

60°58.93'N, 146°48.86'W; and southwest of a line bearing 307° True from Tongue Point at 61°02.10'N, 146°40.00'W.

\* \* \* \* \*

#### PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

3. The authority citation for part 167 continues to read as follows:

**Authority:** 33 U.S.C. 1223; 49 CFR 1.46.

4. Add §§ 167.1700 through 167.1703 to read as follows:

##### § 167.1700 In Prince William Sound: General.

The Prince William Sound Traffic Separation Scheme consists of four parts: Prince William Sound Traffic Separation Scheme, Valdez Arm Traffic Separation Scheme, and two precautionary areas. These parts are described in §§ 167.1701 through 167.1703. The geographic coordinates in §§ 167.1701 through 167.1703 are defined using North American Datum 1983 (NAD 83).

##### § 167.1701 In Prince William Sound: Precautionary areas.

(a) *Cape Hinchinbrook*. A precautionary area is established and is bounded by a line connecting the following geographical positions:

| Latitude         | Longitude   |
|------------------|-------------|
| 60°20.59'N ..... | 146°48.18'W |
| 60°12.67'N ..... | 146°40.43'W |
| 60°11.01'N ..... | 146°28.65'W |
| 60°05.47'N ..... | 146°00.01'W |
| 60°00.81'N ..... | 146°03.53'W |
| 60°05.44'N ..... | 146°27.58'W |
| 59°51.80'N ..... | 146°37.51'W |
| 59°53.52'N ..... | 146°46.84'W |
| 60°07.76'N ..... | 146°36.24'W |
| 60°11.51'N ..... | 146°46.64'W |
| 60°20.60'N ..... | 146°54.31'W |

(b) *Bligh Reef*. A precautionary area is established of radius 1.5 miles centered at geographical position 60°49.63'N, 147°01.33'W.

(c) *Pilot boarding area*. A pilot boarding area located near the center of the Bligh Reef precautionary area is established. Regulations for vessels operating in these areas are in § 165.1109(d) of this chapter.

##### § 167.1702 In Prince William Sound: Prince William Sound Traffic Separation Scheme.

The Prince William Sound Traffic Separation Scheme consists of the following:

(a) A separation zone bounded by a line connecting the following geographical positions:

| Latitude         | Longitude   |
|------------------|-------------|
| 60°20.77'N ..... | 146°52.31'W |
| 60°48.12'N ..... | 147°01.78'W |
| 60°48.29'N ..... | 146°59.77'W |
| 60°20.93'N ..... | 146°50.32'W |

(b) A traffic lane for northbound traffic between the separation zone and a line connecting the following geographical positions:

| Latitude         | Longitude   |
|------------------|-------------|
| 60°20.59'N ..... | 146°48.18'W |
| 60°49.49'N ..... | 146°58.19'W |

(c) A traffic lane for southbound traffic between the separation zone and a line connecting the following geographical positions:

| Latitude         | Longitude   |
|------------------|-------------|
| 60°49.10'N ..... | 147°04.19'W |
| 60°20.60'N ..... | 146°54.31'W |

##### § 167.1703 In Prince William Sound: Valdez Arm Traffic Separation Scheme.

The Valdez Arm Traffic Separation Scheme consists of the following:

(a) A separation zone bounded by a line connecting the following geographical positions:

| Latitude         | Longitude   |
|------------------|-------------|
| 60°51.08'N ..... | 147°00.33'W |
| 60°58.60'N ..... | 146°48.10'W |
| 60°58.30'N ..... | 146°47.10'W |
| 60°50.45'N ..... | 146°58.75'W |

(b) A traffic lane for northbound traffic between the separation zone and a line connecting the following geographical positions:

| Latitude         | Longitude   |
|------------------|-------------|
| 60°49.39'N ..... | 146°58.19'W |
| 60°58.04'N ..... | 146°46.52'W |

(c) A traffic lane for southbound traffic between the separation zone and a line connecting the following geographical positions:

| Latitude         | Longitude   |
|------------------|-------------|
| 60°58.93'N ..... | 146°48.86'W |
| 60°50.61'N ..... | 147°03.60'W |

Dated: July 26, 2002.

**Paul J. Pluta,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.*

[FR Doc. 02-21031 Filed 8-16-02; 8:45 am]

**BILLING CODE 4910-15-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 19 and 27

[FRL-7261-5]

#### Civil Monetary Penalty Inflation Adjustment Rule

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Because EPA received adverse comment, we are withdrawing the direct final rule amending the final Civil Monetary Penalty Inflation Adjustment Rule, which was mandated by the Debt Collection Improvement Act of 1996. That legislation required federal agencies to adjust civil monetary penalties for inflation on a periodic basis. EPA published the direct final rule on June 18, 2002 (67 FR 41343). We stated in the direct final rule that if we received adverse comment by July 18, 2002, we would publish a timely notice of withdrawal in the **Federal Register**. We subsequently received one adverse comment on the direct final rule. We will address that comment in a subsequent final action based on the parallel proposal also published on June 18, 2002 (67 FR 41363). As stated in the parallel proposal, we will not institute a second comment period on this action.

**DATES:** As of August 19, 2002, EPA withdraws the direct final rule published at 67 FR 41343, on June 18, 2002.

**FOR FURTHER INFORMATION CONTACT:** David Abdalla, Office of Regulatory Enforcement, Multimedia Enforcement Division, Mail Code 2248A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564-2413.

Dated: August 13, 2002.

**John Peter Suarez,**

*Assistant Administrator, Office of Enforcement and Compliance Assurance, Environmental Protection Agency.*

[FR Doc. 02-20986 Filed 8-16-02; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY (EPA)

#### 40 CFR Part 281

[FRL-7261-9]

#### Nebraska; Final Approval of State Underground Storage Tank Program

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule; final determination on application of State of Nebraska for final approval.

**SUMMARY:** The State of Nebraska has applied for final approval of its underground storage tank (UST) program under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Nebraska's application and has reached a final determination that Nebraska's underground storage tank program satisfies all of the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the State of Nebraska to operate its program.

**EFFECTIVE DATE:** Final approval for Nebraska shall be effective September 18, 2002.

**FOR FURTHER INFORMATION CONTACT:** Linda Garwood, EPA Region 7, ARTD/USTB, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551-7268.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, requires that the EPA develop standards for Underground Storage Tanks (UST) systems as may be necessary to protect human health and the environment, and procedures for approving State programs in lieu of the Federal program. EPA promulgated State program approval procedures at 40 CFR part 281. Program approval may be granted by EPA pursuant to RCRA section 9004(b), if the Agency finds that the State program: is "no less stringent" than the Federal program for the seven elements set forth at RCRA section 9004(a)(1) through (7); includes the notification requirements of RCRA section 9004(a)(8); and provides for adequate enforcement of compliance with UST standards of RCRA section 9004(a). Note that RCRA sections 9005 (information-gathering) and 9006 (Federal enforcement) by their terms apply even in states with programs approved by EPA under RCRA section 9004. Thus, the Agency 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, the Agency will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the state authorized analogues to these provisions.

**B. State of Nebraska**

The UST program in Nebraska is implemented jointly by the Nebraska Department of Environmental Quality (NDEQ) and the Nebraska State Fire Marshal (NSFM). Section 81-15, 118 of the Nebraska Revised Statutes (N.R.S.) designates NDEQ as the lead agency for the UST program, but specifies that NSFM will conduct preventative activities under an interagency agreement with NDEQ.

The State of Nebraska initially submitted a state program approval application to EPA by letter dated December 15, 2000. Additional information was provided by Nebraska on March 21, 2001. EPA evaluated that information as well as other issues and determined the application package met all requirements for a complete program application. On December 5, 2001, EPA notified Nebraska that the application package was complete.

The Nebraska program provides for regulation of both petroleum and hazardous substance tanks. Nebraska also regulates UST systems used to store fuel solely for use by emergency power generators, regulates certain USTs used to store heating oil, regulates any tank used for consumptive on-site purposes and not for resale, requires registration of permanently abandoned systems, regulates above ground storage tanks for those tanks to be eligible for reimbursement from the state cleanup fund, imposes licensing and certification requirements on tank installation and removal contractors, licenses and imposes a remedial action fee on certain refiners and suppliers, and requires any person who deposits regulated substances in a tank to make certain notifications to owners and operators of UST systems, and subjects UST systems previously closed between December 22, 1988 and January 1, 1989 to being directed to close in accordance with the state closure requirements. However, these parts of the Nebraska program are broader in scope than the Federal program and are not included in this final approval. Additionally, the Nebraska program is not as broad as the federal program because Nebraska does not regulate tank systems installed between December 22, 1988 and January 1, 1989 as new tank systems. However, for tank systems installed within this 9-day window, through the Nebraska and EPA Memorandum of Agreement included in the State Program Approval application, EPA has agreed to assume all related enforcement responsibilities.

On March 7, 2002, EPA published a tentative decision announcing its intent to grant Nebraska final approval.

Further background on the tentative decision to grant approval is available by contacting Linda Garwood, EPA Region 7, ARTD/USTB, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551-7268.

Along with the tentative determination, EPA announced the opportunity for public comment. Also, EPA provided notice that a public hearing would be provided but only if significant public interest on substantive issues was shown. EPA did not receive any significant comments and no public hearing was held.

**C. Decision**

I conclude that the State of Nebraska's application for final approval meets all the statutory and regulatory requirements established by Subtitle I of RCRA. Accordingly, Nebraska is granted final approval to operate its UST program. The State of Nebraska now has the responsibility for managing all regulated UST facilities within its borders and carrying out all aspects of the UST program, except with regard to Indian lands, where EPA will retain and otherwise exercise regulatory authority. Nebraska also has primary enforcement responsibility, for the UST's it regulates, although EPA retains the right to conduct inspections under Section 9005 of RCRA, 42 U.S.C. 6991d, and to take enforcement actions under Section 9006 of RCRA, 42 U.S.C. 6991e.

**Administrative Requirements**

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 9004 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes 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 of 1995 (Pub. L. 104-4). For the same reason, this action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, 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, as specified in Executive Order 13175. This action will not 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. 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.

Under RCRA 9004, EPA grants approval of a State's program as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State program application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 document 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 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).

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

Environmental protection, Administrative practice and procedure, Hazardous materials, State program approval, Underground storage tanks.

**Authority:** This notice is issued under the authority of Section 9004 of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 25, 2002.

**James B. Gulliford,**

*Regional Administrator, Region 7.*

[FR Doc. 02-20987 Filed 8-16-02; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 65

[Docket No. FEMA-P-7614]

#### Changes in Flood Elevation Determinations

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

**ACTION:** Interim rule.

**SUMMARY:** This interim rule lists communities where modification of the Base (1-percent-annual-chance) Flood Elevations (BFEs) is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified BFEs for new buildings and their contents.

**DATES:** These modified BFEs are currently in effect on the dates listed in the table below and revise the Flood Insurance Rate Map(s) in effect prior to this determination for the listed communities.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Administrator for Federal Insurance and Mitigation Administration reconsider

the changes. The modified BFEs may be changed during the 90-day period.

**ADDRESSES:** The modified BFEs 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 table below.

#### FOR FURTHER INFORMATION CONTACT:

Matthew B. Miller, P.E., Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, 500 C Street, SW., Washington, DC 20472, (202) 646-3461 or (e-mail) [matt.miller@fema.gov](mailto:matt.miller@fema.gov).

**SUPPLEMENTARY INFORMATION:** The modified BFEs are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified BFE determinations are available for inspection is provided.

Any request for reconsideration must be based on knowledge of changed conditions or new scientific or technical data.

The modifications are made pursuant to section 201 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 BFEs 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 BFEs, 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.

The changes in BFEs 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 Administrator for Federal Insurance and Mitigation