

(A) Chapter 151 of the Maine Department of Environmental Protection Regulations, "Architectural and Industrial Maintenance (AIM) Coatings," effective in the State of Maine on November 1, 2005.

(ii) Additional materials.  
 (A) Nonregulatory portions of the submittal.  
 ■ 3. In § 52.1031, Table 52.1031 is amended by adding a new state citation, 151, to read as follows:

**§ 52.1031 EPA-approved Maine regulations.**  
 \* \* \* \* \*

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by state	Date approved by EPA	Federal Register citation	52.1020
151	Architectural and Industrial Maintenance (AIM) Coatings.	10/06/05	3/17/06	[Insert FEDERAL REGISTER page number where the document begins].	(c)(59)

**Note 1.** The regulations are effective statewide unless stated otherwise in comments section.

[FR Doc. 06-2601 Filed 3-16-06; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 282**

[FRL-8011-3]

**Underground Storage Tank Program: Approved State Program for Pennsylvania**

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

**ACTION:** Immediate final rule.

**SUMMARY:** The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes EPA to grant approval to States to operate their underground storage tank programs in lieu of the Federal program. Title 40 of the Code of Federal Regulations (40 CFR) 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 in accordance with sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions. This rule codifies the prior approval of the Commonwealth of Pennsylvania's underground storage tank program and incorporates by reference appropriate provisions of State statutes and regulations.

**DATES:** This regulation is effective May 16, 2006, unless EPA publishes a prior **Federal Register** notice withdrawing this immediate final rule. All comments

on the codification of the Commonwealth of Pennsylvania's underground storage tank program must be received by the close of business April 17, 2006. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of May 16, 2006, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

**ADDRESSES:** Send written comments to Carletta Parlin, U.S. EPA Region 3, Mailcode 3WC21, RCRA State Programs Branch, 1650 Arch Street, Philadelphia, PA 19103-2029. Comments may also be submitted electronically through the Internet to: *parlin.carletta@epa.gov* or by facsimile at (215) 814-3163. You can examine copies of the codification materials during normal business hours at the following location: EPA Region 3, Library, 2nd Floor, 1650 Arch Street, Philadelphia, PA 19103-2029. Phone: (215) 814-5254.

**FOR FURTHER INFORMATION CONTACT:** Carletta Parlin, U.S. EPA Region 3, Mailcode 3WC21, RCRA State Programs Branch, 1650 Arch Street, Philadelphia, PA 19103-2029. Phone: (215) 814-3380.

**SUPPLEMENTARY INFORMATION:**

**Background**

Section 9004 of RCRA, 42 U.S.C. 6991c, allows the EPA to approve a State underground storage tank program to operate in the State in lieu of the Federal underground storage tank program. EPA published a rule in the **Federal Register** granting approval to the Commonwealth of Pennsylvania on September 11, 2003, and approval was effective on September 11, 2003 (66 FR 53520).

EPA codifies its approval of a State program in 40 CFR part 282 and incorporates by reference therein the State's statutes and regulations that

make up the approved program which is federally-enforceable in accordance with 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 Pennsylvania's underground storage tank program. This codification reflects the State program in effect at the time EPA granted the Commonwealth approval, in accordance with RCRA section 9004(a), 42 U.S.C. 6991c(a), for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Commonwealth's program, and EPA is not now reopening that decision nor requesting comment on it.

To codify EPA's approval of the Commonwealth of Pennsylvania's underground storage tank program, EPA has added § 282.88 to title 40 of the CFR. 40 CFR 282.88(d)(1)(i) incorporates by reference the State's statutes and regulations that make up the approved program which is federally-enforceable. 40 CFR 282.88 also references the Attorney General's Statement, the Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which were evaluated as part of the approval process of the underground storage tank program, in accordance with Subtitle I of RCRA.

EPA retains the authority in accordance with 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, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State

analogues to these provisions. Therefore, the Commonwealth of Pennsylvania's inspection and enforcement authorities are not incorporated by reference, nor are they part of the Commonwealth of Pennsylvania's approved state program which operates in lieu of the Federal program. These authorities, however, are listed in 40 CFR 282.88(d)(1)(ii) for informational purposes, and also because EPA considered them in determining the adequacy of the Commonwealth's enforcement authority. The Commonwealth of Pennsylvania's authority to inspect and enforce the State's underground storage tank requirements continues to operate independently under State law.

Some provisions of the Commonwealth's 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, or are otherwise not applicable. See 40 CFR 281.12(a)(3)(ii). As a result, State provisions which are "broader in scope" than the Federal program, or are otherwise not applicable, are not incorporated by reference for purposes of Federal enforcement in 40 CFR part 282. Section 282.88(d)(1)(iii) of the codification simply lists for reference and clarity the Commonwealth's 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.

When the phrases, "insofar" and "except insofar," are used in Appendix A (which provides an informational listing of the state requirements incorporated by reference in Part 282 of the Code of Federal Regulations), refer to the binders in the codification materials for specifics as to any words, phrases, sentences, paragraphs, or subsections that are "crossed-out" in the binders. These crossed-out materials are not incorporated by reference in Part 282 of the Code of Federal Regulations.

#### Statutory and Executive Order Reviews

This rule only codifies EPA-authorized underground storage tank program requirements pursuant to RCRA section 9004 and imposes no requirements other than those imposed by State law (see **SUPPLEMENTARY INFORMATION**). Therefore, this rule complies with applicable executive

orders and statutory provisions as follows.

1. *Executive Order 12866: Regulatory Planning Review*—The Office of Management and Budget has exempted this rule from its review under Executive Order (EO) 12866.

2. *Paperwork Reduction Act*—This rule does not impose an information collection burden under the Paperwork Reduction Act.

3. *Regulatory Flexibility Act*—After considering the economic impacts of today's rule on small entities under the Regulatory Flexibility Act, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

4. *Unfunded Mandates Reform Act*—Because this rule codifies pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act.

5. *Executive Order 13132: Federalism*—EO 13132 does not apply to this rule because it will not have federalism implications (*i.e.*, 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).

6. *Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*—EO 13175 does not apply to this rule because it will not have tribal implications (*i.e.*, substantial direct effects on one or more Indian tribes, 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).

7. *Executive Order 13045: Protection of Children from Environmental Health & Safety Risks*—This rule is not subject to EO 13045 because it is not economically significant and it is not based on health or safety risks.

8. *Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*—This rule is not subject to EO 13211 because it is not a significant regulatory action as defined in EO 12866.

9. *National Technology Transfer and Advancement Act*—EPA has previously addressed the non-applicability of the National Technology Transfer and Advancement Act in its final approval of this state program. See 66 FR 53520. Section 12(d) of the National Technology Transfer and Advancement Act does not apply to this rule.

10. *Congressional Review Act*—EPA will submit a report containing this rule and other information required by the Congressional Review Act (5 U.S.C. 801 *et seq.*) to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). Nevertheless, to allow time for public comment, this action will be effective on May 16, 2006.

#### 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: November 30, 2005.

**Donald S. Welsh,**

*Regional Administrator, EPA Region 3.*

■ 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 § 282.88 to read as follows:

#### § 282.88 Pennsylvania State-Administered Program.

(a) The Commonwealth of Pennsylvania's underground storage tank program is approved in lieu of the Federal program in accordance with 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 Pennsylvania Department of Environmental Protection, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Pennsylvania underground storage tank program on September 11, 2003, and approval was effective on September 11, 2003.

(b) The Commonwealth has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, regardless of

whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) To retain program approval, the Commonwealth must revise its approved program to adopt new changes to the Federal Subtitle I program that make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If the Commonwealth 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) The Commonwealth has final approval for the following elements submitted to EPA in the State's program application for final approval. On September 11, 2003, EPA published a rule approving the State's program in the **Federal Register**, 66 FR 53520. That approval became effective on September 11, 2003. Copies of the Commonwealth's program application may be obtained from the Pennsylvania Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Storage Tank Program, Rachel Carson State Office Building, Harrisburg, PA 17105-8762.

(1) *State statutes and regulations.* (i) The provisions cited in paragraph (d)(1)(i) of this section are incorporated by reference as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Pennsylvania Statutory Requirements Applicable to the Underground Storage Tank Program, 2002.

(B) Pennsylvania Regulatory Requirements Applicable to the Underground Storage Tank Program, 2002.

(ii) EPA considered the following statutes and regulations in evaluating the State program, but did not incorporate them by reference.

(A) The statutory provisions include:

(1) Storage Tank and Spill Prevention Act of 1989, Public Law 169, No. 32

35 PS Section 6021.107 Powers and duties of department (*insofar as paragraphs (b), (c), (e), and (f) grant the department enforcement authorities*)

35 PS Section 6021 Ch. 13 Enforcement

(2) Title 35. Health and Safety; Chapter 44. Environmental Hearing Board Act

35 P.S. Section 7514 Jurisdiction

(3) Title 71. Article IV. Organization of Departmental Administrative Boards

and Commissions and of Advisory Boards and Commissions

71 P.S. Section 180-1 Environmental Quality Board

(4) Title 71. Article XIX-A. Powers and Duties of the Department of Environmental Resources, its Officers and Departmental and Advisory Boards and Commissions

71 P.S. Section 510-17 Abatement of nuisances

71 P.S. Section 510-20 Environmental Quality Board

(B) The regulatory provisions include:

(1) Pennsylvania Code, Chapter 245, Administration of the Storage Tank and Spill Prevention Programs

Section 245.303 General

(2) Pennsylvania Rules of Civil Procedure

Pa R.C.P. Rule 2326 Definitions

Pa R.C.P. Rule 2327 Who May Intervene

Pa R.C.P. Rule 2328 Petition to Intervene

Pa R.C.P. Rule 2329 Action of Court on Petition

Pa R.C.P. Rule 2330 Practice

(iii) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the approved program, and are not incorporated by reference. These provisions are not federally enforceable.

(A) The statutory provisions include:

Storage Tank and Spill Prevention Act of 1989, Public Law 169, No. 32

35 PS Section 6021.103 Definitions (*insofar as the section addresses aboveground storage tanks; encompasses a broader range of regulated substances; and insofar as certain classes of tanks excluded or deferred under the federal definition of "underground storage tank" are not excluded or deferred under the state definition*)

35 PS Section 6021.106 Powers and duties of Environmental Quality Board (*insofar as it addresses aboveground storage tanks*)

35 PS Section 6021.107 Powers and duties of department (*insofar as paragraph (d) establishes the Department's duties regarding a certification program*)

35 PS Section 6021.108 Interim certification of installers and inspectors (*insofar as the section establishes a certification program for installers and inspectors*)

35 PS Section 6021 Ch 3 Aboveground storage tanks (*insofar as the Chapter regulates aboveground storage tanks*)

35 PS Section 6021.501 Underground storage tank requirements (*insofar as subparagraph (a)(1) requires payment of registration fees; subparagraph (a)(8) sets forth permitting requirements; subparagraph (a)(12) addresses permitting; subparagraph (a)(15) regulates handlers of regulated substances; and paragraph (c) establishes a certified installer and inspector program*)

35 PS Section 6021.502 Interim requirements and discontinued use

(*insofar as paragraph (a) establishes interim registration fees; and subparagraph (b)(5) requires tanks to be installed by a certified installer*)

35 PS Section 6021.503 Registration (*insofar as paragraph (a) requires payment of registration fees; paragraph (b) regulates selling, distributing, depositing, or filling unregistered underground storage tanks; and paragraph (c) establishes uses for registration fees*)

35 PS Section 6021.504 Permits and plans

35 PS Section 6021.506 Small operator assistance program for underground storage tanks

35 PS Section 6021.507 Reimbursement for testing

35 PS Section 6021.702 Storage Tank Fund (*insofar as paragraph (a) addresses aboveground storage tanks*)

35 PS Section 6021.704 Underground Storage Tank Indemnification Fund (*insofar as subparagraph (e)(3) addresses payment of fees*)

35 PS Section 6021.705 Powers and duties of Underground Storage Tank Indemnification Board (*insofar as paragraphs (d) and (e) address payment of fees*)

35 PS Section 6021 Ch 9 Spill Prevention Response Plan

35 PS Section 6021 Ch 11 Siting of New Aboveground Storage Tank Facility and Regulations

35 PS Section 6021.2101 Start-up costs (*insofar as it addresses aboveground storage tanks*)

(B) The regulatory provisions include:

Pennsylvania Code, Chapter 245, Administration of the Storage Tank and Spill Prevention Programs

Section 245.1 Definitions (*insofar as the section addresses aboveground storage tanks; insofar as it encompasses a broader range of regulated substances; and insofar as it includes individuals that are not regulated under the federal program under its definition of "responsible party"*)

Section 245.21 Tank handling and inspection requirements (*insofar as the section imposes requirements on tank installers and addresses requirements for aboveground tanks*)

Section 245.31 Underground storage tank tightness testing requirements (*insofar as paragraph (a) requires Department certification for underground tightness testing installers*)

Ch 245, Subch. B Certification Program for Installers and Inspectors of Storage Tanks and Storage Tank Facilities (*insofar as the Subchapter establishes a certification program*)

Ch 245, Subch. C Permitting of Underground and Aboveground Storage Tank Systems and Facilities (*insofar as the Subchapter establishes a permitting program*)

Section 245.305 Reporting releases (*insofar as paragraph (h) addresses aboveground storage tanks*)

Section 245.306 Interim remedial actions (*insofar as subparagraph (b)(3) requires permits for treatment and disposal activities; and paragraph (d) regulates parties removing contaminated materials*)

Section 245.411 Inspection frequency (*insofar as the section addresses inspections by certified inspectors*)

Section 245.424 Standards for new field constructed tank systems (*insofar as the section sets forth requirements that exceed the federal requirements*)

Section 245.425 Reuse of removed tanks (*insofar as subparagraph (1) requires installation by a certified installer*)

Section 245.434 Repairs allowed (*insofar as subparagraph (1) requires repairs to be performed by a certified installer*)

Section 245.441 General requirements for underground storage tank systems (*insofar as subparagraph (a)(3)(i) requires third-party verification; and subparagraph (a)(3)(ii) requires manufacturers to reevaluate methods within 24 months of EPA changes*)

Ch 245, Subch. F Technical standards for Aboveground Storage Tanks and Facilities (*insofar as the Subchapter addresses aboveground storage tanks*)

Ch 245, Subch. G Simplified Program for Small Aboveground Storage Tanks (*insofar as the Subchapter addresses aboveground storage tanks*)

(2) *Statement of legal authority.* (i) "Attorney General's Statement," signed by the State Attorney General on October 1, 2002, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Pennsylvania to EPA, October 1, 2002, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with 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 November 25, 2002, though not incorporated by reference, is referenced as part of the approved underground storage tank program in accordance with 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 November 25, 2002, though not incorporated by reference, are referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 3 and the Pennsylvania Department of Environmental Protection, signed by the EPA Regional Administrator on August 22, 2003, though not incorporated by reference, is

referenced as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 3. Appendix A to Part 282 is amended by adding in alphabetical order "Pennsylvania" and its listing.

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

\* \* \* \* \*

Pennsylvania

(a) The statutory provisions include: Pennsylvania Storage Tank and Spill Prevention Act of 1989, Public Law 169, No. 32

35 PS Section 6021.101 Short title

35 PS Section 6021.102 Legislative findings

35 PS Section 6021.103 Definitions (*except insofar as the section addresses aboveground storage tanks; encompasses a broader range of regulated substances; and insofar as certain classes of tanks excluded or deferred under the federal definition of "underground storage tank" are not excluded or deferred under the state definition*)

35 PS Section 6021.104 API

35 PS Section 6021.105 Advisory committee

35 PS Section 6021.106 Powers and duties of Environmental Quality Board (*except insofar as it addresses aboveground storage tanks*)

35 PS Section 6021.107 Powers and duties of department (*except insofar as paragraphs (b), (c), (e), and (f) grant the Department enforcement authorities; and paragraph (d) establishes the Department's duties regarding a certification program*)

35 PS Section 6021.109 Construction

35 PS Section 6021.110 Applicability of certain provisions to the Commonwealth

35 PS Section 6021.501 Underground storage tank requirements (*except insofar as subparagraph (a)(1) requires payment of registration fees; subparagraph (a)(8) sets forth permitting requirements; subparagraph (a)(12) addresses permitting; subparagraph (a)(15) regulates handlers of regulated substances; and paragraph (c) establishes a certified installer and inspector program*)

35 PS Section 6021.502 Interim requirements and discontinued use (*except insofar as paragraph (a) establishes interim registration fees; and subparagraph (b)(5) requires tanks to be installed by a certified installer*)

35 PS Section 6021.503 Registration (*except insofar as paragraph (a) requires payment of registration fees; paragraph (b) regulates selling, distributing, depositing or filling unregistered underground storage tanks; and paragraph (c) establishes uses for registration fees*)

35 PS Section 6021.701 Financial responsibility 35 PS Section 6021.702 Storage Tank Fund (*except insofar as paragraph (a) addresses aboveground storage tanks*)

35 PS Section 6021.703 Underground Storage Tank Indemnification Board

35 PS Section 6021.704 Underground Storage Tank Indemnification Fund (*except insofar as subparagraph (e)(3) addresses payment of fees*)

35 PS Section 6021.705 Powers and duties of Underground Storage Tank Indemnification Board (*except insofar as paragraphs (d) and (e) address payment of fees*)

35 PS Section 6021.706 Eligibility of claimants

35 PS Section 6021.707 Audit

35 PS Section 6021.708 Performance review

35 PS Section 6021.710 Underground Storage Tank Environmental Cleanup Program

35 PS Section 6021.711 Underground Storage Tank Pollution Prevention Program

35 PS Section 6021.712 Upgrade Loan Program

35 PS Section 6021.2101 Start-up costs (*except insofar as it addresses aboveground storage tanks*)

35 PS Section 6021.2102 Saved from repeal

35 PS Section 6021.2103 Severability

35 PS Section 6021.2104 Repeals

35 PS Section 6021.2105 Effective date

(b) The regulatory provisions include: Pennsylvania Code, Chapter 245, Administration of the Storage Tank and Spill Prevention Programs

Section 245.1 Definitions (*except insofar as the section addresses aboveground storage tanks; encompasses a broader range of regulated substances; and includes individuals that are not regulated under the federal program under its definition of "responsible party"*)

Section 245.2 General

Section 245.31 Underground storage tank tightness testing requirements (*except insofar as paragraph (a) requires Department certification for underground tightness testing installers*)

Section 245.301 Purpose

Section 245.302 Scope

Section 245.304 Investigation of suspected releases

Section 245.305 Reporting releases (*except insofar as paragraph (h) addresses aboveground storage tanks*)

Section 245.306 Interim remedial actions (*except insofar as subparagraph (b)(3) requires permits for treatment and disposal activities; and paragraph (d) regulates parties removing contaminated materials*)

Section 245.307 Affected or diminished water supplies

Section 245.308 Onsite storage of contaminated soil

Section 245.309 Site characterization

Section 245.310 Site characterization report

Section 245.311 Remedial action plan

Section 245.312 Remedial action

Section 245.313 Remedial action completion report

Section 245.314 Professional seals

Section 245.401 Purpose

Section 245.402 Scope

Section 245.403 Applicability

Section 245.404 Variances

Section 245.405 Codes and standards

Section 245.421 Performance standards for new underground storage tank systems

- Section 245.422 Upgrading of existing underground storage tank systems
- Section 245.423 Registration requirements
- Section 245.425 Reuse of removed tanks (except insofar as subparagraph (1) requires installation by a certified installer)
- Section 245.431 Spill and overfill control
- Section 245.432 Operation and maintenance including corrosion protection
- Section 245.433 Compatibility
- Section 245.434 Repairs allowed (except insofar as subparagraph (1) requires repairs to be performed by a certified installer)
- Section 245.435 Reporting and recordkeeping
- Section 245.441 General requirements for underground storage tank systems (except insofar as subparagraph (a)(3)(i) requires third-party verification; and subparagraph (a)(3)(ii) requires manufacturers to reevaluate methods within 24 months of EPA changes)
- Section 245.442 Requirements for petroleum underground storage tank systems
- Section 245.443 Requirements for hazardous substance underground storage tank systems
- Section 245.444 Methods of release detection for tanks
- Section 245.445 Methods of release detection for piping
- Section 245.446 Release detection recordkeeping
- Section 245.451 Temporary closure
- Section 245.452 Permanent closure and changes-in-service
- Section 245.453 Assessing the site at closure or change-in-service
- Section 245.454 Applicability to previously closed underground storage tank systems
- Section 245.455 Closure records
- Section 245.701 Purpose
- Section 245.702 Scope
- Section 245.703 Owner or operator financial responsibility
- Section 245.704 General requirements
- Section 245.705 Owner and operator liability
- Section 245.706 Underground storage tanks not covered by USTIF
- Section 245.707 Coverage amounts for financial responsibility
- Section 245.708 Failure to maintain financial responsibility

[FR Doc. 06-2480 Filed 3-16-06; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 64

[Docket No. FEMA-7915]

#### Suspension of Community Eligibility

AGENCY: Mitigation Division, Federal Emergency Management Agency

(FEMA), Department of Homeland Security.

**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 scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If 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 not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

**DATES: Effective Dates:** The effective date of each community's scheduled suspension is the third date ("Susp.") listed in the third column of the following tables.

**ADDRESSES:** If you want 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:** William H. Lesser, Mitigation Division, 500 C Street, SW., Washington, DC 20472, (202) 646-2807.

**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 NFIP, 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, FEMA has identified the Special Flood Hazard Areas (SFHAs) 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 identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA'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 Administrator 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 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were 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 Administrator 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 remedial action takes place.

**Regulatory Classification.** This final rule is not a significant regulatory action under the criteria of section 3(f) of