

(c) \* \* \*

Inert ingredients	Limits	Uses
1,1-Difluoroethane (CAS Reg. No. 75-37-6) .....	For aerosol pesticide formulations used for insect control in food- and feed-handling establishments and animals.	Aerosol propellant

(e) \* \* \*

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#### 40 CFR Part 271

[FRL-5542-7]

#### Final Authorization of State Hazardous Waste Management Program: Kansas

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

**ACTION:** Immediate final rule.

**SUMMARY:** Kansas has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act of 1976, as amended (hereinafter RCRA). The Kansas revisions consist of provisions contained in federal rules promulgated between July 1, 1986 to June 30, 1992. These requirements are listed in Section B of this document. The EPA has reviewed the Kansas application and has made a decision, subject to public review and comment, that the Kansas hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, the EPA intends to approve the Kansas hazardous waste program revisions, subject to authority retained by the EPA under the Hazardous and Solid Waste Amendments of 1984 (hereinafter HSWA). The Kansas application for program revision is available for public review and comment.

**DATES:** Final authorization for Kansas shall be effective September 27, 1996, unless the EPA publishes a prior

Federal Register action withdrawing this immediate final rule. All comments on the Kansas program revision application must be received by the close of business August 28, 1996.

**ADDRESSES:** Written comments should be sent to Ms. Pat Price, Iowa RCRA & State Programs Branch, U.S. Environmental Protection Agency Region 7, 726 Minnesota Avenue, Kansas City, Kansas 66101 (913/551-7592). Copies of the Kansas program revision application are available for inspection and copying during normal business hours at the following addresses: Bureau of Waste Management, Kansas Department of Health and Environment, Forbes Field, Topeka, Kansas 66620-0001 (913/296-1600); U. S. EPA Headquarters Library, PM 211A, 401 M Street, S.W., Washington, D.C. 20460 (202/382-5926); U. S. EPA Region 7 Library, 726 Minnesota Avenue, Kansas City, Kansas 66101 (913/551-7241).

**FOR FURTHER INFORMATION CONTACT:** Ms. Pat Price, U.S. EPA Region 7, 726 Minnesota Avenue, Kansas City, Kansas 66101 (913/551-7592).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

States with final authorization under section 3006(b) of RCRA 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. The Hazardous and Solid Waste Amendment 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.

In accordance with 40 CFR 271.21, 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 the EPA's regulations in 40 CFR parts 124, 260-266, 268, 270, 273 and 279.

##### B. Kansas

Kansas initially received final authorization for its base RCRA Program effective October 17, 1985 (50 FR 40377). Kansas received authorization for a revision to its program effective on June 25, 1990, for Non-HSWA Clusters I and II (55 FR 17273). Kansas received additional approval for a revision to its program effective on August 15, 1994, for Non-HSWA Clusters III, IV, V, and HSWA Cluster I (59 FR 30528). Kansas submitted a final application for additional program approval on April 16, 1996, for Non-HSWA Cluster VI, HSWA Cluster II, and RCRA Clusters I and II. Kansas is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

The EPA has reviewed the Kansas application and has made an immediate

final decision that the Kansas hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, the EPA intends to grant final authorization for the additional program modifications to Kansas. The public may submit written comments on EPA's immediate final decision up until August 28, 1996. Copies of the Kansas application for program revisions are

available for inspection and copying at the locations indicated in the ADDRESSES section of this document.

Approval of the Kansas program revisions shall become effective in sixty (60) days, unless an adverse comment pertaining to the state's revisions discussed in this document is received by the end of the comment period. If an adverse comment is received, the 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.

On September 27, 1996, Kansas will be authorized to carry out, in lieu of the federal program, those provisions of the state's program which are analogous to the following provisions of the federal program.

Federal requirement	Kansas regulation
Checklist 39—California List Waste Restrictions, July 8, 1987, 52 FR 25760–25792, as amended on October 27, 1987, 52 FR 41295–41296.	28–31–2(a), 28–31–4(b)(4), 28–31–8(a), 28–31–14, 28–31–9(a).
Checklist 42—Exception Reporting for Small Quantity Generators of Hazardous Waste, September 23, 1987, 52 FR 35894–35899.	28–31–4(f)(4).
Checklist 44D—HSWA Codification Rule 2 (Permit Modification), December 1, 1987, 52 FR 45788–45799.	28–31–9(a).
Checklist 44E—HSWA Codification Rule 2 (Permit as a Shield Provision), December 1, 1987, 52 FR 45788–45799.	28–31–9(a).
Checklist 44F—HSWA Codification Rule 2 (Permit Condition to Protect Human Health and the Environment), December 1, 1987, 52 FR 45788–45799.	28–31–9(a).
Checklist 44G—HSWA Codification Rule 2 (Post-Closure Permits), December 1, 1987, 52 FR 45788–45799.	28–31–9(a).
Checklist 48—Farmer Exemptions; Technical Corrections, July 19, 1988, 53 FR 27164–27165	28–31–4(a), 28–31–8(a), 28–31–14, 28–31–9(a).
Checklist 50—Land Disposal Restrictions for First Third Scheduled Wastes, August 17, 1988, 53 FR 31138–31222, as amended on February 27, 1989, 54 FR 8264–8266.	28–31–8(a), 28–31–8(b), 28–31–14.
Checklist 52—Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems, September 2, 1988, 53 FR 34079–34087.	28–31–2(a), 28–31–8(a), 28–31–9(a).
Checklist 62—Land Disposal Restrictions Amendments to First Third Scheduled Wastes, May 2, 1989, 54 FR 18836–18838.	28–31–14.
Checklist 63—Land Disposal Restrictions for Second Third Scheduled Wastes, June 23, 1989, 54 FR 26594–26652.	28–31–14.
Checklist 64—Delay of Closure Period for Hazardous Waste Management Facilities, August 14, 1989, 54 FR 33376–33398.	28–31–8(a), 28–31–9(a).
Checklist 65—Mining Waste Exclusion I, September 1, 1989, 54 FR 36592–36642 .....	28–31–3(a).
Checklist 66—Land Disposal Restrictions; Correction to the First Third Scheduled Wastes, September 6, 1989, 54 FR 36967, as amended on June 13, 1990, 55 FR 23935.	28–31–8(b), 28–31–14.
Checklist 67—Testing and Monitoring Activities, September 29, 1989, 54 FR 40260–40269 .....	28–31–2(a), 28–31–3(a).
Checklist 68—Reportable Quantity Adjustment Methyl Bromide Production Wastes, October 6, 1989, 54 FR 41402–41408.	28–31–3(a).
Checklist 69—Reportable Quantity Adjustment, December 11, 1989, 54 FR 50968–50979 .....	28–31–3(a).
Checklist 70—Changes to Part 124 Not Accounted for by Present Checklists, April 1, 1983, 48 FR 14146–14295; June 30, 1983, 48 FR 30113–30115; July 26, 1988, 53 FR 28118–28157; September 26, 1988, 53 FR 37396–37414; January 4, 1989, 54 FR 246–258.	28–31–9(a).
Checklist 71—Mining Waste Exclusion II, January 23, 1990, 55 FR 2322–2354 .....	28–31–2(a), 28–31–3(a), 28–31–4(b).
Checklist 72—Modification of F019 Listing, February 14, 1990, 55 FR 5340–5342 .....	28–31–3(a).
Checklist 73—Testing and Monitoring Activities; Technical Corrections, March 9, 1990, 55 FR 8948–8950.	28–31–2(a), 28–31–3(a).
Checklist 74—Toxicity Characteristic Revisions, March 29, 1990, 55 FR 11798–11877, as amended on June 29, 1990, 55 FR 26986–26998.	28–31–3(a), 28–31–8(a), 28–31–14.
Checklist 75—Listing of 1,1-Dimethylhydrazine Production Wastes, May 2, 1990, 55 FR 18496–18506.	28–31–3(a).
Checklist 76—Criteria for Listing Toxic Wastes; Technical Amendment, May 4, 1990, 55 FR 18726.	28–31–3(a).
Checklist 77—HSWA Codification Rule 2, Double Liners; Correction, May 9, 1990, 55 FR 19262–19264.	28–31–8(a).
Checklist 78—Land Disposal Restrictions for Third Third Scheduled Wastes, June 1, 1990, 55 FR 22520–22720.	28–31–3(a), 28–31–4(a), 28–31–4 (a) and (e), 28–31–8(a), 28–31–14, 28–31–9(a).
Checklist 79—Organic Air Emission Standards for Process Vents and Equipment Leaks, June 21, 1990, 55 FR 25454–25519.	28–31–2(a), 28–31–3(a), 28–31–8(a), 28–31–9(a).
Checklist 80—Toxicity Characteristic; Hydrocarbon Recovery Operations, October 5, 1990, 55 FR 40834–40837, as amended on February 1, 1991, at 56 FR 3978, and April 2, 1991, at 56 FR 13406–13411.	28–31–3(a).
Checklist 81—Petroleum Refinery Primary and Secondary Oil/Water Solids Separation Sludge Listings (F037 and F038), November 2, 1990, 55 FR 46354–46397, as amended on December 17, 1990 at 55 FR 51707.	28–31–3(a).
Checklist 82—Wood Preserving Listings, December 6, 1990, 55 FR 50450–50490 .....	28–31–2(a), 28–31–3(a), 28–31–4(a), 28–31–8(a), 28–31–9(a).
Checklist 83—Land Disposal Restrictions for Third Third Scheduled Wastes; Technical Amendments, January 31, 1991, 56 FR 3864–3928.	28–31–3(a), 28–31–4(a), 28–31–14.

Federal requirement	Kansas regulation
Checklist 84—Toxicity Characteristic; Chlorofluorocarbon Refrigerants, February 13, 1991, 56 FR 5910–5915.	28–31–3(a).
Checklist 86—Removal of Strontium Sulfide from the List of Hazardous Wastes; Technical Amendment, February 25, 1991, 56 FR 7567–7568.	28–31–3(a).
Checklist 87—Organic Air Emission Standards for Process Vents and Equipment Leaks; Technical Amendment, April 26, 1991, 56 FR 19290.	28–31–8(a), 28–31–9(a).
Checklist 88—Administrative Stay for K069 Listing, May 1, 1991, 56 FR 19951 .....	28–31–3(a).
Checklist 89—Revision to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038), May 13, 1991, 56 FR 21955–21960.	28–31–3(a).
Checklist 90—Mining Waste Exclusion III, June 13, 1991, 56 FR 27300–27330 .....	28–31–3(a).
Checklist 91—Wood Preserving Listings, June 13, 1991, 56 FR 27332–27336 .....	28–31–3(a), 28–31–8(a).
Checklist 92—Wood Preserving Listings; Technical Corrections, July 1, 1991, 56 FR 30192–30198.	28–31–3(a), 28–31–4(a), 28–31–4(g), 28–31–8(a), 28–31–9(a).
Checklist 95—Land Disposal Restrictions for Electric Arc Furnace Dust (K061), August 19, 1991, 56 FR 41164–41178.	28–31–3(a), 28–31–14.
Checklist 97—Exports of Hazardous Waste; Technical Correction, September 4, 1991, 56 FR 43704–43705.	28–31–4(q).
Checklist 99—Amendments to Interim Status Standards for Downgradient Ground-Water Monitoring Well Locations, December 23, 1991, 56 FR 66365–66369.	28–31–2(a), 28–31–8(a).
Checklist 100—Liners and Leak Detection Systems for Hazardous Waste Land Disposal Units, January 29, 1992, 57 FR 3462–3497.	28–31–2(a), 28–31–8(a), 28–31–9(a).
Checklist 101—Administrative Stay for the Requirement that Existing Drip Pads Be Impermeable, February 18, 1992, 57 FR 5859–5861.	28–31–8(a).
Checklist 102—Second Correction to the Third Third Land Disposal Restrictions, March 6, 1992, 57 FR 8086–8089.	28–31–8(a), 28–31–14.
Checklist 103—Hazardous Debris Case-by-Case Capacity Variance, May 15, 1992, 57 FR 20766–20770.	28–31–14.
Checklist 104—Used Oil Filter Exclusion, May 20, 1992, 57 FR 21524–21534 .....	28–31–3(a).
Checklist 105—Recycled Coke By-Product, June 22, 1992, 57 FR 27880–27888 .....	28–31–3(a).
Checklist 106—Lead-Bearing Hazardous Materials Case-by-Case Capacity Variance, June 26, 1992, 57 FR 28628–28632.	28–31–14.

The state will assume lead responsibility for issuing permits for those program areas authorized today. For those HSWA provisions for which the state is not authorized, the EPA will retain lead responsibility. For those permits which will now change to state lead from the EPA, the EPA will transfer copies of any pending applications, completed permits, or pertinent file information to the state within 30 days of the effective date of this authorization. The EPA will be responsible for enforcing the terms and conditions of federally issued permits while they remain in force. The EPA will also be responsible for enforcing the terms and conditions of RCRA permits regarding HSWA requirements until the state has the authority to address the HSWA requirements.

The state has agreed to review all state-issued permits and to modify or reissue them as necessary to require compliance with the currently approved state law and regulations. When the state reissues federally issued permits as state permits, the state will take the lead in enforcing such permits, with the exception of those HSWA requirements for which the state has not received authorization. Kansas is not authorized to operate the Federal Program on Indian Lands. This authority remains with the EPA unless provided otherwise in a future statute or regulation.

#### C. Decision

We conclude that the Kansas application for program revisions meets all of the statutory and regulatory requirements established by RCRA and its amendments. Accordingly, following the public comment period, Kansas is granted final authorization to operate its hazardous waste management program, as revised. Kansas now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. Kansas also has primary enforcement responsibilities, although the EPA retains the right to conduct inspections under Section 3007 of RCRA and to take enforcement actions under Sections 3008, 3013 and 7003 of RCRA.

#### *Incorporation by Reference*

The EPA incorporates by reference, authorized state programs in 40 CFR Part 272, to provide notice to the public of the scope of the authorized program in each state. Incorporation by reference of the Kansas program will be completed at a later date.

#### *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), 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, the 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 the 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 the 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 the

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 the EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no federal mandates for state, local or tribal governments or the private sector. The Act excludes from the definition of a "federal mandate" duties that arise from participation in a voluntary federal program, except in certain cases where a "federal intergovernmental mandate" affects an annual federal entitlement program of \$500 million or more that are not applicable here. The Kansas request for approval of revisions to its authorized hazardous waste program is voluntary and imposes no federal mandate within the meaning of the Act. Rather, by having its hazardous waste program approved, the state will gain the authority to implement the program within its jurisdiction, in lieu of the EPA thereby eliminating duplicative state and federal requirements. If a state chooses not to seek authorization for administration of a hazardous waste program under RCRA Subtitle C, RCRA regulation is left to the EPA.

In any event, the 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. The EPA does not anticipate that the approval of the Kansas hazardous waste program referenced in today's notice will result in annual costs of \$100 million or more. The EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector since the state, by virtue of the approval, may now administer the program in lieu of the EPA and exercise primary enforcement. Hence, owners and operators of treatment, storage, or disposal facilities (TSDFs) generally no longer face dual federal and state compliance requirements, thereby reducing overall compliance costs. Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

The 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 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once the 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 under the approved state program, in lieu of the federal program.

#### *Certification Under the Regulatory Flexibility Act*

The EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. The EPA recognizes that small entities may own and/or operate TSDFs that will become subject to the requirements of an approved state hazardous waste program. However, since such small entities which own and/or operate TSDFs are already subject to the requirements in 40 CFR Parts 264, 265 and 270, this authorization does not impose any additional burdens on these small entities. This is because the EPA's authorization would result in an administrative change (i.e., whether the EPA or the state administers the RCRA Subtitle C program in that state), rather than result in a change in the substantive requirements imposed on small entities. Once the EPA authorizes a state to administer its own hazardous waste program and any revisions to that program, these same small entities will be able to own and operate their TSDFs under the approved state program, in lieu of the federal program. Moreover, this authorization, in approving a state program to operate in lieu of the federal program, eliminates duplicative requirements for owners and operators of TSDFs in that particular state.

Therefore, the EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 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 approves the Kansas program to operate in lieu of the federal 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.

#### *Submission to Congress and the General Accounting Office*

Under Section 801(a)(1)(A) of the Administrative Procedures Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by Section 804(2) of the APA as amended.

#### *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.

#### *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 rulemaking 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: July 17, 1996.

Dennis Grams,

*Regional Administrator.*

[FR Doc. 96-19086 Filed 7-26-96; 8:45 am]

BILLING CODE 6560-50-P

#### **40 CFR Part 372**

**[OPPTS-400096A; FRL-5372-6]**

#### **Diethyl Phthalate; Toxic Chemical Release Reporting; Community Right-to-Know**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is deleting diethyl phthalate (DEP) from the list of chemicals subject to the reporting requirements under section 313 of the Emergency Planning and Community