

## Environmental Protection Agency

## § 282.83

(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 herein for enforcement purposes.

(A) New Mexico Statutes 1978 Annotated, Chapter 74, Environmental Improvement.

(1) 74-4-4.4 Underground Storage Tanks; Registration; Installer Certification; Fees [Insofar as it applies to individuals other than UST owners and operators.]

(B) State of New Mexico Environmental Improvement Board Underground Storage Tank Regulations.

(1) Part I: General Provisions.

§ 103 Applicability [Insofar as it does not exclude UST systems with *de minimis* concentrations of regulated substances; emergency spill or overflow containment UST systems expeditiously emptied after use; UST systems that are part of emergency generator systems at nuclear power generation facilities; airport hydrant fuel distribution systems; and UST systems with field-constructed tanks; and does not defer emergency power generator UST systems.]

(2) Part XIV: Certification of Tank Installers [Insofar as it applies to individuals other than UST owners and operators.]

§ 1400 Purpose  
§ 1401 Legal Authority  
§ 1402 Definitions  
§ 1403 Applicability  
§ 1404 General Requirements  
§ 1405 Contractor Certification  
§ 1406 Individual Certification  
§ 1407 Experience Requirements  
§ 1408 Written Examination  
§ 1409 On-Site Examination  
§ 1410 Approval of Comparable Certification Programs  
§ 1411 Denial of Certificates  
§ 1412 Renewal of Certificates  
§ 1413 Installer Duties and Obligations  
§ 1414 Division Approval of Training and Continuing Education  
§ 1415 Complaints  
§ 1416 Investigations, Enforcement, Penalties  
§ 1417 Division Actions Against Certificates

(2) *Statement of legal authority.* (i) “Attorney General’s Statement for Final Approval”, signed by the Attorney General of New Mexico on June 25, 1990, though not incorporated by reference, is referenced as part of the approved underground storage tank pro-

gram under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of New Mexico to EPA, June 25, 1990, though not incorporated by reference, is referenced as part of the approved underground storage tank program under 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 September 25, 1989, though not incorporated by reference, is referenced as part of the approved underground storage tank program under 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 September 25, 1990, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 6 and the New Mexico Environmental Improvement Board, signed by the EPA Regional Administrator on September 13, 1990, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[61 FR 1217, Jan. 18, 1996]

**§ 282.82 [Reserved]**

### **§ 282.83 North Carolina State-Administered Program.**

(a) The State of North Carolina is approved to administer and enforce an underground storage tank program in lieu of the Federal program under 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 North Carolina Department of Environment and Natural Resources, Division of Waste Management, UST Section, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this

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chapter. EPA approved the North Carolina program on April 26, 2001 with an effective date of August 14, 2001.

(b) North Carolina has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, North Carolina must revise its approved program to adopt new changes to the Federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If North Carolina 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) North Carolina has final approval for the following elements submitted to EPA in the State's program application for final approval and approved by EPA on April 26, 2001. Copies may be obtained from the North Carolina Department of Environment and Natural Resources, Division of Waste Management, UST Section, 2728 Capital Blvd., Raleigh, NC 27604.

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

(A) North Carolina Statutory Requirements Applicable to the Underground Storage Tank Program, 1997.

(B) North Carolina Regulatory Requirements Applicable to the Underground Storage Tank Program, 1997 and 1998.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) General Statutes of North Carolina, Chapter 143—State Departments,

Institutions, and Commissions; Article 21, Water and Air Resources

§ 143-215.6A Enforcement procedures: civil penalties

§ 143-215.6B Enforcement procedures: criminal penalties

§ 143-215.6C Enforcement procedures: injunctive relief

(2) General Statutes of North Carolina, Chapter 143—State Departments, Institutions, and Commissions; Article 21A, Oil Pollution and Hazardous Substances Control

§ 143-215.79 Inspections and investigations; entry upon property

§ 143-215.88A Enforcement procedures: civil penalties

§ 143-215.88B Enforcement procedures: criminal penalties

§ 143-215.91A Limited liability for volunteers in oil and hazardous substance abatement

§ 143-215.94 Joint and several liability

§ 143-215.94F Limited amnesty

§ 143-215.94G Authority of the Department to engage in cleanups; actions for fund reimbursement (Insofar as (e) outlines enforcement authorities.)

§ 143-215.94K Enforcement

§ 143-215.94W Enforcement procedures: civil penalties

§ 143-215.94Y Enforcement procedures: criminal penalties

§ 143-215.94Z Enforcement procedures: injunctive relief

(3) General Statutes of North Carolina, Chapter 143B—Executive Organization Act of 1973

§ 143B-282 Environmental Management Commission—Creation; powers and duties

§ 143B-282.1 Environmental Management Commission—quasi-judicial powers; procedures

(4) General Statutes of North Carolina, Chapter 150B—Administrative Procedure Act

§ 150B-23 Commencement; assignment of administrative law judge; hearing required; notice; intervention

(5) General Statutes of North Carolina, Chapter 1A—Rules of Civil Procedure

Rule 24 Intervention

(B) The regulatory provisions include:

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(1) North Carolina Administrative Code, Title 15A—Department of Environment and Natural Resources; Chapter 2, Subchapter 2N, Underground Storage Tanks

Section .0100 General Considerations (Insofar as .0101(c) provides inspection and enforcement authority.)

(2) North Carolina Administrative Code, Title 15A—Department of Environment and Natural Resources; Chapter 2, Subchapter 2O: Financial Responsibility Requirements for Owners and Operators of Underground Storage Tanks

Section .0100 General Considerations (Insofar as .0101(c) provides inspection and enforcement authority.)

(3) North Carolina Administrative Code, Title 15A—Department of Environment and Natural Resources; Chapter 2, Subchapter 2P: Leaking Petroleum Underground Storage Tank Cleanup Funds

Section .0100 General Considerations (Insofar as .0101(d) provides inspection and enforcement authority.)

(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 herein for enforcement purposes.

(A) The statutory provisions include:

(1) General Statutes of North Carolina, Chapter 143—State Departments, Institutions, and Commissions; Article 21A, Oil Pollution and Hazardous Substances Control

§143-215.83 Discharges (Insofar as (c) addresses permit requirements.)

§143-215.92 Lien on vessel (Insofar as it addresses vessels, which are not regulated by the Federal program.)

§143-215.94A Definitions (Insofar as .94A(2) subjects certain heating oil tanks and the piping connected to otherwise excluded tanks to the regulatory requirements.)

§143-215.94C Commercial leaking petroleum underground storage tank cleanup fees (Insofar as it establishes annual operating fees.)

§143-215.94U Registration of petroleum commercial underground storage tanks; operation of petroleum underground storage tanks; operating permit required (Insofar as it requires owners and operators to obtain operating permits and pay operating fees for their tanks, and imposes require-

ments on individuals other than UST owners and operators.)

(B) The regulatory provisions include:

(1) North Carolina Administrative Code, Title 15A—Department of Environment and Natural Resources; Chapter 2, Subchapter 2N, Underground Storage Tanks

Section .0200 Program Scope and Interim Prohibition (Insofar as .0201 subjects USTs containing de minimis concentrations of regulated substances to closure requirements)

Section .0800 Out-of-Service UST Systems and Closure (Insofar as .0802 subjects USTs containing de minimis concentrations of regulated substances to closure requirements)

(2) North Carolina Administrative Code, Title 15A—Department of Environment and Natural Resources; Chapter 2, Subchapter 2O: Financial Responsibility Requirements for Owners and Operators of Underground Storage Tanks

Section .0200 Program Scope (Insofar as .0203(b)(1) defines “annual operating fee”)

Section .0400 Responsibilities of Owners and Operators (Insofar as .0402(b)(2) addresses annual operating fee requirements.)

(3) North Carolina Administrative Code, Title 15A—Department of Environment and Natural Resources; Chapter 2, Subchapter 2P: Leaking Petroleum Underground Storage Tank Cleanup Funds

Section .0200 Program Scope (Insofar as .0201(a) and (b) and .0202 (b)(1) relate to annual operating fees.)

Section .0300 Annual Operating Fees (Insofar as .0301 sets forth annual operating fee requirements.)

Section .0400 Reimbursement Procedure (Insofar as .0401(b) relates to annual operating fees.)

(2) *Statement of legal authority.* (i) “Attorney General’s Statement for Final Approval”, signed by the State Attorney General on January 5, 1998, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of North Carolina to EPA, August 11,

1998, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(iii) Letter from the Attorney General of North Carolina to EPA, September 24, 1998, though not incorporated by reference, is referenced as part of the approved underground storage tank program under 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 December 19, 1997, though not incorporated by reference, is referenced as part of the approved underground storage tank program under 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 December 19, 1997, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 4 and the North Carolina Department of Environment and Natural Resources, Division of Waste Management, UST Section, signed by the EPA Regional Administrator on July 29, 1999, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

[66 FR 32568, June 15, 2001]

**§ 282.84 North Dakota State-Administered Program.**

(a) The State of North Dakota is approved to administer and enforce an underground storage tank program in lieu of the federal program under 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 North Dakota Department of Health and Consolidated Laboratories, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the North Dakota

program on October 11, 1991 and it was effective on December 10, 1991.

(b) North Dakota has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, North Dakota must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If North Dakota 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) North Dakota has final approval for the following elements submitted to EPA in North Dakota’s program application for final approval and approved by EPA on October 11, 1991. Copies may be obtained from the Underground Storage Tank Program, North Dakota Department of Health Consolidated Laboratories, 1200 Missouri Avenue, Bismarck, ND 58502–5520.

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

(A) North Dakota Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) North Dakota Regulatory Requirements Applicable to the Underground Storage Tank Program, 1995.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include: North Dakota Century Code (NDCC), Chapter 23–20.3, Sections 23–20.3–06, 23–20.3–07 and 23–20.3–09.

(B) The regulatory provisions include: North Dakota Administrative