

radon-222 by August, 1999 and promulgate a final regulation by August, 2000 [section 1412 (b)(13)(D-E)]. EPA has committed to take final action on the other radionuclides included in the July 18, 1991 proposal by December, 2000. On a related matter, EPA published on March 5, 1997 (62 FR 10168) a final rule on the analytical methods for gross alpha, gross beta, tritium, uranium, radium-226, radium-228, gamma emitters, and radioactive cesium, iodine and strontium.

Dated: July 30, 1997.

**Carol Browner,**  
*Administrator.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 281

[FRL-5866-6]

#### Commonwealth of Puerto Rico; Approval of State Underground Storage Tank Program

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

**ACTION:** Notice of tentative determination on application of the Commonwealth of Puerto Rico for final approval, public hearing and public comment period.

**SUMMARY:** The Commonwealth of Puerto Rico has applied for final approval of its Underground Storage Tank program for petroleum and hazardous substances under Subtitle I of the Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act ("RCRA"). The United States Environmental Protection Agency has reviewed the Commonwealth of Puerto Rico's application and has made a tentative determination that the Commonwealth of Puerto Rico's Underground Storage Tank ("UST") program for petroleum and hazardous substances satisfies all of the requirements necessary to qualify for final approval. This Notice of tentative determination affords the public a thirty-day period after this Notice to comment on the Commonwealth of Puerto Rico's application and USEPA's tentative determination. The application is available for inspection by the public during the comment period. Two public hearings will be held to solicit comments on the application.

**DATES:** Written comments on the Commonwealth of Puerto Rico's

application for final approval must be received by USEPA, at the address noted below, by close of business on September 12, 1997. Two public hearings are scheduled for September 8 and September 9, 1997. USEPA and the Commonwealth of Puerto Rico will be present at the public hearings to provide information and answer questions. The hearings will begin at 9:00 A.M. and will continue until the end of the testimony or 4:00 P.M., whichever comes first. Evening sessions will be from 6:00 P.M. to 10:00 P.M. Requests to present oral testimony must be mailed to USEPA, at the address noted below, by the close of business on August 26, 1997, and should include the requester's name, address and telephone number. USEPA reserves the right to cancel the hearings should there be no significant public interest. Those informing EPA of their intention to testify will be notified of any cancellation.

**ADDRESSES:** Comments and requests to testify should be mailed to Mr. John Kushwara, Chief, Ground Water Compliance Section (DECA-WCB), USEPA, Region II, 290 Broadway, 20th Floor, New York, NY 10007-1866 or Mr. Victor Trinidad, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico 00907-4127.

Copies of the Commonwealth of Puerto Rico's application for program approval are available for review 9:00 A.M.—4:00 P.M., Monday through Friday, at the following locations: Commonwealth of Puerto Rico, Environmental Quality Board, 431 Ponce De Leon Avenue, Nacional Plaza, Lobby Area, Hato Rey, PR 00917, Phone: (787) 767-7712; Commonwealth of Puerto Rico, Environmental Quality Board, Mayaguez Regional Office, Road #2, Km 159, Mayaguez, PR 00680; Phone: (787) 833-1198 or (787) 833-1188; United States Environmental Protection Agency, Region 2, Caribbean Environmental Protection Division, Centro Europa Building, 1492 Ponce De Leon Avenue, Suite 417, Santurce, PR 00907-4127, Phone: (787) 729-6951; United States Environmental Protection Agency, Region II Library, 290 Broadway, 16 Floor, New York, NY 10007-1866, Phone: (212) 637-3185. The public hearings will be held on September 8, 1997, in the Public Hearing Room of the Environmental Quality Board, 6th Floor, 431 Ponce De Leon Avenue, Nacional Plaza, Hato Rey, PR 00917 and on September 9, 1997 in the Public Hearing Room of the Environmental Quality Board,

Mayaguez Regional Office, Road #2, Km 159, Mayaguez, PR 00680. The hearings will begin at 9:00 A.M. and 6:00 P.M. and will continue until the end of testimony or 4:00 and 10:00 P.M., whichever comes first.

**FOR FURTHER INFORMATION CONTACT:** Madho Ramnarine Singh, Water Compliance Branch (DECA-WCB), USEPA, Region 2, 290 Broadway, New York, NY 10007-1866, Phone: (212) 637-4237 or Mr. Victor Trinidad, Caribbean Environmental Protection Division, Centro Europa Building, Suite 417, 1492 Ponce De Leon Avenue, Stop 22, Santurce, Puerto Rico 00907-4127, Phone: (787) 729-6951.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 9004 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6991c, authorizes USEPA to approve State Underground Storage Tank programs to operate in lieu of the Federal Underground Storage Tank ("UST") program. Program approval may be granted by USEPA pursuant to RCRA Section 9004(b), if the Agency finds that the State program is "no less stringent" than the Federal program for the seven elements set forth at RCRA Section 9004(a)(1) through (7); includes the notification requirements of RCRA Section 9004(a)(8); and provides for adequate enforcement of compliance with UST standards of RCRA Section 9004(a).

##### B. Commonwealth of Puerto Rico

On November 7, 1990, the Environmental Quality Board of the Commonwealth of Puerto Rico issued Underground Storage Tank Control Regulations which became effective on December 14, 1990. In accordance with the requirements of 40 CFR Section 281.50(b), the Commonwealth of Puerto Rico had previously provided an opportunity for public comment on the aforesaid regulations on September 21, 1989. A public hearing was held on October 20, 1990. The Environmental Quality Board received comments concerning their annual notification requirements, and minor editorial and syntax changes. These changes were incorporated into the regulations which are currently in effect.

On January 17, 1996, USEPA received the Commonwealth of Puerto Rico's formal application for approval of its Underground Storage Tank program and in 1997 received supplemental information as part of the Commonwealth's application. USEPA has reviewed the Commonwealth of Puerto Rico's application and has

tentatively determined that the Commonwealth of Puerto Rico's Underground Storage Tank program for petroleum and hazardous substances meets all of the requirements necessary to qualify for final approval. Should the program approvability status of the Commonwealth of Puerto Rico's program change in the future for any reasons, including but not limited to changes in Commonwealth laws, regulations or procedures which limit the Commonwealth of Puerto Rico's enforcement authority or program administration and enforcement, USEPA will revisit this approval and exercise its authority as provided under 40 CFR § 281.52 and § 281.60 to afford the Commonwealth of Puerto Rico an opportunity to correct any program deficiencies and/or withdraw program approval.

Any actions by USEPA shall not in any event be deemed in any way as a waiver of any of its statutory and regulatory rights under RCRA, including but not limited to §§ 9003(h), 9005 and 9006. Furthermore, nothing herein shall be deemed as a waiver by USEPA of any of its statutory and regulatory rights under other federal statutes and regulations. Moreover, nothing herein shall be deemed as a waiver of any other applicable federal legal requirements.

The Commonwealth of Puerto Rico through the Environmental Quality Board, is charged with the responsibility to develop standards and criteria for the design, installation, operation, maintenance, and monitoring of Underground Storage Tanks to prevent UST related ground and surface water contamination, under the authority of Public Law No. 9, et seq., Commonwealth of Puerto Rico Underground Storage Tank Law, as amended. The statute includes provisions for the following:

(1) Authority to promulgate UST regulations for controlling underground storage facilities containing petroleum and related sludge, and chemical substances.

(2) Authority to impose administrative fines for violations of any provision of the statute.

(3) Authority to conduct compliance monitoring inspection and other enforcement activities.

(4) Notification requirements for owner of Underground Storage Tanks including heating oil tanks.

(5) Establishment of petroleum cleanup fund. This is financed through licensing fees and tank assessment fees, and helps pay for cleanup and restoration of contaminated soil and groundwater caused by petroleum

releases from USTs, and for third party damages.

The memorandum of agreement ("MOA"), which was submitted as part of the Commonwealth of Puerto Rico's application for final approval, was negotiated between USEPA and Puerto Rico's Environmental Quality Board and will be executed by USEPA only after it makes a final determination to approve the Commonwealth of Puerto Rico's Underground Storage Tank program. The Memorandum of Agreement (MOA) contains agreements designed to ensure that the UST program will be effectively implemented by Puerto Rico pursuant to its own statute and implementing regulations. Under the MOA, the Environmental Quality Board has agreed to maintain staff levels, including adequate technical and legal support capable of implementing an effective UST program, and to conduct program development activities designed to improve the Commonwealth's capability to effectively implement the UST program. The MOA also has provisions to help ensure an adequate compliance and enforcement program. The MOA also recognizes USEPA's continued ability to enforce UST program requirements in the Commonwealth of Puerto Rico.

In accordance with Section 9004(d) of RCRA, 42 U.S.C. 6991c(d) and 40 CFR 281.50(e), the Agency will hold public hearings on its tentative determination. The public hearings will be held on September 8, 1997 in the Public Hearing Room of the Environmental Quality Board, 6th Floor, 431 Ponce De Leon Avenue, Banco Nacional Plaza, Hato Rey, Puerto Rico and on September 9, 1997 in the Public Hearing Room of the Environmental Quality Board, Mayaguez Regional Office, Road #2, Km 159, Mayaguez, Puerto Rico from 9:00 a.m.-4:00 p.m. and 6:00 p.m.-10:00 p.m. All written comments on EPA's tentative determination must be submitted by September 12, 1997. Copies of the Commonwealth of Puerto Rico's application are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

USEPA will consider all public comments on its tentative determination received during the public comment period and/or at the hearings. Issues raised by those comments may be the basis for a decision to deny or grant final approval to the Commonwealth of Puerto Rico. USEPA expects to make a final decision on whether or not to approve the Commonwealth of Puerto Rico's program within sixty (60) days after the date of the public hearing and will give notice of it in the **Federal**

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

#### **Compliance With Executive Order 12291**

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

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

USEPA has determined that this authorization 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 regulatory requirements under existing Commonwealth law which are being authorized by USEPA. USEPA's authorization does not impose any additional burdens on these small entities. This is because USEPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Therefore, USEPA 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 approves regulatory requirements under existing Commonwealth law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

#### **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, USEPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, 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 Sections 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 the requirements of the Commonwealth of Puerto Rico's program are already imposed by the Commonwealth and subject to Commonwealth 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 Commonwealth of Puerto Rico's participation in an authorized UST program is voluntary.

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. Costs to Commonwealth, local and/or tribal governments already exist under the Commonwealth of Puerto Rico program, and today's action does not impose any additional obligations on regulated entities. In fact, USEPA's approval of the Commonwealth program generally may reduce, not increase, compliance costs for the private sector.

The requirements of Section 203 of UMRA also do not apply to today's action. Before USEPA establishes any regulatory requirements that may significantly or uniquely affect small governments, Section 203 of the UMRA requires USEPA 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, they are already subject to the regulatory requirements under existing Commonwealth law which are being authorized by USEPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

#### List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous and Petroleum substances, State program approval, Underground Storage Tanks.

**Authority:** This notice is issued under the authority of Section 9004 of the Solid Waste Disposal Act, as amended by RCRA, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 24, 1997.

**Jeanne M. Fox,**

*Regional Administrator.*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[CS Docket No. 97-98; DA 97-1583]

#### Pole Attachments

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; extension of time.

**SUMMARY:** The Cable Services Bureau, released an *Order* which granted the Motion for Extension of Time filed by Carolina Power & Light Company, Delmarva Power & Light Company, Atlantic City Electric Company, Entergy Services, Florida Power Corporation, Pacific Gas and Electric Power Company, Potomac Electric Power Company, Public Service Company of Colorado, Southern Company, Georgia Power, Alabama Power, Gulf Power, Mississippi Power, Savannah Electric, Tampa Electric Company and Virginia Power, including North Carolina Power (collectively, "Electric Utilities") in *Amendment of Rules and Policies Governing Pole Attachments (Notice of Proposed Rulemaking)*. The Bureau found that good cause existed to grant a two week extension of time up to and including August 11, 1997. This extension of time is granted in view of the complexity of the issues presented, and in order to facilitate the development of a complete record in this proceeding.

**DATES:** Reply comments are now due on or before August 11, 1997.

**ADDRESSES:** Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Margaret Egler, Cable Services Bureau, (202) 418-2319, TTY (202) 418-7172.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Cable Services Bureau's *Order*, CS Docket No. 97-98, DA 97-1583, adopted July 24, 1997 and released July 25, 1997, in the *Amendment of Rules and Policies Governing Pole Attachments*, 62 FR 18074 (April 14, 1997). The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW,

Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 1919 M Street, NW, Washington, D.C. 20554. For copies in alternative formats, such as braille, audio cassette, or large print, please contact Sheila Ray at International Transcription Service.

#### Synopsis of the Order

1. On March 14, 1997, the Commission commenced a rulemaking proceeding to propose modifications to the Commission's rules relating to the maximum just and reasonable rates utilities may charge for attachments to a pole, duct, conduit or right-of-way. Comments were due June 27, 1997, and reply comments are due July 28, 1997.

2. On July 21, 1997, Carolina Power & Light Company, Delmarva Power & Light Company, Atlantic City Electric Company, Entergy Services, Florida Power Corporation, Pacific Gas and Electric Power Company, Potomac Electric Power Company, Public Service Company of Colorado, Southern Company, Georgia Power, Alabama Power, Gulf Power, Mississippi Power, Savannah Electric, Tampa Electric Company and Virginia Power, including North Carolina Power (collectively, "Electric Utilities") filed a Motion for Extension of Time ("Motion") to file reply comments. The Electric Utilities request that the Commission grant a two week extension of time to file reply comments, up to and including August 11, 1997. The Electric Utilities contend that an extension of time is needed in light of the decision of the U.S. Court of Appeals for the Eighth Circuit in *Iowa Utilities Board v. F.C.C.*, No. 96-3321, et al., where the Court ruled on interconnection service issues. They contend that issues raised in the instant proceeding parallel issues decided in *Iowa Utility Board* and they argue that an extension of time will be productive in assessing that decision's impact on the instant rulemaking.

3. It is the policy of the Commission that extensions of time are not routinely granted. In view of the complexity of the issues presented, and in order to facilitate the development of a complete record in this proceeding, we find that good cause exists to grant an extension of time. Thus, reply comments will now be due by August 11, 1997.

#### Ordering Clauses

4. Accordingly, *it is ordered*, pursuant to §§0.321 and 1.46 of the Commission's rules, 47 CFR 0.321 and 1.46, that the Motion for Extension of Time filed by Carolina Power & Light