

40 CFR 281.42 ("Requirements for public participation"), which provides that "Any state administering a program must provide for public participation in the state enforcement process by providing *any one of the following three options*: (emphasis added) (a) Authority that allows intervention analogous to Federal Rule 24(a)(2), and assurance by the appropriate state enforcement agency that it will not oppose intervention under the state analogue to Rule 24(a)(2) on the ground that the applicant's interest is adequately represented by the State. (b) \* \* \* (c) \* \* \* "The Commonwealth chose the option set forth in 40 CFR 281.42(a) to support its State Program Approval Application. The party submitting the comments stated that " \* \* \* it is not clear how the affected public is supposed to receive notice when such actions are taken so they may decide whether to exercise their right to intervene" and suggested that the Commonwealth \* \* \* should be required to publish notice in the Pennsylvania Bulletin whenever a formal enforcement action is commenced and when it is resolved."

In its application for program approval, the Commonwealth provided an explanation of how its authorities meet the requirements of 40 CFR 281.42(a), but it did not discuss any procedures it may have for public notice of enforcement actions. Such notice is not required for state program approval, as such notice is not a component of Rule 24(a)(2) of the Federal Rules of Civil Procedure. Therefore, the lack of a provision in Pennsylvania's regulations to provide for public notice of enforcement actions and the absence of a related discussion in Pennsylvania's UST State Program Approval Application are not valid reasons for EPA to disapprove Pennsylvania's UST Program.

**Summary:** Since PADEP is not required to provide for, or explain in its State Program Approval Application, how the public is notified about enforcement actions initiated by the state, EPA has determined that this is no basis for disapproving Pennsylvania's UST program.

**Conclusion:** Based on the above responses to all of the adverse comments received, EPA sees no basis for disapproving Pennsylvania's UST program pursuant to 40 CFR part 281 and is hereby proceeding with a final determination to approve Pennsylvania's UST program.

#### Statutory and Executive Order Reviews

This rule will only approve State underground storage tank requirements

pursuant to RCRA Section 9004 and imposes no requirements other than those imposed by State law (see Supplementary Information, section A. Background). 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 12866. 2. *Paperwork Reduction Act*—This rule will 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 proposed rule will not have a significant economic impact on a substantial number of small entities. 4. *Unfunded Mandates Reform Act*—Because this rule approves 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*—Executive Order 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*—Executive Order 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 Executive Order 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 Executive Order 13211 because it is not a significant regulatory action as defined in Executive Order 12866. 9. *National Technology Transfer Advancement Act*—EPA approves State programs as long as they meet criteria

required by RCRA, so it would be inconsistent with applicable law for EPA, in its review of a State program, to require the use of any particular voluntary consensus standard in place of another standard that meets the requirements of RCRA. Thus, section 12(d) of the National Technology Transfer and Advance 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). This action will be effective September 11, 2003.

#### List of Subjects in 40 CFR Part 281

Environmental protection, Administrative practice and procedures, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

**Authority:** This document is issued under the authority of section 9004 of the Resource Conservation and Recovery Act as amended 42 U.S.C. 6991c.

**Thomas Valtaggio,**

*Acting Regional Administrator,*

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[MD Docket No. 03-83; FCC 03-184]

### Assessment and Collection of Regulatory Fees for Fiscal Year 2003; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The Commission corrects the *Assessment and Collection of Regulatory Fees for Fiscal Year 2003, Report and Order*, adopted on July 21, 2003 and released on July 25, 2003.

**DATES:** Effective September 11, 2003.

**FOR FURTHER INFORMATION CONTACT:** Roland Helvajian, Office of Managing Director, (202) 418-0444.

**SUPPLEMENTARY INFORMATION:** The Office of the Managing Director wishes to make the following correction in our