

non-part 70 sources.¹ South Carolina has informed EPA that it intends to accept the delegation of section 112 standards on an automatic basis. The details of this delegation mechanism are set forth in an addendum to the South Carolina title V program submittal.

d. Commitment to implement title IV of the Act. DHEC has committed to take action, following promulgation by EPA of regulations implementing sections 407 and 410 of the Act, or revisions to either part 72 or the regulations implementing sections 407 or 410, to either incorporate the revised provisions by reference or submit, for EPA approval, DHEC regulations implementing these provisions. DHEC committed to adopt and submit to EPA the above referenced regulations no later than January 1, 1995.

B. Proposed Actions

1. Full Approval

EPA proposes to fully approve the operating permits program submitted to EPA from the State of South Carolina on November 15, 1993.

2. Program for Straight Delegation of Section 112 Standards

As discussed above in section II.A. 4.c., EPA is proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 to South Carolina for its program mechanism for receiving delegation of all existing and future section 112(d) standards for both part 70 and non-part 70 sources, and infrastructure programs under section 112 that are unchanged from Federal rules as promulgated. In addition, EPA proposes to delegate existing standards under 40 CFR parts 61 and 63 for both part 70 sources and non-part 70 sources.

III. Administrative Requirements

A. Request for Public Comments

EPA requests comments on all aspects of this proposed full approval. Copies of the State's submittal and other information relied upon for the proposal are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the

¹ The radionuclide National Emission Standards for Hazardous Air Pollutant (NESHAP) is a section 112 regulation and therefore, also an applicable requirement under the State operating permits program for part 70 sources. There is not yet a Federal definition of "major" for radionuclide sources. Therefore, until a major source definition for radionuclide is promulgated, no source would be a major section 112 source solely due to its radionuclide emissions. However, a radionuclide source may, in the interim, be a major source under part 70 for another reason, thus requiring a part 70 permit. EPA will work with the State in the development of its radionuclide program to ensure that permits are issued in a timely manner.

information submitted to, or otherwise considered by, EPA in the development of this proposal. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process; and

(2) To serve as the record in case of judicial review. EPA will consider any comments received by February 23, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from executive order 12866 review.

C. Regulatory Flexibility Act

EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: January 9, 1995.

Patrick M. Tobin,

Acting Regional Administrator.

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40 CFR Part 281

[FRL-5142-9]

The State of Texas; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on application of Texas for final approval, public hearing and public comment period.

SUMMARY: The Texas Natural Resource Conservation Commission (TNRCC, Texas or the State) has applied for final approval of its underground storage tank program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Texas' application and has made the tentative decision that its underground storage tank program satisfies all of the requirements

necessary to qualify for final approval. Thus, EPA intends to grant final approval to the State to operate its program in lieu of the Federal program. Texas' application for final approval is available for public review and comment, and a public hearing will be scheduled to solicit comments on the application, if requested.

DATES: A public hearing will be scheduled. Interested parties may call the US EPA, Region 6, Office of Underground Storage Tanks, at (214) 665-6756 between the hours of 8:00 a.m. and 4:00 p.m. Central Standard Time, from February 23, 1995 through February 28, 1995 to learn the date and time of the scheduled public hearing. If it is held, Texas will participate in the public hearing scheduled by EPA on this subject. All comments on Texas' final approval application and all requests to present oral testimony must be received by the close of business on February 23, 1995. EPA reserves the right to cancel the scheduled hearing should there be no significant public interest. Those informing EPA of their intention to testify will be notified of the cancellation.

ADDRESSES: Copies of Texas' final approval application are available for inspection and copying, 9:00 a.m.-4:00 p.m., at the following addresses: Texas Natural Resource Conservation Commission Records and Copy Center, Park 35 Building "D", Room 190, 12118 North IH-35, Austin, Texas 78753, Phone: (512) 239-2920; US EPA Headquarters, Office of Underground Storage Tanks Docket Clerk, 401 M Street, SW, Room 2616, Washington, DC 20460, Phone: (202) 260-9720; and US EPA, Region 6 Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202, Phone: (214) 665-6424. The location for the scheduled hearing can be obtained by calling the US EPA, Region 6, Office of Underground Storage Tanks, Phone: (214) 665-6756, between 8:00 a.m. and 4:00 p.m. Central Standard Time from February 23, 1995 through February 28, 1995. Written comments and requests to present oral testimony should be sent to Joe Womack, Texas Program Officer, Office of Underground Storage Tanks, US EPA, Region 6, Mailcode: 6H-A, 1445 Ross Avenue, Dallas, Texas 75202, Phone: (214) 665-6586.

FOR FURTHER INFORMATION CONTACT: Texas Program Officer, Underground Storage Tank Program, Attention: Joe Womack, US EPA, Region 6, Mailcode: 6H-A, 1445 Ross Avenue, Dallas, Texas 75202, Phone: (214) 665-6586.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of RCRA enables EPA to approve State underground storage tank programs to operate in the State in lieu of the Federal underground storage tank (UST) program. Program approval is granted by EPA if the Agency finds that the State program: (1) Is "no less stringent" than the Federal program in the following seven elements: Corrective action; financial responsibility; new tank standards; release detection; release detection recordkeeping; reporting of releases (section 9004(b)(2), 42 U.S.C. 6991(c)(b)(2); and notification requirements of section 9004(a)(8), 42 U.S.C. 6991(c)(a)(8); and (2) provides for adequate enforcement of compliance with UST standards (section 9004(a), 42 U.S.C. 6991(c)(a)).

B. Texas

On April 28, 1994, Texas submitted an official application for final approval. Prior to its submission, Texas provided an opportunity for public notice and comment in the development of its underground storage tank program. This is required under 40 CFR 281.50(b). EPA reviewed Texas' application, and determined that there were apparent differences between Texas' regulations and the Federal regulations. The differences were in various sections of the Texas UST regulations and involved minor aspects of corrosion protection, exceptions, and discretionary powers of the Executive Director of the TNRCC.

EPA and the State of Texas have discussed these differences and the State agreed, pursuant to a Memorandum of Agreement (MOA), to amend its current regulations to address each instance of the differences noted

above. The revised regulations were submitted to the Texas Register as proposed rule amendments July 1, 1994, and became effective on January 3, 1995. The specific differences and Texas' proposed regulatory changes are documented in the MOA. The MOA is available for review as a part of the State Program Approval Application.

EPA proposes that Texas' program substantially meets all of the requirements necessary to qualify for final approval. Therefore, following mutual agreement on the terms and provisions of the MOA and the completion of the revisions to the Texas UST regulations, EPA proposes to grant final approval to the State of Texas to operate its program in lieu of the Federal program.

In accordance with section 9004 of RCRA, 42 U.S.C. 6991(c), and 40 CFR 281.50(e), the Agency will schedule a public hearing on its proposal. Interested parties can learn the date, time, and place of the scheduled hearing by calling the US EPA, Region 6, Office of Underground Storage Tanks, at (214)665-6756 between 8:00 a.m. and 4:00 p.m. Central Standard Time from February 23, 1995 through February 28, 1995. The public may also submit written comments on EPA's proposal until February 23, 1995. Copies of Texas' application are available at the ADDRESSES indicated in this notice.

EPA will consider all public comments on its proposal received at the hearing, if held, or during the public comment period. Issues raised by those comments may be the basis for a decision to deny final approval to Texas. EPA expects to make a final decision regarding approval of Texas' program by April 24, 1995 and will give notice of it in the **Federal Register**. The

notice will include a summary of the reasons for final determination and a response to all major comments.

The State of Texas is not authorized to operate the UST program on Indian lands and this authority will remain with EPA.

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.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. The approval effectively suspends the applicability of certain Federal regulations in favor of Texas' program, thereby eliminating duplicative requirements for owners and operators of underground storage tanks 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 281

Environmental protection, Administrative practice and procedure, Hazardous materials, State program approval, Underground storage tanks.

Authority: This Notice is issued under the authority of section 9004 of RCRA, 42 U.S.C. 6991(c).

Dated: January 13, 1995.

Barbara J. Goetz,

Acting Regional Administrator.

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