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 [FR Doc. 02-21756 Filed 8-27-02; 8:45 am]
 BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 281

[FRL-7268-9]

South Carolina; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency (EPA).

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

SUMMARY: The State of South Carolina 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 (RCRA). The EPA has reviewed the State of South Carolina's application and has reached a final determination that South Carolina'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 State of South Carolina to operate its underground storage tank program for petroleum and hazardous substances.

EFFECTIVE DATE: Final approval for the State of South Carolina's underground storage tank program shall be effective on September 27, 2002.

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

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of RCRA authorizes 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 section 9004(a). Note that RCRA sections 9005 (on information-gathering) and 9006 (on Federal enforcement) by their terms apply even in States with programs approved by EPA under RCRA section 9004. Thus, EPA retains its authority under RCRA sections 9005 and 9006, 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, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State authorized analogues to these provisions.

On January 7, 1999, the State of South Carolina submitted an official application to obtain final program approval to administer the underground storage tank program for petroleum and hazardous substances. On January 29, 2002, EPA published a tentative decision announcing its intent to grant South Carolina final approval. Further background on the tentative decision to grant approval appears at 67 FR 4225, January 29, 2002.

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 cancelled. No public comments were received regarding EPA's approval of South Carolina's underground storage tank program.

The State of South Carolina is not approved to operate the underground storage tank program in Indian Country within the State's borders.

B. Decision

I conclude that the State of South Carolina's application for final program approval meets all of the statutory and regulatory requirements established by subtitle I of RCRA. Accordingly, South Carolina is granted final approval to operate its underground storage tank program for petroleum and hazardous substances. The State of South Carolina now has responsibility for managing all regulated underground storage tank facilities within its borders and carrying out all aspects of the underground

storage tank program except with regard to Indian Country, where the EPA will retain regulatory authority. South Carolina also has primary enforcement responsibility, although EPA retains the right to conduct enforcement actions under section 9006 of RCRA.

C. Administrative Requirements

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 their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" 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. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for

State, local or tribal governments or the private sector. The UMRA generally excludes from the definition of "Federal intergovernmental mandate" duties that arise from participation in a voluntary Federal program. South Carolina's participation in EPA's State program approval process under RCRA Subtitle I is voluntary. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

In addition, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may own and/or operate underground storage tanks, they are already subject to the regulatory requirements under the existing State requirements that EPA is now approving and, thus, are not subject to any additional significant or unique requirements by virtue of this action. Thus, the requirements of section 203 of the UMRA also do not apply to today's rule.

Regulatory Flexibility Act (RFA) (as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) A small business as specified in the Small Business Administration regulations; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this action on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any new requirements on small entities because small entities that own and/or operate underground storage tanks are already subject to the State underground storage tank requirements which EPA is now approving. This action merely approves

for the purpose of RCRA section 9004 those existing State requirements.

Submission to Congress and the Comptroller General

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).

Compliance With Executive Order 12866

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

Compliance With Executive Order 13045 (Children's Health)

Executive Order 13045, "Protection of Children from Environmental Health Risks and Safety Risks," applies to any rule that: (1) The Office of Management and Budget determines is "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have 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.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it approves a State program.

Compliance With Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by

Tribal Officials in the development of regulatory policies that have Tribal implications." "Policies that have Tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and the Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes."

This rule does not have Tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified in Executive Order 13175. South Carolina is not approved to implement the RCRA underground storage tank program in Indian Country. This action has no effect on the underground storage tank program that EPA implements in the Indian Country within the State. Thus, Executive Order 13175 does not apply to this rule.

Compliance With Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local Officials in the development of regulatory policies that have Federalism implications." "Policies that have Federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government."

Under section 6 of Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by State and local Governments, or EPA consults with State and local Officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has Federalism implications and that preempts state law unless the Agency consults with State and local Officials early in the process of developing the proposed regulation.

This action does not have Federalism implications. It will not have a

substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it affects only one State. This action simply provides EPA approval of South Carolina's voluntary proposal for its State underground storage tank program to operate in lieu of the Federal underground storage tank program in that State. Thus, the requirements of section 6 of the Executive Order do not apply.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, § 12(d) (15 U.S.C. 272) 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.

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 rule or a final rule. This rule will not impose any information requirements upon the regulated community.

Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedure, Hazardous substances, Intergovernmental relations.

Authority: This rule 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: August 13, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 71, 115, 126, 167, 169 and 176

[USCG-2000-6858]

RIN 2115-AF95

Alternate Hull Examination Program for Certain Passenger Vessels, and Underwater Surveys for Nautical School, Offshore Supply, Passenger and Sailing School Vessels

AGENCY: Coast Guard, DOT.

ACTION: Interim rule; announcement of effective date.

SUMMARY: Coast Guard is announcing the approval of a collection-of-information requirement for vessel owners or operators to send applications, hull exam reports, hull condition assessments, and preventive maintenance plans to the Coast Guard in order to participate in the Alternative Hull Exam and UWILD Programs.

DATES: 46 CFR 71.50-5(b), 71.50-23(b), 71.50-29(b), 71.50-31(b), 71.50-31(c), and 71.50-31(d)(1); 115.615(b), 115.630, 115.640(b), 115.655(a), 115.655(b), 115.660(c), and 115.660(d); 126.140(f), 126.140(g)(1), and 126.140(g)(3); 176.615(c), 176.615(c), 176.630, 176.640(b), 176.655(a), 176.660(b), 176.660(c), and 176.660(d)(1); as published April 29, 2002 (67 FR 21062), are effective August 28, 2002.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call Don Darcy, Office of Standards Evaluation and Development (G-MSR), Coast Guard, at 202-267-1200. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202-366-5149.

SUPPLEMENTARY INFORMATION: The interim rule published in the **Federal Register** on April 29, 2002, at 67 FR 21062 became effective on June 28, 2002, except for revised 46 CFR 71.50-5(b), 71.50-23(b), 71.50-29(b), 71.50-31(b), 71.50-31(c), and 71.50-31(d)(1); 115.615(b), 115.630, 115.640(b), 115.655(a), 115.655(b), 115.660(c), and 115.660(d); 126.140(f), 126.140(g)(1),

and 126.140(g)(3); 167.15-33(b) and 167.15-33(c); 169.230(b) and 169.230(c); 176.615(b), 176.615(c), 176.630, 176.640(b), 176.655(a), 176.660(b), 176.660(c), and 176.660(d)(1). These parts contained collection-of-information requirements. These parts could not become effective until its collection-of-information requirement was approved by the Office of Management and Budget (OMB). Those parts were approved by OMB in control no. 2115-0133 on June 24, 2002, and are effective August 28, 2002.

Dated: August 23, 2002.

Joseph J. Angelo,

Director of Standards, Marine Safety, Security & Environmental Protection.

[FR Doc. 02-21983 Filed 8-27-02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 350 and 392

[Docket No. FMCSA-2002-13015]

RIN 2126-AA78

Registration Enforcement

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Interim final rule (IFR); request for comments.

SUMMARY: The FMCSA amends its regulations to require that a motor carrier subject to the registration requirements under 49 U.S.C. 13902 may not operate a commercial motor vehicle in interstate commerce unless it has registered with this agency. These motor carriers are further prohibited from operating beyond the scope of their registration. If an unregistered carrier's motor vehicle is discovered in operation or being operated beyond the scope of the carrier's registration, such motor vehicle will be placed out of service and the carrier may be subject to additional penalties. The States are currently required to enforce these registration requirements as a condition for receipt of Motor Carrier Safety Assistance Program funds. Amending the Federal Motor Carrier Safety Regulations (FMCSRs) to specifically include the out-of-service (OOS) provisions will help ensure that all carriers subject to 49 U.S.C. 13902 are apprised of and comply with applicable FMCSR's, operate only within the scope of registration, and operate safe vehicles within the United States. Benefits to the agency include the ability to more