exposure days shall be controlled as follows:

(*1*) If the species being controlled is hydrocarbon or particulate, the mean exposure concentration must be within 15 percent of the target concentration for the single species being controlled.

(*2*) For other species, the mean exposure concentration must be within 10 percent of the target concentration for the single species being controlled.

(*3*) For all species, daily monitoring of CO, CO_2, NO_X, SO_X, and total hydrocarbons in the exposure chamber shall be required. Analysis of the particle size distribution shall also be performed to establish the stability and consistency of particle size distribution in the test exposure.

* * * * *

(v) * * *

(B) [Reserved]

* * * * *

(vi) * * *

(B) These procedures include requirements that the mean exposure concentration in the inhalation test chamber on 90 percent or more of the exposure days shall be controlled as follows:

(*1*) If the species being controlled is hydrocarbon or particulate, the mean exposure concentration must be within 15 percent of the target concentration for the single species being controlled.

(*2*) For other species, the mean exposure concentration must be within 10 percent of the target concentration for the single species being controlled.

(*3*) For all species, daily monitoring of CO, CO_2, NO_X, SO_X, and total hydrocarbons in the exposure chamber shall be required. Analysis of the particle size distribution shall also be performed to establish the stability and consistency of particle size distribution in the test exposure.

* * * * *

3. Section 79.62 is amended by revising paragraph (d)(1)(ii)(B), to read as follows:

§ 79.62 Subchronic toxicity study with specific health effects assessment.

* * * * *

(d) * * *

(1) * * *

(ii) * * *

(B) Thirty-five rodents, 25 females and ten males, shall be added for each test concentration or control group when combining a 90-day toxicity study with a fertility assessment.

* * * * *

4. Section 79.66 is amended by adding a sentence to the end of paragraph (e)(5)(iii)(B), to read as follows:

§ 79.66 Neuropathology assessment.

* * * * *

(e) * * *

(5) * * *

(iii) * * *

(B) *Perfusion technique.* * * * In addition, the lungs shall be instilled with fixative via the trachea during the fixation process in order to preserve the lungs and achieve whole-body fixation.

* * * * *

PART 80—[AMENDED]

5. The authority citation for part 80 continues to read as follows:

Authority: Sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

* * * * *

6. Section 80.46 is amended by revising paragraphs (f)(3) and (g)(9) to read as follows:

§ 80.46 Measurement of reformulated gasoline fuel parameters.

* * * * *

(f) * * *

(3) *Alternative test method.* (i) Prior to September 1, 2000, any refiner or importer may determine aromatics content using ASTM standard method D–1319–93, entitled ''Standard Test Method for Hydrocarbon Types in Liquid Petroleum Products by Flourescent Indicator Adsorption,'' for purposes of meeting any testing requirement involving aromatics content; provided that

(ii) The refiner or importer test result is correlated with the method specified in paragraph (f)(1) of this section.

(g) * * *

(9)(i) Prior to September 1, 2000, and when the oxygenates present are limited to MTBE, ETBE, TAME, DIPE, tertiary-amyl alcohol, and C1 to C4 alcohols, any refiner, importer, or oxygenate blender may determine oxygen and oxygenate content using ASTM standard method D–4815–93, entitled ''Standard Test Method for Determination of MTBE, ETBE, TAME, DIPE, tertiary-Amyl Alcohol and C1 to C4 Alcohols in Gasoline by Gas Chromatography,'' for purposes of meeting any testing requirement; provided that

(ii) The refiner or importer test result is correlated with the method set forth in paragraphs (g)(1) through (g)(8) of this section.

* * * * *

[FR Doc. 98–30401 Filed 11–16–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL–6186–1]

Tennessee; Final Approval of State Petroleum Underground Storage Tank Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination on the State of Tennessee's application for final approval.

SUMMARY: The State of Tennessee has applied for partial approval of its underground storage tank program for petroleum under subtitle I of the Resource Conservation and Recovery Act (RCRA). The State of Tennessee is not requesting approval of the underground storage tank program for hazardous substances. The Environmental Protection Agency (EPA) has reviewed Tennessee's application and has reached a final determination that Tennessee's underground storage tank program for petroleum satisfies all of the requirements necessary to qualify for approval. Thus, EPA is granting final approval to the State of Tennessee to operate its underground storage tank program for petroleum. This approval does not include hazardous substance underground storage tanks under subtitle I of RCRA.

EFFECTIVE DATE: Final approval for the State of Tennessee's petroleum underground storage tank program shall be effective at 1:00 pm Eastern Standard Time on January 15, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. John K. Mason, Chief, Underground Storage Tank Section, U.S. EPA, Region 4, Atlanta Federal Center, 61 Forsyth Street S.W., Atlanta, Georgia 30303, phone number: (404) 562–9441.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) authorizes the Environmental Protection Agency (EPA) to approve State underground storage tank programs to operate in the State in lieu of the federal underground storage tank (UST) program. To qualify for final authorization, a state's program must: (1) Be ''no less stringent'' than the federal program for the seven elements set forth at RCRA section 9004(a) (1) through (7); and (2) provide for adequate enforcement of compliance with UST standards of RCRA Ssction 9004(a).

On September 1, 1996, the State of Tennessee submitted an official

application to obtain final partial program approval to administer the underground storage tank program for petroleum. On July 10, 1998, EPA published a tentative decision announcing its intent to grant Tennessee final approval for petroleum. Further background on the tentative decision to grant approval appears at 63 FR 37311, July 10, 1998.

Along with the tentative determination, EPA announced the availability of the application for public comment and the date of a public hearing on the application. EPA requested advance notice for testimony and reserved the right to cancel the public hearing for lack of public interest. Since there was no public request, the public hearing was canceled. No public comments were received regarding EPA's approval of Tennessee's underground storage tank program.

The following statutory provisions are broader in scope than the federal program and are not part of the approved program: Tennessee Code Annotated, Title 68, Chapter 215—section 102(a)(3), insofar as it refers to the intent to develop long range plans to meet future petroleum underground storage tank demands; section 102(a)(5), insofar as it provides for a fund; section 104, insofar as it applies to persons other than underground storage tank owners and operators; section 106(a)(6), insofar as it requires any person who deposits petroleum in underground storage tanks to notify the owner or operator of state notification requirements; section 106(c)(2), insofar as it applies to persons other than owners and operators placing petroleum substances in an underground storage tank; section 107(f)(9), insofar as it provides for rule development for the assessment and collections of fees; section 109, insofar as it allows for levying and collection of annual fees to operate the UST fund and develop rules; section 110, insofar as it establishes a petroleum underground storage tank fund; section 111, insofar as it refers to uses of the state underground storage tank fund; section 112, insofar as it establishes a petroleum underground storage tank board; section 113, insofar as it establishes board meetings, public hearings, and board compensation; section 115, insofar as it establishes cost recovery and apportionment of liability for cleanups; section 117, insofar as it applies to persons other than underground storage tank owners and operators; section 125, insofar as it applies to the state UST fund; and section 128, insofar as it requires a report to the General Assembly.

The following regulatory provisions are broader in scope than the federal program and not part of the approved program: Tennessee Department of Environment and Conservation, Underground Storage Tank Program Rules, Chapter 1200–1–15—section-.09, insofar as it refers to guidelines and procedures for administering the Tennessee petroleum underground storage tank fund; section-.10, insofar as it refers to annual fees, the use, collection and failure to pay fees; and section-.11, insofar as it requires underground storage tank fees, use, collection failure to pay, and fee notices.

B. Decision

I conclude that the State of Tennessee's application for final program approval meets all of the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, Tennessee is granted final approval to operate its underground storage tank program for petroleum. The State of Tennessee now has the responsibility for managing all regulated petroleum underground storage tank facilities within its border and carrying out all aspects of the underground storage tank program except with regard to hazardous substance underground storage tanks where EPA will retain regulatory authority. Tennessee also has primacy enforcement responsibility for petroleum underground storage tanks, although EPA retains the right to conduct enforcement actions for all regulated underground storage tanks under section 9006 of RCRA.

C. Administrative Requirements

1. 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.

2. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. The State administers its underground storage tank program voluntarily, and any duties on other State, local or tribal governmental entities arise from that program, not from today's action. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

3. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Tennessee is not approved to implement the underground storage tank program in Indian Country. This rule has no effect on the underground storage tank program that EPA implements in the Indian Country within the State. Accordingly, the requirements of

section 3(b) of Executive Order 13084 do not apply to this rule.

4. Compliance With Executive Order 13045

Executive Order 13045 applies to any rule that the Office of Management and Budget determines is ''economically significant'' as defined under Executive Order 12866, and that EPA determines that the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The Agency has determined that the final rule is not a covered regulatory action as defined in the Executive Order because it is not economically significant and does not address environmental health and safety risks. As such, the final rule is not subject to the requirements of Executive Order 13045.

5. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

6. 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 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 Tennessee program are already imposed by the State and subject to 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. Tennessee's participation in an approved 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 Tennessee 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 state law which are being approved by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

7. Certification Under the Regulatory Flexibility Act

EPA has determined that this approval 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 State law which are being approved by EPA. EPA's approval does not impose any additional burdens on these small entities. This is because EPA's approval 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 approval will not have a significant economic impact on a substantial number of small entities. This rule approves regulatory requirements under existing State 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.

8. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each house of the Congress and to the Comptroller General of the United States. EPA will submit 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 United States 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).

9. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by an information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

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 the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6974(b), 6991c.

Dated: October 19, 1998.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 98–30720 Filed 11–16–98; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7701]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If the Federal Emergency Management Agency (FEMA) receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register**.

EFFECTIVE DATES: The effective date of each community's suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you wish to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., Room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the National Flood Insurance Program, 42 U.S.C. 4001 *et seq.*, unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Associate Director finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications have been made, this final rule may take effect within less than 30 days.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurance will no longer be available in the communities unless they take remedial action.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows: