

Storage Tanks, Rachel Carson State Office Building, 400 Market Street, Harrisburg, Pennsylvania.

Contact: James C. Adair, Telephone: (717) 772-5551.

Location: Pennsylvania Department of Environmental Protection, Southwest Regional Office, Central Services, 400 Waterfront Drive, Pittsburgh, Pennsylvania.

Contact: Edward Duval, Telephone: (412) 442-4000.

Location: United State Environmental Protection Agency, Region III, Library, 1650 Arch Street, Philadelphia, Pennsylvania. Telephone: (215) 814-5254.

Written comments should be sent to Carletta Parlin, Program Manager, RCRA State Programs Branch, Waste & Chemicals Management Division (3WC21), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, telephone: (215) 814-3380. Comments may also be submitted electronically through the Internet to: [parlin.carletta@epamail.epa.gov](mailto:parlin.carletta@epamail.epa.gov) or by facsimile at (215) 814-3163.

Unless insufficient public interest is expressed, EPA will hold a public hearing on the State's application for program approval on February 19, 2003, at 7 p.m. at the United States Environmental Protection Agency, 1650 Arch Street, 2nd Floor, Joan Goodis Room, Philadelphia, Pennsylvania.

It is EPA's policy to make reasonable accommodation to persons with disabilities wishing to participate in the Agency's programs and activities, pursuant to the Rehabilitation Act of 1973, 29 U.S.C. 791, *et seq.* Any request for accommodation should be made to Carletta Parlin, preferably a minimum of two weeks in advance of the public hearing date, so that EPA will have sufficient time to process the request.

Anyone who wishes to learn whether or not the public hearing on the Commonwealth's application has been cancelled should telephone the EPA Program Manager, Carletta Parlin, at (215) 814-3380 on February 14, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Carletta Parlin, RCRA State Programs Branch (3WC21), U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103-2029, telephone: (215) 814-3380. Also, a copy of a fact sheet on today's action is available on the EPA Web Site at [www.epa.gov/reg3wcmd/public\\_notices.htm](http://www.epa.gov/reg3wcmd/public_notices.htm).

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6991c, authorizes EPA to

approve state underground storage tank programs to operate in lieu of the Federal UST program. EPA may approve a State program if the Agency finds pursuant to RCRA section 9004(b), 42 U.S.C. 6991c(b), that the state's program is "no less stringent" than the Federal program in all seven elements set forth at RCRA section 9004(a) (1) through (7), 42 U.S.C. 6991c(a) (1) through (7), meets the notification requirements of RCRA section 9004(a)(8), 42 U.S.C. 6991c(a)(8), and also provides for adequate enforcement of compliance with UST standards in accordance with RCRA section 9004(a), 42 U.S.C. 6991c(a).

##### B. Pennsylvania

The Pennsylvania Department of Environmental Protection (PADEP) is the implementing agency for UST activities in the State. PADEP's Underground Storage Tank Program is dedicating a substantial effort to prevent, control and remediate UST-related contamination. PADEP's Underground Storage Tank Program maintains a strong field presence and works closely with the regulated community to ensure compliance with regulatory requirements.

##### C. Where Are the State Rules Different From the Federal Rules?

The Commonwealth's regulations contain several requirements that are broader in scope than the Federal program which are not part of the program being authorized by today's action. EPA cannot enforce these broader in scope requirements. Although compliance with these provisions is required under Commonwealth law, they are not RCRA requirements. Such provisions include, but are not limited to, the following:

(1) Unlike the Federal program, Pennsylvania's program includes a definition of, and imposes obligations on, a "responsible party." To the extent that Pennsylvania's definition of a "responsible party" includes entities that go beyond the owner and operator of an UST, it is in this respect, broader in scope than the Federal program.

(2) Unlike the Federal program, the Commonwealth's statute establishes a certification program for installers of underground storage tanks. In this respect, the Commonwealth's program is broader in scope than the Federal program.

(3) Pennsylvania's regulations require a person to obtain a "Site Specific Installation Permit" from PADEP prior to installing a field-constructed UST. Additionally, these systems need a "General Operating Permit." Because the Federal program does not require

any type of permit for tank installations or operations, the Commonwealth's program, in this respect, is broader in scope.

(4) Under Pennsylvania's regulations, underground storage tank owners or operators must have their underground storage tank facilities inspected by a state-certified inspector at the frequency established by Pennsylvania's regulations. The Federal regulations do not require third-party inspections, nor do they provide for a certified inspector program; therefore, in this regard, the Commonwealth's program is broader in scope than the Federal program.

(5) Unlike the Federal program, section 1311 ("Presumption") of Pennsylvania's Storage Tank and Spill Prevention Act establishes a rebuttable presumption that a person who owns or operates a storage tank shall be liable, without proof of fault, for all damages, contamination or pollution within 2,500 feet of the perimeter of the site of an UST that contained a regulated substance of the type which caused the damage, contamination or pollution. This provision of Pennsylvania's program is broader in scope than the Federal program.

The Pennsylvania Department of Environmental Protection submitted to EPA a final application for approval on November 25, 2002. Prior to its submission, the State provided an opportunity for public notice and comment in the development of its underground storage tank program, as required by 40 CFR 281.50(b). EPA has reviewed the State's application, and has tentatively determined that the State's program meets all of the requirements necessary to qualify for final approval. However, EPA intends to review all timely public comments prior to making a final decision on whether to grant approval to the State to operate its program in lieu of the Federal program.

In accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR 281.50(e), the Agency will hold a public hearing on its tentative determination on February 19, 2003, at 7 p.m. at the United States Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania, unless insufficient public interest is expressed. The public may also submit written comments on EPA's tentative determination until February 13, 2003. Copies of the State's application are available for inspection and copying at the locations indicated in the ADDRESSES section of this document.

EPA will consider all public comments on its tentative determination received at the public hearing, if a