects that this simplified process will expedite the review of the authorization submittal for this rule.

Finally, States authorized for the containerized liquids in landfills requirements may accept results of the OECD test promulgated in today's rule, consistent with State law, as evidence of non-biodegradability, pending EPA review of a State program revision. States whose programs accept the OECD test would be no less stringent than the Federal program and would therefore be consistent with RCRA Section 3004(c)(2).

IV. Regulatory Requirements

A. Executive Order 12866

Under Executive Order 12866 [58 FR 51735 (October 4, 1993)], EPA must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is, therefore, not subject to OMB review.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal regulatory agencies to prepare a Regulatory Flexibility Analysis (RFA) for all regulations that have "a significant economic impact on a substantial number of small entities." Today's rule simply adds one more test that industry may use to test sorbents that are not listed as acceptable in the November 18, 1992 rule. Additionally,

the test need only be used once for each sorbent type. Therefore, EPA certifies that today's regulation will not have a significant economic impact on a substantial number of small entities. As a result, no Regulatory Flexibility Analysis is needed.

C. Paperwork Reduction Act

This rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because no additional information is being required to be collected by this rule, and it does not require that additional records be retained.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal

intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector because it imposes no enforceable duties on any of these governmental entities or the private sector. The rule merely provides an optional alternative test method for determining biodegradability to satisfy a specific provision of RCRA. In any event, EPA has determined that this rule does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. Similarly, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

List of Subjects

40 CFR Parts 264 and 265

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous material transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: June 30, 1995.

Fred Hansen,

Acting Administrator.

For the reasons set forth in the preamble, 40 CFR parts 264, 265, and 271 are amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, and 6925.

2. Section 264.314 is amended by removing the period at the end of paragraph (e)(2)(ii) and adding "; or" and by adding paragraph (e)(2)(iii) to read as follows:

§ 264.314 Special requirements for bulk and containerized liquids.

* * * * *

(e) * * *

(2) * * *

(iii) The sorbent material is determined to be non-biodegradable under OECD test 301B: [CO₂ Evolution (Modified Sturm Test)].

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, 6935, and 6936, unless otherwise noted.

2. Section 265.314 is amended by removing the period at the end of paragraph (f)(2)(ii) and adding "; or" and by adding paragraph (f)(2)(iii) to read as follows:

§ 265.314 Special requirements for bulk and containerized liquids.

(f) * * *

(2) * * *

(iii) The sorbent material is determined to be non-biodegradable under OECD test 301B: [CO₂ Evolution (Modified Sturm Test)].

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

1. The authority citation for part 271 is amended to read as follows:

Authority: 42 U.S.C. 6905, 6912(a) and 6926.

2. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of publication:

§ 271.1 Purpose and scope.

* * * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
July 11, 1995	Containerized Liquids in Landfills	35705	September 11, 1995.

* * * * *
 [FR Doc. 95-16951 Filed 7-10-95; 8:45 am]
 BILLING CODE 6560-50-P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-47

[FPMR Amendment H-192]

RIN 3090-AF34

Utilization and Disposal of Real Property; Port Facilities

AGENCY: Public Buildings Service, GSA.
 ACTION: Final rule.

SUMMARY: Section 2927 of Pub. L. 103-160 (November 30, 1993) amended section 203 of the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 484) by adding a subsection (q) to provide for cost-free conveyances of Federal surplus real property suitable for use as port facilities. This regulation is required to implement the new subsection. It prescribes the method whereby affected property may be assigned to the Secretary of Transportation for subsequent conveyance for approved port facility and related economic development programs.

EFFECTIVE DATE: July 11, 1995.

FOR FURTHER INFORMATION CONTACT: Stanley C. Langfeld, Director, Real Property Policy Division, Office of Governmentwide Real Property Policy, Public Buildings Service, General Services Administration (202) 501-1256.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) is amending its regulations to include procedures for making conveyances of Federal surplus real property to nonfederal political bodies for port facility and related economic development purposes.

GSA has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866. The rule is written to ensure maximum benefits to Federal agencies. This Governmentwide management

regulation will have little or no cost effect on society. Therefore, the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

List of subjects in 41 CFR Part 101-47

Government property management, Surplus Government property.

For the reasons set out in the preamble, 41 CFR part 101-47 is amended as follows:

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

1. The authority citation for part 101-47 is revised to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Subpart 101-47.2—Utilization of Excess Real Property

2.-3. Section 101-47.203-5 is amended by revising paragraphs (b) and (c) to read as follows:

§ 101-47.203-5 Screening of excess real property.

(b) Notices of availability for information of the Secretary of Health and Human Services and the Secretary of Education in connection with the exercise of the authority vested under the provisions of section 203(k)(1) of the Act, and for information of the Secretary of the Interior in connection with the exercise of the authority vested under the provisions of section 203(k)(2) of the Act or a possible determination under the provisions of section 203(k)(3) of the Act, will be sent to the offices designated by the Secretaries to serve the areas in which the properties are located. Similar notices of availability for information of the Attorney General in connection with a possible determination under the provisions of section 203(p)(1) of the Act, and for information of the Secretary of Transportation in connection with the exercise of the authority vested under the provisions of section 203(q) of the Act, will be respectively sent to the Office of Justice Programs, Department of Justice, and the Maritime

Administration, Department of Transportation.

(c) The Departments of Health and Human Services, Education, Interior, Justice, and Transportation shall not attempt to interest a local applicant in a property until it is determined surplus, except with the prior consent of GSA on a case-by-case basis or as otherwise agreed upon. When such consent is obtained, the local applicant shall be informed that consideration of the application is conditional upon the property being determined surplus to Federal requirements and made available for the purposes of the application. However, these Departments are encouraged to advise the appropriate GSA regional office of those excess properties which are suitable for their programs.

* * * * *

3. Section 101-47.204-1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 101-47.204-1 Reported property.

* * * * *

(a) The holding agency, the Secretary of Health and Human Services, the Secretary of Education, the Secretary of the Interior, the Attorney General, and the Secretary of Transportation will be notified of the date upon which determination as surplus becomes effective. Any Federal agency that has identified a property as being required for replacement housing for displaced persons under section 218 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 will also be notified of the date upon which determination as surplus becomes effective. The Secretary of the Department of Energy will be notified when real property is determined surplus and advised of any known interest in the property for its use or development for energy facilities. Appropriate steps will be taken to ensure that energy site needs are considered along with other competing needs in the disposal of surplus real property, since such property may become available for use under sections 203(e)(3) (G) and (H) of the Act.

(b) The notices to the Secretary of Health and Human Services, the