

flexibility will reduce, not increase compliance costs for the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265, and 270. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs with increased levels of flexibility provided under the approved state program.

#### Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of Tennessee's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

#### List of Subjects in 40 CFR Part 271

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

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended (42 U.S.C. 6912(a), 6926, 6974(b)).

Dated: May 14, 1996.

A. Stanley Meiburg,

*Acting Regional Administrator.*

[FR Doc. 96-12886 Filed 5-22-96; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 271

[FRL-5508-2]

#### Kentucky; Final Authorization of Revisions to State Hazardous Waste Management Program

**AGENCY:** Environmental Protection Agency.

**ACTION:** Immediate final rule.

**SUMMARY:** Kentucky has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). Kentucky's revisions consist of the provisions contained in certain rules promulgated between July 1, 1987, through June 30, 1992, which fall within HSWA Cluster II, Non-HSWA Cluster VI, and RCRA Clusters I and II. These requirements are listed in Section B of this notice. The Environmental Protection Agency (EPA) has reviewed Kentucky's application and has made a decision, subject to public review and comment, that Kentucky's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Kentucky's hazardous waste program revisions. Kentucky's application for program revisions is available for public review and comment.

**DATES:** Final authorization for Kentucky's program revisions shall be effective July 22, 1996, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Kentucky's program revision application must be received by the close of business, June 24, 1996.

**ADDRESSES:** Copies of Kentucky's program revision application are available during normal business hours at the following addresses for inspection and copying: Kentucky Department for Environmental Protection, Division of Waste Management, Fort Boone Plaza, Building 2, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-6716; U.S. EPA Region 4, Library, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347-4216. Written comments should be sent to Al Hanke at the address listed below.

**FOR FURTHER INFORMATION CONTACT:** Al Hanke, Chief, State Programs Section, Waste Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365; (404) 347-3555 vmx 2018.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

States with final authorization under Section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260-268 and 124 and 270.

##### B. Kentucky

Kentucky initially received final authorization for its base RCRA program effective on January 31, 1985. Kentucky has received authorization for revisions to its program on March 13, 1995, December 19, 1988, March 20, 1989, May 15, 1989, and November 30, 1992. In August 1994, Kentucky submitted a program revision application for additional program approvals. Today, Kentucky is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Kentucky's application and has made an immediate final decision that Kentucky's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Kentucky. The public may submit written comments on EPA's immediate final decision up until June 24, 1996.

Copies of Kentucky's application for these program revisions are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

Approval of Kentucky's program revisions shall become effective July 22, 1996, unless an adverse comment

pertaining to the State's revisions discussed in this notice is received by the end of the comment period.

If an adverse comment is received EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the

immediate final decision takes effect or reverses the decision.

EPA shall administer any RCRA hazardous waste permits, or portions of permits that contain conditions based upon the Federal program provisions for which the State is applying for authorization and which were issued by EPA prior to the effective date of this

authorization. EPA will suspend issuance of any further permits under the provisions for which the State is being authorized on the effective date of this authorization.

Kentucky is today seeking authority to administer the following Federal requirements promulgated between July 1, 1987, and June 30, 1992.

Checklist	Federal requirement	FR promulgation date	HSWA or FR reference	State authority
42 .....	Exception Reporting for Small Quantity Generators of Hazardous Waste.	9/23/87	52 FR 35894	KRS 224.46-570; 401 KAR 32:040§ 3(1)-(2).
44A .....	Permit Application Requirements Regarding Corrective Action.	12/1/87	52 FR 45788	KRS 224.46-520; 401 KAR 38:100§ 2-3.
44B .....	Corrective Action Beyond Facility Boundary.	12/1/87	52 FR 45788	KRS 224.46-520; KRS 224.46-530(1)(e),(f),(h), (i),(2); 401 KAR 34:060§ 11(5)(a)-(b); 12(3).
44C .....	Corrective Action for Injection Wells.	12/1/87	52 FR 45788	KRS 224.46-520; KRS 224.46-530(1)(e), (f), (h), (i), (2); 401 KAR 35:010; 401 KAR 38:060§ 1(2)(c)1; 1(2)(c)2.
44D .....	Permit Modification .....	12/1/87	52 FR 45788	KRS 224.46-520(1)&(2); KRS 224.46-530(1)(g)&(2); 401 KAR 38:040§ 2(1)(c).
44E .....	Permit as a Shield Provision .....	12/1/87	52 FR 45788	KRS 224.46-520(1)&(2); KRS 224.46-530(1)(a)-(c); 401 KAR 38:010§ 3(1).
44F .....	Permit Conditions to Protect Human Health and the Environment.	12/1/87	52 FR 45788	KRS 224.46-305; KRS 224.46-520(1)(b)-(c), (2) & (4); KRS 224.46-530(1)(f),(h) & (2); 401 KAR 38:070§ 10.
44G .....	Post Closure Permits .....	12/1/87	52 FR 45788	KRS 224.46-520; KRS 224.46-530; 401 KAR 38:010§ 1(2).
67 .....	Testing and Monitoring Activities	9/29/89	54 FR 40260	KRS 224.46-510(3); KRS 224.46-530; 401 KAR 30:010§ 3; 401 KAR 31:120§ 1(4).
68 .....	Reportable Quantity Adjustment	10/6/89	54 FR 41402	KRS 224.46-510(3); KRS 224.46-530(1)(n); 401 KAR 31:030§ 1(2), 2(2), 3(2), 4(2); 401 KAR 31:040§ 2(1), 3 & 4(5); 401 KAR 31:120§ 1(4); 401 KAR 31:160§ 1; 401 KAR 31:170§ 1.
72 .....	Modifications of F019 Listing .....	2/14/90	55 FR 5340	KRS 224.46-510(3); KRS 224.46-530(1)(n); 401 KAR 31:030§ 1(2),2(2),3(2),4(2); 401 KAR 31:040§ 2(1), 3 & 4(5); 401 KAR 31:120§ 1(4); 401 KAR 31:160§ 1; 401 KAR 31:170§ 1.
73 .....	Testing and Monitoring Activities; Technical Corrections.	3/9/90	55 FR 8948	KRS 224.46-510(3); KRS 224.46-530; 401 KAR 30:010§ 3; 401 KAR 30:120§ 1(4).
75 .....	Listing of 1, 1-Dimethylhydrazine Production Wastes.	5/2/90	55 FR 18496	KRS 224.46-510(3); KRS 224.46-530(1)(n); 401 KAR 31:030§ 1(2),2(2),3(2),4(2); 401 KAR 31:040§ 2(1), 3, & 4(5); 401 KAR 31:120§ 1(4); 401 KAR 31:160§ 1; 401 KAR 31:170§ 1.
76 .....	Criteria for Listing Toxic Wastes; Technical Amendment.	5/4/90	55 FR 18726	KRS 224.46-510(3); 401 KAR 31:020§ 2(1)(c).
77 .....	HSWA Codification Rule; Double Liners; Correction.	5/9/90	55 FR 19262	KRS 224.46-520; KRS 224.46-530(1)(f), (h), & (i); 401 KAR 34:200§ 2(3); 401 KAR 34:230§ 2(4).
80 .....	Toxicity Characteristic; Hydrocarbon Recovery Operations (HSWA).	10/5/90	55 FR 40834	KRS 224.46-510(3); 401 KAR 31:010§ 4(2)(k).
81 .....	Petroleum Refinery Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038).	11/2/90	55 FR 46354	KRS 224.46-510(3); KRS 224.46-530; 401 KAR 31:040§ 2(2).
84 .....	Toxicity Characteristic; Chlorofluorocarbon Refrigerants.	2/13/91	56 FR 5910	KRS 224.46-510(3); KRS 224.46-530(1)(n) & (2); 401 KAR 31:010§ 4(2)(1).
86 .....	Removal of Strontium Sulfide from the List of Hazardous Waste; Technical Amendment.	2/25/91	56 FR 7567	KRS 224.46-510(3); KRS 224.46-530(1)(n); 401 KAR 31:030§ 1(2),2(2),3(2) & 4(2); 401 KAR 31:040§ 2(1), 3, & 4(5); 401 KAR 31:120§ 1(4); 401 KAR 31:160§ 1; 401 KAR 31:170§ 1.
88 .....	Administrative Stay for K069 Listing.	5/1/91	56 FR 19951	KRS 224.46-510(3); KRS 224.46-530(1)(n); 401 KAR 31:030§ 1(2),2(2),3(2) & 4(2); 401 KAR 31:040§ 2(1), 3, & 4(5); 401 KAR 31:120§ 1(4); 401 KAR 31:160§ 1; 401 KAR 31:170§ 1.
89 .....	Revision to F037 and F038 Listings.	5/13/91	56 FR 21955	KRS 224.46-510(3); KRS 224.46-530(1)(n); 401 KAR 31:030§ 1(2),2(2),3(2) & 4(2); 401 KAR 31:040§ 2(1), 3, & 4(5); 401 KAR 31:120§ 1(4); 401 KAR 31:160§ 1; 401 KAR 31:170§ 1.
97 .....	Exports of Hazardous Waste; Technical Correction.	9/4/91	56 FR 43704	KRS 224.46-510(a), (d)-(g); 401 KAR 32:050§ 4(2), & 7(2).

Checklist	Federal requirement	FR promulgation date	HSWA or FR reference	State authority
99 .....	Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations.	12/23/91	56 FR 66365	KRS 224.46-520(1); KRS 224.46-530(1)(h)-(i) & 2; 401 KAR 35:060§ 2(1)(c).
104 .....	Used Oil Filter Exclusion .....	5/20/92	57 FR 21524	KRS 224.46-510(3); KRS 224.46-530(1)(n); 401 KAR 31:010§ 4(2)(m).
105 .....	Recycled Coke By-Product Exclusion.	6/22/92	57 FR 27880	KRS 224.46-510(3); KRS 224.46-530(1)(n); 401 KAR 31:010§ 4(1)(j).

### C. Decision

I conclude that Kentucky's application for these program revisions meet all of the statutory and regulatory requirements established by RCRA. Accordingly, Kentucky is granted final authorization to operate its hazardous waste program as revised.

Kentucky now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitations of its program revision application and previously approved authorities. Kentucky also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Section 3008, 3013, and 7003 of RCRA.

#### Compliance With Executive Order 12866

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

#### 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.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of \$100 million or more for State, local and tribal governments, in the aggregate, or the private sector in any one year. EPA does not anticipate that the approval of Kentucky's hazardous waste program referenced in today's notice will result in annual costs of \$100 million or more.

EPA's approval of state programs generally has a deregulatory effect on the private sector because once it is determined that a state hazardous waste program meets the requirements of RCRA section 3006(b) and the regulations promulgated thereunder at 40 CFR Part 271, owners and operators of hazardous waste treatment, storage, or disposal facilities (TSDFs) may take advantage of the flexibility that an approved state may exercise. Such flexibility will reduce, not increase compliance costs for the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that small governments may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste

program. However, such small governments which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265, and 270. Once EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small governments will be able to own and operate their TSDFs with increased levels of flexibility provided under the approved state program.

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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: May 14, 1996.

A. Stanley Meiburg,

*Acting Regional Administrator.*

[FR Doc. 96-12887 Filed 5-22-96; 8:45 am]

BILLING CODE 6560-50-P