

2. By amending § 180.448 in the table therein and alphabetically inserting an entry for apples, to read as follows:

§ 180.448 **Hexythiazox; tolerances for residues.**

Commodity	Parts per million
Apples	0.02

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BILLING CODE 6560-50-F

40 CFR Part 282

[FRL-5345-2]

Underground Storage Tank Program; Approved State Program for Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 3007, 7003, 9005, and 9006 of RCRA. This rule codifies in part 282 the prior approval of Maine's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation shall be effective April 22, 1996, unless EPA publishes a prior Federal Register notice withdrawing this immediate final rule. All comments on the codification of Maine's underground storage tank program must be received by the close of business March 22, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of April 22, 1996.

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. UST 5-3), Underground Storage Tank Program, HPU-CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203-2211. Comments received by EPA may be inspected in the public docket,

located in the Waste Management Division Record Center, 90 Canal St., Boston, MA 02203 from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Thomas Burns, Underground Storage Tank Program, HPU-CAN7, U.S. EPA Region I, JFK Federal Building, Boston, MA 02203-2211. Phone: (617) 573-9663.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a Federal Register document announcing its decision to grant approval to Maine. (57 FR 36, February 24, 1992). Approval was effective on March 18, 1992.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 3007, 7003, 9005, and 9006 of Subtitle I of RCRA, 42 U.S.C. 6927, 6973, 6991d and 6991e. Today's rulemaking codifies EPA's approval of the Maine underground storage tank program. This codification reflects the state program in effect at the time EPA granted Maine approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Maine program, and EPA is not now reopening that decision nor requesting comment on it.

Codification provides clear notice to the public of the scope of the approved program in each state. Revisions to state underground storage tank programs are necessary when federal statutory or regulatory authority is modified. By codifying the approved Maine program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Maine, the status of federally approved requirements of the Maine program will be readily discernible. Only those provisions of the Maine underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Maine's underground storage tank program, EPA

has added § 282.69 to title 40 of the CFR. Section 282.69 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.69 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under Subtitle I of RCRA.

The Agency retains the authority under Sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogs to these provisions. Therefore, the approved Maine enforcement authorities will not be incorporated by reference. Forty CFR § 282.69 lists those approved Maine authorities that would fall into this category.

The public also needs to be aware that some provisions of the Maine's underground storage tank program are not part of the federally approved state program. These are:

- Registration requirements for farm or residential tanks less than or equal to 1,100 gallons containing motor fuels for non-commercial use;
- Registration requirements for tanks used for storing heating oil for consumptive use on the premises; and
- Permanent closure requirements for tanks containing heating oil consumed on the premises where stored.

These non-approved provisions are not part of the RCRA Subtitle I program because they are "broader in scope" than Subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are "broader in scope" than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.69 of the codification simply lists for reference and clarity the Maine statutory and regulatory provisions which are "broader in scope" than the federal program and which are not, therefore, part of the approved program being codified today. "Broader in scope" provisions cannot be enforced by EPA; the State, however, will continue to enforce such provisions.

Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (57 FR 36, February 24, 1992) to approve the Maine underground storage

tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

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.

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 or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects In 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: September 21, 1995.

John P. DeVillars,

Regional Administrator.

For the reasons set forth in the preamble, 40 CFR part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

2. Subpart B is amended by adding § 282.69 to read as follows:

Subpart B—Approved State Programs

§ 282.69—Maine State-Administered Program.

(a) The State of Maine is approved to administer and enforce an underground storage tank program in lieu of the federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Maine Department of Environmental Protection, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Maine program on February 18, 1992,

and the approval was effective on March 18, 1992.

(b) Maine has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 3007, 7003, 9005 and 9006 of RCRA, 42 U.S.C. 6927, 6973, 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Maine must revise its approved program to adopt new changes to the federal Subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Maine obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the Federal Register.

(d) Maine has final approval for the following elements submitted to EPA in Maine's program application for final approval and approved by EPA on February 18, 1992. Copies may be obtained from the Underground Storage Tank Program, Maine Department of Environmental Protection, AMHI Complex-Ray Building, Hospital Street, Augusta, ME 04333. The elements are listed below:

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Maine Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) Maine Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: Title 38 Maine Revised Statutes Annotated, Sections 561 through 570.

(B) The regulatory provisions include: Maine Regulations for Registration, Installation, Operation and Closure of Underground Oil Storage Facilities Chapter 691 Section 1 through 13.

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) Title 38 Maine Statutes Annotated, Section 565, insofar as it

refers to registration requirements for tanks greater than 1,100 gallons containing heating oil consumed on the premises where stored.

(B) Maine Environmental Protection Regulations Chapter 691, Section 6 regulations of heating oil facilities for consumption on premises, Section 9 facilities for underground storage of heavy oils.

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of Maine on December 5, 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Maine to EPA, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the original application in November 1991, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application in December 20, 1991, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region I and the Maine Department of Environmental Protection, signed by the EPA Regional Administrator on November, 1992, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to part 282 is amended by adding in alphabetical order "Maine" and its listing.

Appendix A To Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Maine

The following is an informational listing of the state requirements incorporated by reference in part 282 of the Code of Federal Regulations:

(a) The statutory provisions include: Maine Revised Statutes Annotated, 1990, Title 38.

Subchapter 11-B Underground Oil Storage Facilities and Groundwater Protection.
 Section 561—Findings; Purpose
 Section 562-A—Definitions
 Section 563—Registration of underground oil storage tanks
 Section 563-A—Prohibition of nonconforming underground oil storage facilities and tanks
 Section 563-B—Regulatory powers of department
 Section 564—Regulation of underground oil storage facilities
 Section 566-A—Abandonment of underground oil storage facilities and tanks
 Section 567—Certification of underground tank installers
 Section 568—Cleanup and removal of prohibited discharges
 Section 568-A—Fund coverage requirements
 Section 568-B—Fund Insurance Review Board
 Section 569-A—Ground water Oil Clean-up Fund
 Section 570—Liability
 (b) The regulatory provisions include State of Maine, Department of Environmental Protection, Regulation for Registration, Installation, Operation and Closure of Underground Storage Facilities Chapter 691, September 16, 1991:
 Section 1. Legal Authority
 Section 2. Preamble
 Section 3. Definitions
 Section 4. Registration of Underground Oil Storage Tanks
 Section 5. Regulation of Motor Fuel, Marketing & Distribution Facilities
 A. Applicability
 B. Design and Installation Standards for New and Replacement Facilities
 C. Retrofitting Requirements for Existing Facilities
 D. Monitoring, Maintenance, & Operating Procedures for Existing, New & Replacement Facilities & Tanks
 E. Facility Closure and Abandonment
 Section 7. Regulation of Facilities for the Underground Storage of Waste Oil
 A. Applicability
 B. Design and Installation Standards
 C. Operation, Maintenance, Testing, Requirements for Existing, New and Replacement Facilities
 D. Closure & Abandonment of Waste Oil Facilities
 Section 8. Regulation of Field Constructed Underground Oil Storage Tanks
 Section 10. Regulation of Pressurized Airport Hydrant Piping Systems
 Section 11. Regulations for Closure of Underground Oil Storage Facilities
 A. Facility Closure Requirements
 B. Temporarily Out of Service Facilities and Tanks
 C. Abandonment by Removal
 D. Abandonment by Filling in Place
 E. Notification Requirements
 Section 12. Discharge and Leak Investigation, Response and Corrective Action Requirements
 Section 13. Severability
 Appendix A: Cathodic Protection Monitoring
 Appendix B: Hydrostatic Piping Line Tightness Tests

Appendix C: Requirements for Pneumatic Testing
 Appendix D: Installation of Underground Tanks
 Appendix E: Installation for Underground Piping
 Appendix F: Specification for Ground Water Vertical Monitoring Wells
 Appendix H: Monitoring and Obtaining Samples for Laboratory Analysis
 Appendix J: Requirements for Abandonment by Removal
 Appendix K: Requirements for Abandonment in Place

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40 CFR Part 300
[FRL-5421-8]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice of deletion of the Lewisburg Dump Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Lewisburg Dump site in Lewisburg, Tennessee, from the National Priorities List (NPL), which is appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the State have determined that all appropriate Fund-financed responses under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that remedial actions conducted at the site to date have been protective of public health, welfare, and the environment. This deletion does not preclude future actions under Superfund.

EFFECTIVE DATE: February 1, 1996.
FOR FURTHER INFORMATION CONTACT: Femi Akindele, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, North Superfund Remedial Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 347-7791, extension 2042.
SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Lewisburg Dump Superfund Site, Lewisburg, Tennessee.

A Notice of Intent to Delete for this site was published on December 20, 1995, (60 FR 65616). The closing date for comments on the Notice of Intent to

Delete was January 11, 1996. EPA received no comments.
 EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action in the future. Section 300.425(e)(3) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300
 Environmental protection, Air pollution control, Chemicals, Hazardous Waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 2 of appendix B to part 300 is amended by removing the site for Lewisburg Dump, Lewisburg, Tennessee.

Dated: January 31, 1996.

Phyllis P. Harris,
Acting Regional Administrator, U.S. EPA Region 4.
 [FR Doc. 96-3581 Filed 2-20-96; 8:45 am]
BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 24

Senior Biomedical Research Service

AGENCY: Public Health Service (PHS), DHHS.

ACTION: Interim final rule with request for comments.

SUMMARY: The Secretary of Health and Human Services (DHHS) is issuing