will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has 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 this rule in today's Federal Register. This is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.


Daniel M. Barolo,
Director, Office of Pesticide Programs.

Therefore, 40 CFR Chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:


2. Section 180.1159 is revised to read as follows:

§180.1159 Pelargonic acid; exemption from the requirement of tolerances.

(a) Pelargonic acid is exempt from the requirement of a tolerance on tree fruits provided it is used as a blossom thinner only and is in a dilution of 100 gallons of water applied to blooms at a rate not exceeding 4.2 lbs/acre with the maximum number of applications not exceeding two per year.

(b) Pelargonic acid when used as an herbicide is exempt from the requirement of a tolerance on all plant food commodities provided that:

(1) Applications are not made directly to the food commodity except when used as a harvest aid or desiccant to any root and tuber vegetable, bulb vegetable or cotton.

(2) When pelargonic acid is used as a harvest aid or desiccant, applications must be made no later than 24 hours prior to harvest.

[FR Doc. 97–13644 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[FRL–5827–1]

Underground Storage Tank Program: Approved State Program for Mississippi

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 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies in part 282 the prior approval of Mississippi’s underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation is effective July 22, 1997, unless EPA publishes a prior Federal Register document withdrawing this immediate final rule. All comments on the codification of Mississippi’s underground storage tank program must be received by the close of business June 23, 1997. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of July 22, 1997, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to the Docket Clerk, U.S. EPA Region 4, Atlanta Federal Center, UST Section, 61 Forsyth Street, SW., Atlanta, GA 30303–3104. Comments received by EPA may be inspected in the public docket, located in the EPA Region 4 Library from 8 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: John Mason, U.S. EPA Region 4, Atlanta Federal Center, UST Section, 61 Forsyth Street, SW., Atlanta, GA 30303–3104. Phone: John Mason (404) 562–9441.

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 Mississippi on June 11, 1990 (55 FR 23549). Approval was effective on July 11, 1990.

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 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions.
program. These non-approved underground storage tank program are some provisions of the State's Mississippi authorities that would fall Mississippi enforcement authorities will provisions. Therefore, the approved procedures rather than the state inspection authorities, and federal rely on federal sanctions, federal approved states. With respect to such an I of RCRA, 42 U.S.C. 6991d and 6991e, under sections 9005 and 9006 of subtitle I of RCRA, Mississippi's underground storage tank program. This Agreement, which are approved as part Statement, Demonstration of Adequate enforcement purposes the State's incorporates by reference for 40 of the CFR. Section 282.74 Mississippi's 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 Mississippi's underground storage tank program, EPA has added § 282.74 to title 40 of the CFR. Section 282.74 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.74 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, the Agency will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogues to these provisions. Therefore, the approved Mississippi enforcement authorities will not be incorporated by reference. Section 282.74 lists those approved Mississippi authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's underground storage tank program are not part of the federally approved state program. 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 282.74 of the codification simply lists for reference and clarifies the Mississippi 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

EPA has determined that this codification will not have a significant economic impact on a substantial number of small entities. Such small entities which own and/or operate USTs are already subject to the state requirements authorized by EPA under 40 CFR part 281. EPA's codification does not impose any additional burdens on these small entities. This is because EPA's codification would simply result in an administrative change, rather than a change in the substantive requirements imposed on small entities.

Therefore, 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 codification will not have a significant economic impact on a substantial number of small entities. This codification incorporates Mississippi's requirements which have been authorized by EPA under 40 CFR part 281 into the Code of Federal Regulations. 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 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 5 U.S.C. 804(2).

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 certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMA, 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. The section 202 and 205 requirements do not apply to today's action because it is not a "Federal mandate" and because it does not impose annual costs of $100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because it merely makes federally enforceable existing requirements with which regulated entities must already comply under State law. Second, the Act also generally excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal Program. The requirements being codified today are the result of Mississippi's voluntary participation in accordance with RCRA Subtitle I.

Even if today's rule did contain a Federal mandate, this rule will not result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector because today's action merely codifies an existing State program that EPA previously authorized. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may own and/or operate USTs, this codification incorporates into the Code of Federal Regulations Mississippi's requirements which have
already been authorized by EPA under 40 CFR Part 281 and, thus, small governments are not subject to any additional significant or unique requirements by virtue of this codification.  

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.  


A. Stanley Meiburg,  
Acting Regional Administrator, U.S. EPA Region 4.

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 is revised to read as follows:  
Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.  

Subpart B—Approved State Programs  
2. Subpart B is amended by adding §282.74 to read as follows:  
§282.74 Mississippi State-Administered Program.  

(a) The State of Mississippi 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 Mississippi Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and part 283 of this chapter. EPA approved the Mississippi program on June 11, 1990 and it was effective on July 11, 1990. (b) Mississippi has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions. (c) To retain program approval, Mississippi 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 Mississippi 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) Mississippi has final approval for the following elements submitted to EPA in the State's program application for final approval and approved by EPA on June 11, 1990. Copies may be obtained from the Underground Storage Tank Program, Mississippi Department of Environmental Quality, 2380 Highway 80 West, Jackson, MS 39289-0385.  

(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) Mississippi Statutory Requirements Applicable to the Underground Storage Tank Program, 1996.  
(B) Mississippi Regulatory Requirements Applicable to the Underground Storage Tank Program, 1996. (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:  
49–17–429 Certification to install, alter or remove underground storage tanks  
(B) The regulatory provisions include:  
(1) Underground Storage Tank Regulations for the Certification of Persons Who Install, Alter, and Remove Underground Storage Tanks.  

Section I General Intent  
Section II Legal Authority  
Section III Definitions  
Section IV Applicability  
Section V General Requirements  
Section VI Certification Requirements  
Section VII Testing  
Section VIII Certification  
Section IX Certification Renewals  
Section X Continuing Education  
Section XI Lapsed Certification  
Section XII Revocation, Denial, and Non-Renewal of Certificates  
Section XIII Enforcement and Appeals  
Section XIV Property Rights  

(2) Mississippi Groundwater Protection Trust Fund Regulations.  

Section I General Intent  
Section II Legal Authority  
Section III Definitions  
Section IV Applicability  
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Section I General Intent  
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Section VIII Certification Renewals  
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(2) Mississippi Groundwater Protection Trust Fund Regulations.
Section VII Denial of IRAC Applications
Section VIII Removal from the Approved List of IRAC's
Section IX Engineering Response Action Contractor (ERAC) Application Process
Section X ERAC Submittal of Documentation Requested by the Department
Section XI ERAC Performance Standards
Section XII Removal from the Approved List of ERAC's

Section XII—Denial of ERAC Applications
(2) Statement of legal authority. (i)

“Attorney General’s Statement for Final Approval”, signed by the State Attorney General on August 15, 1989, 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 Mississippi to EPA, August 15, 1989, 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) Demonstration of procedures for adequate enforcement. The “Demonstration of Procedures for Adequate Enforcement” submitted as part of the original application on August 14, 1989, 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 on August 14, 1989, 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 4 and the Mississippi Department of Environmental Quality, approved by the EPA Regional Administrator, as part of the delegation package which received final program approval on June 11, 1990, 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 “Mississippi” and its listings to read as follows:

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

Mississippi

(a) The statutory provisions include:


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Subpart E—Release Reporting, Investigation, and Confirmation
280.50 Reporting of suspected releases
280.51 Investigation due to off-site impacts
280.52 Release investigation and confirmation steps
280.53 Reporting and cleanup of spills and overfills

Subpart F—Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances
280.60 General
280.61 Initial response
280.62 Initial abatement measures and site check
280.63 Initial site characterization
280.64 Free product removal
280.65 Investigations for soil and groundwater cleanup
280.66 Corrective action plan
280.67 Public participation

Subpart G—Out-of-Service UST Systems and Closure
280.70 Temporary closure
280.71 Permanent closure and changes-in-service
280.72 Assessing the site at closure or change-in-service
280.73 Applicability to previously closed UST systems
280.74 Closure records

2. Financial Responsibility Requirements for Underground Storage Tanks Containing Petroleum
280.90 Applicability
280.91 Compliance dates
280.92 Definition of terms
280.93 Amount and scope of required financial responsibility
280.94 Allowable mechanisms and combinations of mechanisms
280.95 Financial test of self-insurance
280.96 Guarantee
280.97 Insurance and risk retention group coverage
280.98 Surety bond
280.99 Letter of credit
280.100 Use of state-required mechanism
280.101 State fund or other state assurance
280.102 Trust fund
280.103 Standby trust fund
280.104 Substitution of financial assurance mechanisms by owner or operator
280.105 Cancellation or nonrenewal by a provider of financial assurance
280.106 Reporting by owner or operator
280.107 Recordkeeping
280.108 Drawing on financial assurance mechanisms
280.109 Release from the requirements
280.110 Bankruptcy or other incapacity of owner or operator or provider of financial assurance
280.111 Replenishment of guarantees, letters of credit, or surety bonds

Section I General Intent
Section II Legal Authority
Section III Definitions
SUPPLEMENTARY INFORMATION: On January 17, 1997 (62 FR 2607), EPA published a document which, among other things, announced a testing consent order (Order) that incorporated an enforceable consent agreement (ECA) that was concluded, pursuant to section 4 of the Toxic Substances Control Act, between EPA and AlliedSignal Inc., Aristech Chemical Corporation, The Dow Chemical Company, Dakota Gasification Company, Georgia Gulf Corporation, General Electric Company, GIRSA, Inc., JLM Chemicals, Inc., Kaima Chemical, Inc., Merichem Company, Mitsubishi International Corporation, Mitsui Co. (U.S.A.), Inc., Shell Chemical Company, and Texaco Refining Marketing Inc. (collectively the Companies). In the ECA, the Companies agreed to perform certain health effects tests on phenol (CAS No. 108–95–2). In addition, the January 17 document included a direct final rule which would have added phenol to the list of chemicals subject to testing consent orders and hence subject to export notification requirements. This action was published without prior proposal. EPA has received adverse comment with respect to making entities that are not signatory to the ECA subject to testing consent orders for phenol. Accordingly, EPA is removing the export notification rule (but not the Order or the ECA) and intends to issue a proposed rule addressing the export notification issue.


FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov. For specific information regarding this removal, contact: Keith J. Cronin, Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–8157; fax: (202) 260–1096; email: cronin.keith@epamail.epa.gov.

§ 799.5000 [Amended]
2. The table in § 799.5000 is amended by removing the entry for CAS Number 108–95–2, phenol.


GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–49


SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866. The rule is not required to be published in the Federal Register for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

Paperwork Reduction Act: The reporting forms required by this regulation are not subject to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). Therefore, the Paperwork Reduction Act does not apply. This rule also is exempt