

Inert ingredients	Limits	Uses
* * * α-alkyl (C₁₂-C₁₅)-ω-hydroxypoly (oxypropylene) poly (oxyethylene) copolymers (where the poly (oxypropylene) content is 3-60 moles and the poly (oxyethylene) content is 5-80 moles). * * *	* * * Not more than 20% of pesticide formulations * * *	Surfactant

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL-6543-6]

Missouri: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Missouri has applied to EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the state's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect opposing comments. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Missouri's changes to its hazardous waste program will take effect as provided below. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect. A separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on April 28, 2000 unless EPA receives adverse written comment by March 29, 2000. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Heather Hamilton, U.S. EPA Region VII,

ARTD/RESP, 901 North 5th Street, Kansas City, Kansas 66101. We must receive your comments by March 29, 2000. You can view and copy Missouri's application during normal business hours at the following address: Hazardous Waste Program, Missouri Department of Natural Resources, P.O. Box 176, Jefferson City, Missouri 65102-0176 (573) 751-3176.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, U.S. EPA Region VII, ARTD/RESP, 901 North 5th Street, Kansas City, Kansas 66101. (913) 551-7039.

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.

B. What Decisions Have We Made In This Rule?

We conclude that Missouri's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Missouri final authorization to operate its hazardous waste program with the changes described in the authorization application. Missouri has 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 they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Missouri, including issuing permits, until the state is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Missouri subject to RCRA will now have to comply with the authorized state requirements instead of the equivalent Federal requirements in order to comply with RCRA. Missouri has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003 which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports,
- Enforce RCRA requirements and suspend or revoke permits.

This action does not impose additional requirements on the regulated community because the regulations for which Missouri is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the state program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in

the **Federal Register** before this rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the state hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has Missouri Previously Been Authorized For?

On November 20, 1985, EPA published a **Federal Register** notice

announcing its decision to grant final authorization for the RCRA base program to the State of Missouri which became effective December 12, 1985 (50 FR 47740). Missouri received authorization for revisions to its program as follows: February 27, 1989, effective April 28, 1989 (54 FR 8190); January 11, 1993, effective March 12, 1993 (58 FR 3497) and on May 30, 1997, effective July 29, 1997 (62 FR 29301). On January 7, 1998, (63 FR 683) a correction was made to the May 30, 1997 (62 FR 29301) notice to correct the effective date of the rule to be consistent with sections 801 and 808 of the Congressional Review Act, enacted as part of the Small Business Regulatory Enforcement Fairness Act. Additionally, the state adopted and applied for interim authorization for the corrective action portion of the HSWA Codification Rule (July 15, 1985, 50 FR 28702). For a full discussion of the HSWA Codification Rule, the reader is referred to the **Federal Register** cited above. The state was granted interim

authorization for the corrective action portion on February 23, 1994, effective April 25, 1994 (50 FR 8544). Final authorization for corrective action was granted on May 4, 1999, effective July 5, 1999 (64 FR 23740).

G. What Changes Are We Authorizing With Today's Action?

On August 25, 1999, Missouri submitted a final complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Missouri's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Missouri final authorization for the following program changes and revisions:

Checklist	FR date and page	State rule ¹
80—Toxicity Characteristic: Hydrocarbon Recovery Operations.	55 FR 40834–40837, 10/5/90; amended at 56 FR 3978, 2/1/91; and 56 FR 13406–13411, 4/2/91.	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
81—Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038.).	55 FR 46354–46397, 11/2/90; amended at 55 FR 51707, 12/17/90.	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
84—Toxicity Characteristic; Chlorofluorocarbon Refrigerants.	56 FR 5910–5915, 2/13/91	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
86—Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment.	56 FR 7567–7568, 2/25/91	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
87—Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment.	56 FR 19290, 4/26/91	10 CSR 25–7.264(1), 7.265(1), 7.270(1), and 260.370 RSMo Supp. 1998, 260.390 and 260.395 RSMo 1994.
88—Administrative Stay for K069 Listing	56 FR 19951, 5/1/91	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
89—Revision to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038.).	56 FR 21955–21960, 5/13/91	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
90—Mining Waste Exclusion III.	56 FR 27300–27330, 6/13/91	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
95—Land Disposal Restrictions for Electric Arc Furnace Dust (K061).	56 FR 41164–41178, 8/19/91	10 CSR 25–4.261(1), 4.261(2)(A)8, 7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395, and 260.400 RSMo 1994.
99—Amendments to Interim Status Standards for Downgradient Groundwater Monitoring Well Locations.	56 FR 66365–66369, 12/23/91	10 CSR 25–3.260(1), 7.265(1), and 260.370 RSMo Supp. 1998, 260.390 and 260.395 RSMo 1994.
100—Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units.	57 FR 3462–3497, 1/29/92	10 CSR 25–3.260(1); 7.264(1); 7.265(1); 7.264(2)(K)1.B.; 7.264(2)(K)1.C.; 7.264(2)(K)1.D.; 7.264(2)(K)1.E.; 7.264(2)(K)1.F.; 7.264(2)(L)2.B.; 7.264(2)(L)2.C.; 7.264(2)(L)2.D.; 7.264(2)(L)2.E.; 7.264(2)(L)2.F.; 7.264(2)(L)3.A.; 7.264(2)(N)2.B.; 7.264(2)(N)2.C.; 7.264(2)(N)2.D.; 7.264(2)(N)2.E.; 7.264(2)(N)2.F.; 7.264(2)(N)2.G.; 7.270(1), and 260.370 RSMo Supp. 1998, 260.390 and 260.395 RSMo 1994

Checklist	FR date and page	State rule ¹
102—Second Correction to the Third Third Land Disposal Restrictions.	57 FR 8086–8089, 3/6/92	10 CSR 25–7.264(1), 7.265(1), 7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395 and 260.400 RSMo 1994.
103—Hazardous Debris Case-by-Case Capacity Variance.	57 FR 20766–20770, 5/15/92	10 CSR 25–7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395 and 260.400 RSMo 1994.
104—Used Oil Filter Exclusion	57 FR 21524–21534, 5/20/92	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
106—Lead-Bearing Hazardous Materials Case-by-Case Capacity Variance.	57 FR 28628–28632, 6/26/92	10 CSR 25–7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395 and 260.400 RSMo 1994.
107—Used Oil Filter Exclusion Technical Corrections.	57 FR 29220, 7/1/92	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
108—Toxicity Characteristic Revisions; Technical Corrections.	57 FR 30657–30658, 7/10/92	10 CSR 25–4.261(1), 7.265(1), and 260.370 RSMo Supp. 1998, 260.390 and 260.395 RSMo 1994.
113—Consolidated Liability Requirements	53 FR 33938–33960, 9/1/88; 56 FR 30200, 7/1/91; 57 FR 42832–42844, 9/16/92.	10 CSR 25–7.264(1); 7.265(1); 7.264(2)(H)6; 7.264(2)(H)7; 7.264(2)(H)8; 7.264(2)(H)9; 7.264(2)(H)10; 7.264(2)(H)11; 7.265(2)(H)5; 7.265(2)(H)8; 7.265(2)(H)9; 7.265(2)(H)10, and 260.370 RSMo Supp. 1998, 260.390 and 260.395 RSMo 1994.
115—Chlorinated Toluenes Production Waste Listing.	57 FR 47376–47386, 10/15/92	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
116—Hazardous Soil Case-by-Case Capacity Variance.	57 FR 47772–47776, 10/20/92	10 CSR 25–7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395, and 260.400 RSMo 1994.
117A—Reissuance of the Mixture and Derived-From Rules.	57 FR 7628–7633, 3/3/92; 57 FR 23062–23063, 6/1/92; 57 FR 49278–49279, 10/30/92.	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
117B—Toxicity Characteristic Amendment	57 FR 23062–23063, 6/1/92	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
118—Liquids in Landfills II.	57 FR 54452–54461, 11/18/92.10	CSR 25–3.260(1), 7.264(1), 7.265(1), and 260.370 RSMo Supp. 1998, 260.390 and 260.395 RSMo 1994.
119—Toxicity Characteristic Revision; TCLP Correction.	57 FR 55114–55117, 11/24/92; 58 FR 6854, 2/2/93.	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
123—Land Disposal Restrictions; Renewal of the Hazardous Waste Debris Case-by-Case Capacity Variance.	58 FR 28506–28511, 5/14/93	10 CSR 25–7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395 and 260.400 RSMo 1994.
124—Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated.	58 FR 29860–29887, 5/24/93	10 CSR 25–7.264(1), 7.265(1), 7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395 and 260.400 RSMo 1994.
129—Revision of Conditional Exemption for Small Scale Treatability Studies.	59 FR 8362–8366, 2/18/94	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
131—Recordkeeping Instructions; Technical Amendment.	59 FR 13891–13893, 3/24/94	10 CSR 25–7.264(1), 7.265(1), and 260.370 RSMo Supp. 1998, 260.390 and 260.395 RSMo 1994.
133—Letter of Credit Revision	59 FR 29958–29960, 6/10/94	10 CSR 25–7.264(1), and 260.370 RSMo Supp. 1998, 260.390 and 260.395 RSMo 1994.
134—Correction of Beryllium Powder (P015) Listing.	59 FR 31551–31552, 6/20/94	10 CSR 25–4.261(1), 7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395, and 260.400 RSMo 1994.
135—Recovered Oil Exclusion	59 FR 38536–38545, 7/28/94	10 CSR 25–4.261(1), 7.266(1), and 260.370 RSMo Supp. 1998, 260.390 and 260.395 RSMo 1994.
136—Removal of the Conditional Exemption for Certain Slag Residues.	59 FR 43496–43500, 8/24/94	10 CSR 25–7.266(1), 7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395 and 260.400 RSMo 1994.
137—Universal Treatment Standards and Treatment Standards for Organic Characteristic Wastes and Newly Listed Waste.	59 FR 47982–48109, 9/19/94; 60 FR 242–302, 1/3/95.	10 CSR 25–3.260(1); 3.260(2)(B); 7.264(1); 7.265(1); 7.266(1); 7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395 and 260.400 RSMo 1994.
139—Testing and Monitoring Activities Amendment I.	60 FR 3089–3095, 1/13/95	10 CSR 25–3.260(1), and 260.370 RSMo Supp. 1998.
140—Carbamate Production Identification and Listing of Hazardous Waste.	60 FR 7824–7859, 2/9/95; 60 FR 19165–19167, 4/17/95; 60 FR 25619–25620, 5/12/95.	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
141—Testing and Monitoring Activities Amendment II.	60 FR 17001–17004, 4/4/95	10 CSR 25–3.260(1), and 260.370 RSMo Supp. 1998.

Checklist	FR date and page	State rule ¹
144—Removal of Legally Obsolete Rules	60 FR 33912–33915, 6/29/95	10 CSR 25–4.261(1), 7.266(1), 7.270(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395 and 260.400 RSMo 1994.
145—Liquids in Landfills III	60 FR 35703–35706, 7/11/95	10 CSR 25–7.264(1), 7.265(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395 and 260.400 RSMo 1994.
150—Recovered Oil Exclusion, Correction	61 FR 13103–13106, 3/26/96	10 CSR 25–4.261(1), and 260.370 RSMo Supp. 1998.
152—Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision.	61 FR 16290–16316, 4/12/96	10 CSR 25–4.261(1); 5.262(1); 5.262(2)(E); 6.263(1); 7.264(1); 7.264(2)(B)1.; 7.265(1); 7.265(2)(B)1.; 7.266(1); 16.273(1); 16.273(2)(B)10.; 16.273(2)(C)14., and 260.370 RSMo Supp. 1998, 260.380, 260.385, 260.390 and 260.395 RSMo 1994.
153—Conditionally Exempt Small Quantity Generator Disposal Options under Subtitle D.	61 FR 34252–34278, 7/1/96	10 CSR 25–4.261(1), 4.261(2)(A)11.C, and 260.370 RSMo Supp. 1998.
155—Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance.	62 FR 1992–1997, 1/14/97	10 CSR 25–7.268(1), and 260.370 RSMo Supp. 1998, 260.390, 260.395, and 260.400 RSMo 1994.
158—Testing and Monitoring Activities Amendment III.	62 FR 32452–32463, 6/13/97	10 CSR 25–3.260(1); 7.264(1); 7.265(1); 7.266(1), and 260.370 RSMo Supp. 1998, 260.390, and 260.395, and RSMo 1994.
159—Conformance with Carbamate Vacatur	62 FR 32974–32980, 6/17/97	10 CSR 25–4.261(1), 7.268(1), and 260.370 RSMo Supp. 1998, and 260.390, 260.395 and 260.400 RSMo 1994

¹ CSR refers to Missouri's Code of State Regulations, Hazardous Waste Management Law; RSMo refers to Revised Statutes of Missouri.

H. Where Are the Revised State Rules Different From the Federal Rules?

We consider the following state requirements to be more stringent than the Federal requirements and, therefore, Federally enforceable:

- Missouri's 10 CSR 25–7.264(2)(K)1.B. Each new surface impoundment shall be constructed with a double liner as required in 40 CFR 264.221(c), incorporated in this rule in accordance with the additional requirements in subparagraphs (2)(K)1.C. and D. of the state's rule.

- Missouri's 10 CSR 25–7.264(2)(K)1.C. This state regulation imposes stricter standards with regard to what the lower component of the composite liner must consist of that is required by 40 CFR 264.221(c) which is incorporated by reference.

- Missouri's 10 CSR 25–7.264(2)(K)1.D. This state regulation requires the leak detection system required by 40 CFR 264.221(c)(2) to cover the entire sides and bottom of the surface impoundment, whereas 264.221(c)(2) requires the leak detection system to be installed between the liners, and immediately above the bottom composite liner in the case of multiple leachate collection and removal systems.

- Missouri's 10 CSR 25–7.264(2)(K)1.E., 7.264(2)(L)2.E., and 7.264(2)(N)2.F. When liquids are detected in a leak detection system, Missouri regulations require an owner/

operator to notify the department within 30 days of the event, and to continue to operate and maintain the leak detection system so that liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the system, and to implement leachate monitoring requirements in accordance with 7.264(2)(K)1.F. for surface impoundments, 7.264(2)(L)2.F. for waste piles, or 7.264(2)(N)2.G. for landfills. The Federal regulations do not contain these requirements.

- Missouri's CSR 10–25.7.264(2)(K)1.F.(I), 7.264(2)(L)2.F.(I), and 7.264(2)(N)2.G.(I). These state regulations require the owner operator who is required under 7.264 (2)(K)(1)E., 7.264 (2)(L)2.E., or 7.264 (2)(N)2.F. to initiate leachate monitoring to remove any accumulated leachate in the leak detection system collection sumps at least weekly during active life and closure periods. Whereas, 40 CFR 264.221(c)(3), 264.251(c)(4), and 264.301(c)(4) do not impose a time requirement and merely require the owner/operator to collect and remove pumpable liquids in the leak detection system sumps to minimize the head on the bottom liner.

- Missouri's 10 CSR 25–7.264(2)(K)1.F.(II), 7.264 (2)(L)1.F.(II), and 7.264(2)(N)2.G.(II). These state regulations require owner/operator to analyze the leachate at least annually. The Federal regulations do not contain this requirement.

- Missouri's 10 CSR 25–7.264(2)(L)2.B. Each new waste pile shall be constructed with a double liner as required in 40 CFR 264.251(c), incorporated in this rule, and in accordance with the additional requirements in subparagraphs (2)(L)2.C. and D. of the state's rule.

- Missouri's 10 CSR 25–7.264(2)(L)2.C. This state regulation imposes stricter standards with regard to what the lower component of the composite liner must consist of that is required by 40 CFR 264.251(c), which is incorporated.

- Missouri's 10 CSR 25–7.264(2)(L)2.D. This state regulation requires the leak detection system required by 40 CFR 264.251(c)(3) to be capable of detecting leaks from the entire area of the waste pile, whereas 264.251(c)(3) requires the leak detection system to be capable of detecting leaks through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period.

- Missouri's 10 CSR 25–7.264(2)(L)3.A. In addition to recording the amount of liquids removed from each leak detection system sump at least once per week during the active life and closure period, as required by 40 CFR 264.254(c), the owner/operator shall record the amount of liquids removed from each leachate collection/removal system sump at the same frequency.

- Missouri's 10 CSR 25–7.264(2)(N)2.B. Each new landfill shall

be constructed with a double liner as required in 40 CFR 264.301(c), incorporated in this rule, and in accordance with the additional requirements in subparagraphs (2)(N)2.C. of the state's rule.

- Missouri's 10 CSR 25–7.264(2)(N)2.C. This state regulation imposes stricter standards with regard to what the lower component of the composite liner must consist of that is required by 40 CFR 264.301(c), which is incorporated.

- Missouri's 10 CSR 25–7.264(2)(N)2.E. This state regulation requires the leak detection system required by 40 CFR 264.301(c)(3) to be capable of detecting leaks from the entire sides and bottom of each cell, whereas 264.301(c)(3) requires the leak detection system to be capable of detecting leaks through all areas of the top liner likely to be exposed to waste or leachate during the active life and post-closure care period.

- Missouri's 10 CSR 25–7.264(2)(H)6. This state regulation modifies the requirements for letters of credit per 40 CFR 264.143(d), 264.145(d), and 264.147(h) which are incorporated. The Missouri regulation provides that letters of credit shall be issued by a state-or Federally-chartered and regulated bank or trust association. This state regulation also states that if the issuing institution is not located in Missouri, a bank or trust association located in Missouri shall confirm the letter of credit and the confirmation and the letter of credit shall be filed with the department.

- Missouri's 10 CSR 25–7.264(2)(H)7. An owner/operator of a facility that is a commercial facility may not satisfy financial assurance requirements for closure, post-closure, or liability coverage, or any combination of these, by the use of a financial test as specified in 40 CFR 264.143(f), 264.145(f), or 264.147(h), which are incorporated.

- Missouri's 10 CSR 25–7.264(2)(H)8. This state regulation modifies the requirements for closure insurance per 40 CFR 264.143(e), post-closure insurance per 264.145(e), liability coverage for sudden accidental occurrences per 264.147(a)(1), and liability coverage for non-sudden accidental occurrences per 264.147(b)(1), which are all incorporated. The state regulation provides that each insurance policy shall be issued by an insurer which, at a minimum, is licensed to transact the business of insurance or is eligible to provide insurance as an excess or surplus lines insurer in Missouri. In contrast, the Federal regulations require the insurer to be licensed or eligible to provide insurance as an excess or

surplus lines insurer in one of more states.

- Missouri's 10 CSR 25–7.264(2)(H)9., 7.264(2)(H)10., and 7.264(2)(H)11. Missouri incorporates the cited Federal regulations (40 CFR 264.143(f), 264.145(f) and 264.147(g)) but deletes from them the phrase, “or a firm with a ‘substantial business relationship,’ with the owner or operator.” Missouri does not recognize a “substantial business relationship,” and deletes it from the incorporation wherever it occurs in the three CFR provisions noted.

- Missouri's 10 CSR 25–7.265(2)(H)5. This state regulation modifies the requirements for letters of credit per 40 CFR 265.143(c), 265.145(c), and 265.147(h), which are incorporated. The Missouri regulation provides that letters of credit shall be issued by a state-or Federally-chartered and regulated bank or trust association. The state regulation also states that if the issuing institution is not located in Missouri, a bank or trust association located in Missouri shall confirm the letter of credit and the confirmation and the letter of credit shall be filed with the department.

- Missouri's 10 CSR 25–7.265(2)(H)6. An owner/operator of a facility that is a commercial TSDF may not satisfy financial assurance requirements for closure, post-closure, or liability coverage, or any combination of these, by the use of a financial test as specified in 40 CFR 265.143(e), 265.145(e), or 265.147(f), which are incorporated.

- Missouri's 10 CSR 25–7.265(2)(H)7. This state regulation modifies the requirements for closure insurance per 40 CFR 265.143(d), post-closure insurance per 265.145(d), liability coverage for sudden accidental occurrences per 265.147(a)(1), and liability coverage for non-sudden accidental occurrences per 265.147(b)(1), which are all incorporated. The state regulation provides that each insurance policy shall be issued by an insurer which, at a minimum, is licensed to transact the business of insurance or is eligible to provide insurance as an excess or surplus lines insurer in Missouri. In contrast, the Federal regulations require the insurer to be licensed or eligible to provide insurance as an excess or surplus lines insurer in one or more states.

- Missouri's 10 CSR 7.265(2)(H)8., 7.265(2)(H)9., and 7.265(2)(H)10. Missouri incorporates the cited Federal regulations (40 CFR 265.143(e), 265.145(e), and 265.147(g)), but deletes from them the phrase, “or a firm with a ‘substantial business relationship,’ with the owner or operator.” Missouri

does not recognize “a substantial business relationship,” and deletes it from the incorporation wherever it occurs in the three CFR provisions noted.

- Missouri's 10 CSR 3.260(2)(B). 40 CFR 260, Subpart C, Rulemaking Petitions, is not incorporated in this rule; 3.260(2)(B) provides that not more than 60 days after promulgation of the final federal determination, the department shall approve or disapprove all delistings granted under 40 CFR 260.20 or 260.22. If the department fails to take action within that 60-day time frame, the delistings shall be deemed approved.

- Missouri's 10 CSR 25–7.264(2)(B)1. In addition to the requirements in 40 CFR 264.12(a) incorporated in this rule, an owner/operator shall submit a separate analysis for each hazardous waste that he/she intends to import.

- Missouri's 10 CSR 25–7.265(2)(B)1. In addition to the requirements in 40 CFR 265.12(a) incorporated in this rule, an owner/operator shall submit a separate analysis for each hazardous waste that he/she intends to import.

- Missouri's 10 CSR 25–4.261(2)(A)11.C. Missouri regulations specify that a process, procedure, method, or technology is considered on-site treatment, for the purposes of 40 CFR 261.5(f)(3) and 261.5(g)(3), as incorporated in this rule, only if the process, procedure, method or technology reduces the hazardous characteristics and/or the quantity of hazardous waste; and the process, procedure, method, or technology does not result in off-site emissions of any hazardous waste or constituent. These criteria provide a more specific definition of on-site treatment than the Federal analog and are, therefore, more stringent.

The following state requirement goes beyond the scope of the Federal program:

- Missouri's 10 CSR 25–4.261(2)(A)(8). The state rule does not incorporate 40 CFR 261.4(a)(11), which excludes from the definition of solid waste non-wastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery. Because the state regulation provides fewer exceptions, it is broader in scope.

Broader-in-scope requirements are not part of the authorized program and EPA can not enforce them. Although you must comply with these requirements in accordance with state law, they are not RCRA requirements.

I. Who Handles Permits After This Authorization Takes Effect?

Missouri will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Missouri is not yet authorized.

J. What Is Codification and Is the EPA Codifying Missouri'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 AA for this authorization of Missouri's program changes until a later date.

K. Regulatory Analysis and Notices

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 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. Before promulgating an EPA rule for which a written statement is needed, 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, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that section 202 and 205 requirements do not apply to today's action because this rule does not contain a Federal mandate that may result in annual expenditures of \$100 million or more for state, local, and/or tribal governments in the aggregate, or the private sector. Costs to state, local and/or tribal governments already exist under the Missouri program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector. Further, as it applies to the state, this action does not impose a Federal intergovernmental mandate because UMRA does not include duties arising from participation in a voluntary Federal program.

The requirements of section 203 of UMRA also do not apply to today's action because this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under the existing state laws that are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

Certification Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) a small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this authorization on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that are hazardous waste generators, transporters, or that own and/or operate TSDFs are already subject to the regulatory requirements under the state laws which EPA is now authorizing. This action merely authorizes for the purpose of RCRA section 3006 those existing state requirements.

Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the SBREFA of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

Compliance With Executive Order 12866

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

Compliance with Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have Federalism implications." "Policies that have Federalism implications" is defined in the Executive Order to include regulations that have "substantial direct

effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.”

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has Federalism implications and that preempts state law unless the agency consults with state and local officials early in the process of developing the proposed regulation.

This authorization does not have Federalism implications. It will not have a substantial direct effect on states, 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 specified in Executive Order 13132, because this rule affects only one state. This action simply approves Missouri’s proposal to be authorized for updated requirements of the hazardous waste program that the state has voluntarily chosen to operate. Further, as a result of this action, newly authorized provisions of the state’s program now apply in Missouri in lieu of the equivalent Federal program provisions implemented by EPA under HSWA. Affected parties are subject only to those authorized state program provisions, as opposed to being subject to both Federal and state regulatory requirements. Thus, the requirements of section 6 of the Executive Order do not apply.

Compliance With Executive Order 13045

Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks,” applies to any rule that: (1) the Office of Management and Budget determines is “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective

and reasonably feasible alternatives considered by the agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

Compliance with Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies with consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA’s prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments “to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.”

This rule is not subject to Executive Order 13084 because it does not significantly or uniquely affect the communities of Indian tribal governments. Missouri is not authorized to implement the RCRA hazardous waste program in Indian country. This action has no effect on the hazardous waste program that EPA implements in the Indian country within the state.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus

standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

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: February 16, 2000.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 00–4650 Filed 2–25–00; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6543–3]

Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of Louisiana has applied for Final authorization to revise its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA). The EPA is now making an immediate final decision, subject to receipt of written comments that oppose this action, that Louisiana’s Hazardous Waste Program revision satisfies all the requirements necessary to qualify for final authorization.

DATES: This immediate final rule is effective on April 28, 2000 without further notice, unless EPA receives adverse comment by March 29, 2000.