

270, and 280 and are not subject to any additional significant or unique requirements by virtue of this program approval. Once 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

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. 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 EPA's authorization would result in an administrative change (i.e., whether 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 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, 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 Tennessee 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, 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.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, and Water supply.

Authority: This document 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)).

R.F. McGhee,

Acting Regional Administrator, Region 4.

[FR Doc. 98-2361 Filed 1-29-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL-5938-5]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on the Commonwealth of Puerto Rico's application for program approval.

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 Resource Conservation and Recovery Act of 1976 (RCRA), as amended. The United States Environmental Protection Agency (EPA) has reviewed the Commonwealth of Puerto Rico's application and has made a final determination that the Commonwealth of Puerto Rico's underground storage tank program for petroleum and hazardous substances satisfies all of the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the Commonwealth of Puerto Rico to operate its underground storage tank program for petroleum and hazardous substances.

EFFECTIVE DATES: Final approval for the Commonwealth of Puerto Rico shall be effective on March 31, 1998.

FOR FURTHER INFORMATION CONTACT: Madho Ramnarine Singh, Water Compliance Branch (DECA-WCB), U.S. EPA 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:

I. Background

Section 9004 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991c, authorizes EPA to grant approval to any State, which term includes the Commonwealth of Puerto Rico pursuant to section 1004(31) of RCRA, 42 U.S.C. § 6903(31), to operate its underground storage tank program in the State in lieu of the federal underground storage tank (UST) program. To qualify for approval, a State's program must be "no less stringent" than the federal program in all seven elements set forth at section 9004(a) (1) through (7) of RCRA, 42 U.S.C. 6991c(a) (1) through (7); include the notification requirements of section 9004(a)(8) of RCRA, 42 U.S.C. 6991c(a)(8); and provide for adequate enforcement of compliance with UST standards (section 9004(a) of RCRA, 42 U.S.C. 6991c(a)).

On January 17, 1996, EPA received the Commonwealth of Puerto Rico's formal application for approval of its underground storage tank program. In 1997 EPA received supplemental information as part of the Commonwealth's application. On August 6, 1997, EPA published a tentative determination announcing its intent to approve the Commonwealth of Puerto Rico program. Further background on the tentative decision to grant approval appears in the **Federal Register** at 62 FR 42222 (August 6, 1997).

Along with the tentative determination, EPA announced the availability of the application for public review and comment and the date of public hearings on the application and EPA's tentative determination. EPA requested advance notice for testimony and reserved the right to cancel the public hearing in the event of insufficient public interest. The public hearings were held on September 8, 1997 in the Public Hearing Room of the Puerto Rico Environmental Quality Board in Hato Rey, Puerto Rico, and on

September 9, 1997 in the Public Hearing Room of the Environmental Quality Board, Mayaguez Regional Office in Mayaguez, Puerto Rico. While a number of people attended the hearings, none of them chose to comment on EPA's decision. In addition, no written comments were submitted to EPA. As a result, no substantive issues were raised and EPA has decided to finalize its decision to approve the Commonwealth of Puerto Rico program.

Some provisions of the Commonwealth of Puerto Rico's underground storage tank program will not be part of the federally approved State program, because they are broader in scope than the federal program. "Broader in scope" provisions cannot be enforced by EPA; the Commonwealth of Puerto Rico, however, will continue to enforce such provisions. For instance, the federal program does not cover any underground storage tank system used for storing heating oil for consumptive use on the premises where stored, but this type of underground storage tank system is regulated under the Commonwealth's program. In addition, the Commonwealth charges fees for certain underground storage tank activities, such as annual notification and re-certification of underground storage tank facilities, transfer of ownership, duplication of records, and revision of permanent closure plans, and requires underground storage tank owners to obtain permits for certain activities, such as drilling and installation of groundwater monitoring and/or extraction wells. Although the federal underground storage tank program addresses neither fees nor permits, the Commonwealth may charge such fees and require such permits as it deems appropriate.

The public should also be aware that the Commonwealth's statutes, regulations and rules that will become part of the federally approved State program are available in English and Spanish translation. The English translation of the Commonwealth's statutes, regulations and rules is referenced as follows:

Statutes

(1) Puerto Rico Public Policy Environmental Act of 1970, Act Number 9, June 18, 1970, as amended, 12 Law of Puerto Rico Annotated (L.P.R.A.) §§ 1121 *et seq.*

(2) Puerto Rico Environmental Emergency Fund Act, 12 L.P.R.A. § 1271 *et seq.*

Regulations

(1) Underground Storage Tank Control Regulations, Regulation Number 4362,

promulgated by the Commonwealth of Puerto Rico Environmental Quality Board on November 7, 1990.

Rules

(1) Puerto Rico Civil Procedure Rules of 1979, 32 L.P.R.A. Appendix III

(2) Rules of Administrative Procedure for Hearings in Environmental Quality Board, Regulation Number 3672, promulgated in October 19, 1988.

II. Final Decision

I conclude that the Commonwealth of Puerto Rico's application for program approval meets all of the statutory and regulatory requirements established by subtitle I of RCRA and 40 CFR part 281. Accordingly, the Commonwealth of Puerto Rico is granted final approval to operate its underground storage tank program for petroleum and hazardous substances in lieu of the federal underground storage tank program. This approval is subject to the terms and conditions set forth in the Commonwealth's application for approval (including, but not limited to, the Memorandum of Agreement) and in the August 6, 1997 **Federal Register** Notice of Tentative Determination on Application of the Commonwealth of Puerto Rico for Final Approval.

III. Compliance With Executive Order 12866

The Office of Management and Budget has exempted this action from the requirements of section 6 of Executive Order 12866.

IV. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 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 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 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 the requirements of the Commonwealth of Puerto Rico program are already part of the 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'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 State, local and/or tribal governments already exist under the Commonwealth's program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of State programs 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 EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of the 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, they are already subject to the regulatory requirements under existing Commonwealth law, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval of such requirements.

V. Certification Under the Regulatory Flexibility Act

EPA 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. EPA's authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these 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 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.

VI. 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).

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative Practice and Procedure, Hazardous Materials, State Program Approval, and Underground Storage Tanks.

Authority: This document is issued under the authority of Section 9004 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991c.

Dated: December 10, 1997.

Jeanne M. Fox,

Regional Administrator.

[FR Doc. 98-1531 Filed 1-29-98; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[FRL 5938-6]

Underground Storage Tank Program: Approved State Program for the Commonwealth of Puerto Rico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976 (RCRA), as amended, authorizes the United States Environmental Protection Agency (EPA) to grant approval to any State to operate its underground storage tank program in the State 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 approval of the Commonwealth of Puerto Rico's underground storage tank program and incorporates by reference appropriate provisions of the Commonwealth's statutes and regulations.

DATES: This regulation is effective March 31, 1998, unless EPA publishes a prior **Federal Register** document withdrawing this immediate final rule. All comments on the codification of the Commonwealth of Puerto Rico's underground storage tank program must be received by the close of business March 2, 1998. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of March 31, 1998, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to the Mr. John Kushwara, Chief, Ground Water Compliance Section (DECA-WCB), U.S. EPA 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, Stop 22, Santurce, Puerto Rico 00907-4127. Comments received by EPA may be inspected in the public docket, located in the EPA Region II Library, 290 Broadway, 16th Floor, New York, New York 10007-1866, from 9 a.m. to 4:30 p.m., Monday through Thursday and from 9 a.m. to 1:30 p.m. on Friday, excluding Federal holidays. Phone: (212) 637-3185 or EPA Region II, Caribbean Environmental Protection Division, Centro Europa Building, 1492 Ponce De Leon Avenue, Suite 417, Santurce, Puerto Rico 00907-4127, Phone: (787) 729-6951.

FOR FURTHER INFORMATION CONTACT: Madho Ramnarine Singh, U.S. EPA Region II, Water Compliance Branch (DECA-EWCB), 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:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991c, authorizes the United States Environmental Protection Agency (EPA) to grant approval to any State, which term includes the Commonwealth of

Puerto Rico pursuant to Section 1004(31) of RCRA, 42 U.S.C. 6903(31), to operate its underground storage tank program in the State in lieu of the federal underground storage tank program. EPA is publishing a **Federal Register** document announcing its decision to grant approval to Commonwealth of Puerto Rico concurrently with this document. Approval will be effective on March 31, 1998.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein 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 subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of the Commonwealth of Puerto Rico's underground storage tank program. This codification reflects the State program in effect at the time EPA grants the Commonwealth's 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 EPA's tentative determination to approve the Commonwealth of Puerto Rico program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in the Commonwealth of Puerto Rico. Codifying and incorporating by reference the Commonwealth's statutes and regulations does not restrict in any way federal authority to promulgate new laws or regulations relating to subtitle I of RCRA or to act otherwise pursuant to federal authority. By codifying the approved Commonwealth of Puerto Rico program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Puerto Rico, the status of federally approved requirements of the Commonwealth of Puerto Rico program will be readily discernible. Only those provisions of the Commonwealth's underground storage tank program for which approval has been granted by EPA may be incorporated by reference for enforcement purposes.

To codify EPA's approval of the Commonwealth of Puerto Rico's underground storage tank program, EPA has added section 282.102 to Title 40 of the CFR. Section 282.102 incorporates by reference for enforcement purposes the Commonwealth's statutes and regulations. Section 282.102 also references the Attorney General's