

"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.

Dated: May 19, 1999.

#### Peter Caulkins,

Acting Director, Registration Division, 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:

**Authority:** 21 U.S.C. 321(q), 346a and 371.

#### §180.209 [Amended]

2. In §180.209, by amending the table in paragraph (b) by revising the date "5/30/99" to read "5/30/01".

[FR Doc. 99-13655 Filed 5-27-99; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 282

[FRL-6334-7]

#### Underground Storage Tank Program: Approved State Petroleum Program for Tennessee

**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 Tennessee's petroleum underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

**DATES:** This regulation is effective July 27, 1999, unless EPA publishes a prior

**Federal Register** document withdrawing this immediate final rule. All comments on the codification of Tennessee's petroleum underground storage tank program must be received by the close of business June 28, 1999. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of July 27, 1999, in accordance with 5 U.S.C. 552(a).

**ADDRESSES:** Comments may be mailed to Mr. John K. Mason, Chief, Underground Storage Tank Section, U.S. EPA Region 4, Atlanta Federal Center, 61 Forsyth Street, SW, 15th Floor Tower, Atlanta, GA 30303. Comments received by EPA may be inspected in the Underground Storage Tank Section, located at EPA Region 4 from 9 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. John K. Mason, Chief, Underground Storage Tank Section, U.S. EPA Region 4, Atlanta Federal Center, 61 Forsyth St. S.W., Atlanta, GA 30303-3104. Phone: (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 Tennessee on November 17, 1998, **Federal Register** Vol. 63, No. 221. Approval was effective on January 19, 1999.

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 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 Tennessee's petroleum underground storage tank program. This codification reflects the state program in effect at the time EPA granted Tennessee approval under section 9004(a), 42 U.S.C. 6991c(a) for its petroleum underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Tennessee 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 each state. By codifying the approved Tennessee program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Tennessee, the status of federally approved requirements of the Tennessee program will be readily discernible. Only those provisions of the Tennessee petroleum 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 Tennessee's petroleum underground storage tank program, EPA has added section 282.92 to title 40 of the CFR. Section 282.92 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.92 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 Tennessee enforcement authorities will not be incorporated by reference. Section 282.92 lists those approved Tennessee authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's petroleum 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 282.92 of the codification simply lists for reference and clarity the Tennessee 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.

#### **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.

#### **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 Tennessee'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 this 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 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 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 Tennessee'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 this 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 Tennessee'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 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. This rule merely codifies existing requirements which regulated entities must already comply with under State and federal law. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

#### **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.

#### **Compliance With 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.

#### **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, with 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.

#### **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: April 23, 1999.

#### **A. Stanley Meiburg,**

*Acting Regional Administrator, 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 continues 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 § 282.92 to read as follows:

#### **§ 282.92 Tennessee State-Administered Program.**

(a) The State of Tennessee is approved to administer and enforce a petroleum 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 Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Tennessee program on November 17, 1998 and it was effective on January 19, 1999.

(b) Tennessee has primary responsibility for enforcing its petroleum 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. EPA also retains all authority to operate the hazardous substance underground storage tank program.

(c) To retain program approval, Tennessee 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 Tennessee 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) Tennessee has final approval for the following elements submitted to EPA in the State's program application for final approval and approved by EPA on November 17, 1998. Copies may be obtained from the Underground Storage Tank Program, Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks, 4th Floor, L&C Tower, 401 Church Street, Nashville, Tennessee 37243-1541.

(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) Tennessee Statutory Requirements Applicable to the Underground Storage Tank Program, 1998.

(B) Tennessee Regulatory Requirements Applicable to the Underground Storage Tank Program, 1998.

(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:

(1) General Statutes of Tennessee, Chapter 215—Tennessee Petroleum Underground Storage Tank Act:  
 Section 68-215-107 Supervision, inspection, and enforcement responsibilities  
 Section 68-215-114 Order for correction—Liability  
 Section 68-215-116 Failure to take proper action  
 Section 68-215-119 Review of orders and revocations  
 Section 68-215-120 Criminal penalties—Suspension of certificates

Section 68-215-121 Civil penalty—Assessment

Section 68-215-122 Injunctions

(B) The regulatory provisions include:

(1) Tennessee Department of Environment and Conservation, Underground Storage Tank Program Rules, Chapter 1200-1-15: Not applicable.

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

(A) The statutory provisions include:

(1) Tennessee Code Annotated, Title 68, Chapter 215:

Section 68-215-102(a)(3) [Insofar as it refers to the intent to develop long range plans to meet future petroleum underground storage tank demands.]

Section 68-215-102(a)(5) [Insofar as it provides for a cleanup fund.]

Section 68-215-104 [Insofar as it applies to persons other than underground storage tank owners or operators.]

Section 68-215-106(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 68-215-106(c)(2) [Insofar as it applies to persons other than owners and operators placing petroleum substances in an underground storage tank.]

Section 68-215-107(f)(9) [Insofar as it provides for rule development for the assessment and collections of fees.]

Section 68-215-109 [Insofar as it allows for levying and collection of annual fees to operate the underground storage tank fund and develop rules.]

Section 68-215-110 [Insofar as it establishes a petroleum underground storage tank fund.]

Section 68-215-111 [Insofar as it refers to uses of the state underground storage tank fund.]

Section 68-215-112 [Insofar as it established a petroleum underground storage tank board.]

Section 68-215-113 [Insofar as it established board meeting, public hearing, and board compensation.]

Section 68-215-115 [Insofar as it establishes cost recovery and apportionment of liability for cleanups.]

Section 68-215-117 [Insofar as it applies to persons other than underground storage tank owners and operators.]

Section 68-215-125 [Insofar as it applies to the state underground storage tank fund.]

Section 68-215-128 [Insofar as it requires a report to the General Assembly.]

(B) The regulatory provisions include:

(1) 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.]

Section .11 [Insofar as it requires underground storage tank fees, use, collection and failure to pay penalties, and fee notices.]

(2) *Statement of legal authority.* "Attorney General's Statement of 'No Less Stringent' Requirements and 'Adequate Enforcement' Authorities Implementing Underground Storage Tank Program", signed by the State Attorney General on June 3, 1996, 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 September 1, 1996, 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 September 1, 1996, 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 Tennessee Department of Environment and Conservation, Division of Underground Storage Tanks, signed by the EPA Regional Administrator on July 1, 1998, 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 "Tennessee" and its listing.

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

\* \* \* \* \*

*Tennessee*

- (a) The statutory provisions include:
1. Section 68-215-101 Short title
  2. Section 68-215-102 Legislative intent [Except § 68-215-102(a)(3) and except § 68-215-102(a)(5).]
  3. Section 68-215-103 Definitions
  4. Section 68-215-105 Minimum requirements for tanks
  5. Section 68-215-106 Notification as to tanks in use and tanks taken out of operations [Except § 68-215-106(a)(6) and except § 68-215-106(c)(2).]
  6. Section 68-215-107 Supervision, inspection, and enforcement responsibilities [Except § 68-215-107(e) and except § 68-215-107(f)(9).]
  7. Section 68-215-108 Proprietary information
  8. Section 68-215-118 Compliance by governmental entities
  9. Section 68-215-123 Complaints—Hearings—Appeals
  10. Section 68-215-124 Exemptions
  11. Section 68-215-126 Preemption of local regulation—Exception
  12. Section 68-215-127 Exclusivity of provisions
- (b) The regulatory provisions include:
1. Section .01 Program Scope and Minimum Requirements for Tanks
    - Section .01(1) Applicability
    - Section .01(2) Minimum requirements for tanks
    - Section .01(3) Definitions
  2. Section .02 UST Systems: Design, Construction, Installation and Notification
    - Section .02(1) Performance standards for new UST systems
    - Section .02(2) Upgrading of existing UST systems
    - Section .02(3) Notification requirements
  3. Section .03 General Operating Requirements
    - Section .03(1) Spill and overflow control
    - Section .03(2) Operation and maintenance of corrosion protection
    - Section .03(3) Compatibility
    - Section .03(4) Repairs allowed
    - Section .03(5) Reporting and recordkeeping
  4. Section .04 Release Detection
    - Section .04(1) General requirements for release detection
    - Section .04(2) Requirements for petroleum UST systems
    - Section .04(3) Methods of release detection for tanks
    - Section .04(4) Methods of release detection for piping
    - Section .04(5) Release detection recordkeeping
  5. Section .05 Release Reporting, Investigation and Confirmation
    - Section .05(1) Reporting of suspected releases
    - Section .05(2) Investigation due to off-site impacts
    - Section .05(3) Release investigation and confirmation steps

- Section .05(4) Reporting and cleanup of spills and overfills
- 6. Section .06 Release Response and Corrective Action for UST Systems Containing Petroleum
  - Section .06(1) General
  - Section .06(2) Initial response
  - Section .06(3) Initial abatement measures and site check
  - Section .06(4) Initial site characterization
  - Section .06(5) Free products removal
  - Section .06(6) Investigations for soil and ground water cleanup
  - Section .06(7) Corrective action plan
  - Section .06(8) Public participation
- 7. Section .07 Out-of-Service UST System and Closure
  - Section .07(1) Temporary closure
  - Section .07(2) Permanent closure and changes-in-service
  - Section .07(3) Assessing the site at closure or change-in-service
  - Section .07(4) Applicability to previously closed UST systems
  - Section .07(5) Closure records
- 8. Section .08 Financial Responsibility
  - Section .08(1) Applicability
  - Section .08(2) Compliance dates
  - Section .08(3) Definition of terms
  - Section .08(4) Amount and scope of required financial responsibility
  - Section .08(5) Allowable mechanisms and combinations of mechanisms
  - Section .08(6) Financial test of self-insurance
  - Section .08(7) Guarantee
  - Section .08(8) Insurance and risk retention group coverage
  - Section .08(9) Surety bond
  - Section .08(10) Letter of credit
  - Section .08(11) Petroleum underground storage tank fund
  - Section .08(12) Trust fund
  - Section .08(13) Standby trust fund
  - Section .08(14) Substitution of financial assurance mechanisms by owner or operator
  - Section .08(15) Cancellation or nonrenewal by a provider of financial assurance
  - Section .08(16) Reporting by owner or operator
  - Section .08(17) Recordkeeping
  - Section .08(18) Drawing on financial assurance mechanisms
  - Section .08(19) Release from requirements
  - Section .08(20) Bankruptcy or other incapacity of owner or operator or provider of financial assurance
  - Section .08(21) Replenishment of guarantees, letters of credit, or surety bonds

[FR Doc. 99-13194 Filed 5-27-99; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 65

#### Changes in Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Final rule.

**SUMMARY:** Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

**EFFECTIVE DATES:** The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

**ADDRESSES:** The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

**FOR FURTHER INFORMATION CONTACT:** Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646-3461, or (e-mail) matt.miller@fema.gov.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain

management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

#### National Environmental Policy Act

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

#### Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

#### 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.

#### Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

#### Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.