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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 282

[FRL-5304-5]

#### Underground Storage Tank Program: Approved State Program for Louisiana

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

**ACTION:** Immediate final rule.

**SUMMARY:** The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency (EPA) to grant approval to States to operate their underground storage tank programs in lieu of the Federal program. 40 CFR part 282 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 under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies in part 282 the prior approval of Louisiana's underground storage tank program and incorporates by reference appropriate provisions of State statutes and regulations.

**DATES:** This regulation is effective March 18, 1996, unless EPA publishes a prior Federal Register notice withdrawing this immediate final rule. All comments on the codification of Louisiana's underground storage tank program must be received by the close of business February 20, 1996. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of March 18, 1996, in accordance with 5 U.S.C. 552(a).

**ADDRESSES:** Comments may be mailed to the Docket Clerk, Underground Storage Tank Program, 6H-A, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-

2733. Comments received by EPA may be inspected in the public docket, located in the EPA Region 6 Library (12th floor) from 8 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Gary Fisher, Underground Storage Tank Program, 6H-A, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733. Phone: (214) 665-8048.

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve State underground storage tank programs to operate in the State in lieu of the Federal underground storage tank program. EPA published a Federal Register document announcing its decision to grant approval to Louisiana on July 24, 1992 (57 FR 34519). Approval was effective on September 4, 1992.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein the State statutes and regulations that will be subject to EPA's inspection and enforcement authorities under 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 Louisiana underground storage tank program. This codification reflects the State program in effect at the time EPA granted Louisiana approval under 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 Louisiana program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each State. By codifying the approved Louisiana program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Louisiana, the status of federally approved requirements of the Louisiana program will be readily discernible. Only those provisions of the Louisiana

underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Louisiana's underground storage tank program, EPA has added § 282.68 to title 40 of the CFR. Section 282.68 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.68 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under 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, the Agency will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State authorized analogs to these provisions. Therefore, the approved Louisiana enforcement authorities will not be incorporated by reference. Section 282.68 lists those approved Louisiana authorities that would fall into this category.

The public also needs to be aware that some provisions of the State'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. See 40 CFR 281.12(a)(3)(ii). As a result, State provisions which are "broader in scope" than the Federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.68 of the codification simply lists for reference and clarity the Louisiana 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.

### Certification Under the Regulatory Flexibility Act

This rule codifies the decision already made (57 FR 34519, July 24, 1992) to approve the Louisiana underground storage tank program and thus has no separate effect. Therefore, this rule does not require a regulatory flexibility analysis. Thus, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

### Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

### Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

### 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: October 20, 1995.

A. Stanley Meiburg,  
*Acting Regional Administrator.*

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 § 282.68 to read as follows:

#### **§ 282.68 Louisiana State-Administered Program.**

(a) The State of Louisiana 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

Louisiana Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this Chapter. EPA approved the Louisiana program on July 24, 1992 and it was effective on September 4, 1992.

(b) Louisiana 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, Louisiana 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 Louisiana 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) Louisiana has final approval for the following elements submitted to EPA in Louisiana's program application for final approval and approved by EPA on July 24, 1992. Copies may be obtained from the Underground Storage Tank Program, Louisiana Department of Environmental Quality, 7290 Bluebonnet Road, Baton Rouge, LA 70810-1612.

(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) Louisiana Statutory Requirements Applicable to the Underground Storage Tank Program, 1995.

(B) Louisiana 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:

- (1) *Louisiana Revised Statutes, Title 30*
- § 2012 Enforcement Inspections
  - § 2025 Enforcement
  - § 2026 Citizen Suits
  - § 2077 Remediation of Pollution
  - § 2172 Policy and Purpose
  - § 2275 Demand by Secretary; Remedial Action

(B) The regulatory provisions include:

(1) *Louisiana Environmental Regulatory Code, Part XI: Underground Storage Tanks, Chapter 15—Enforcement:*

- § 1501 Inspection and Entry
- § 1503 Failure to Comply
- § 1505 Investigations: Purposes, Notice

(iii) The following 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) *Louisiana Environmental Regulatory Code, Part XI: Underground Storage Tanks*

(1) *Chapter 13—Certification Requirements for Persons Who Install, Repair, or Close Underground Storage Tank Systems* [Insofar as it applies to individuals other than UST owners and operators.]

- § 1301 Applicability
- § 1303 Definitions
- § 1305 Categories of Certification and Requirements for Issuance and Renewal of Certificates
- § 1307 Certification Examinations
- § 1309 Approval of Continuing Training Courses
- § 1311 Denial of Issuance or Renewal of a Certificate or Revocation of a Certificate
- § 1313 UST Certification Board

(2) *Statement of legal authority.* (i) "Attorney General's Statement for Final Approval", signed by the Attorney General of Louisiana on September 12, 1991, 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 Louisiana to EPA, September 12, 1991, 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 October 15, 1991, 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 October 15, 1991, 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 Louisiana Department of Environmental Quality, signed by the EPA Regional Administrator on May 14, 1992, 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. Appendix A to Part 282 is amended by adding in alphabetical order "Louisiana" and its listing.

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

\* \* \* \* \*

##### Louisiana

(a) The statutory provisions include:

1. *Louisiana Environmental Quality Act, Louisiana Revised Statutes Title 30*
  - § 2194 Underground Storage Tanks; Registration
  - § 2195 Underground Storage Tank Trust Fund
    - § 2195.1 Underground Motor Fuel Storage Tank Remediation Agreements
    - § 2195.2 Uses of the Trust
    - § 2195.3 Source of Funding; Limitations on Disbursements from the Trust; Limit on Amount in Trust
    - § 2195.4 Procedures for Disbursements from the Fund Trust
    - § 2195.5 Audits
    - § 2195.6 Ownership of Trust
    - § 2195.7 No Inference of Liability on the Part of the State
    - § 2195.8 Advisory Board
    - § 2195.9 Financial Responsibility
    - § 2195.10 Voluntary Cleanup, Private Contracts; Exemptions

(b) The regulatory provisions include:

1. *Louisiana Environmental Regulatory Code, Part XI: Underground Storage Tanks, Chapter 1—Program Applicability and Definitions*
  - § 101 Applicability
  - § 103 Definitions
2. *Chapter 3—Registration Requirements, Standards, and Fee Schedule*
  - § 301 Registration Requirements
  - § 303 Standards for UST Systems
  - § 305 Interim Prohibitions for Deferred UST Systems
  - § 307 Fee Schedule
3. *Chapter 5—General Operating Requirements*
  - § 501 Spill and Overfill Control
  - § 503 Operation and Maintenance of Corrosion Protection
  - § 505 Compatibility
  - § 507 Repairs Allowed
  - § 509 Reporting and Recordkeeping
4. *Chapter 7—Methods of Release Detection and Release Reporting, Investigation, Confirmation, and Response*
  - § 701 Methods of Release Detection

- § 703 Requirements for Use of Release Detection Methods
- § 705 Release Detection Recordkeeping
- § 707 Reporting of Suspected Releases
- § 709 Investigation due to Off-site Impacts
  - § 711 Release Investigation and Confirmation Steps
  - § 713 Reporting and Cleanup of Spills and Overfills
  - § 715 Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances
- 5. *Chapter 9—Out-of-Service UST Systems and Closure*
  - § 901 Applicability to Previously Closed UST Systems
  - § 903 Temporary Closure
  - § 905 Permanent Closure and Changes-in-Service
  - § 907 Assessing the Site at Closure or Changes-in-Service
- 6. *Chapter 11—Financial Responsibility*
  - § 1101 Applicability
  - § 1103 Compliance Dates
  - § 1105 Definition of Terms
  - § 1107 Amount and Scope of Required Financial Responsibility
  - § 1109 Allowable Mechanisms and Combinations of Mechanisms
  - § 1111 Financial Test of Self-Insurance
  - § 1113 Guarantee
  - § 1115 Insurance and Risk Retention Group Coverage
    - § 1117 Surety Bond
    - § 1119 Letter of Credit
    - § 1121 Use of the Underground Motor Fuel Storage Tank Trust
    - § 1123 Trust Fund
    - § 1125 Standby Trust Fund
    - § 1127 Substitution of Financial Assurance Mechanisms by Owner or Operator
    - § 1129 Cancellation or Nonrenewal by a Provider of Financial Assurance
    - § 1131 Reporting by Owner or Operator
    - § 1133 Recordkeeping
    - § 1135 Drawing on Financial Assurance Mechanisms
      - § 1137 Release from the Requirements
      - § 1139 Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance
      - § 1141 Replenishment of Guarantees, Letters of Credit, or Surety Bonds

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#### 40 CFR Part 282

[FRL-5304-6]

#### Underground Storage Tank Program: Approved State Program for Arkansas

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

**ACTION:** Immediate final rule.

**SUMMARY:** The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the U.S. Environmental Protection Agency to grant approval to states to operate their

underground storage tank programs in lieu of the federal program. 40 CFR part 282 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 under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies, in part 282, the prior approval of Arkansas' underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

**DATES:** This regulation is effective March 18, 1996, unless EPA publishes a prior Federal Register notice withdrawing this immediate final rule. All comments on the codification of Arkansas' underground storage tank program must be received by the close of business February 20, 1996. The incorporation by reference of certain publications listed in the regulations, is approved by the Director of the Federal Register, as of March 18, 1996, in accordance with 5 U.S.C. 552(a).

**ADDRESSES:** Comments may be mailed to the Docket Clerk, Underground Storage Tank Program, 6H-A, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733. Comments received by EPA may be inspected in the public docket, located in the EPA Region 6 Library (12th floor) from 8 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Gary Fisher, Underground Storage Tank Program, 6H-A, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, TX 75202-2733. Phone: (214) 665-8048.

**SUPPLEMENTARY INFORMATION:** Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991(c), allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a Federal Register document announcing its decision to grant approval to Arkansas on February 14, 1995 (60 FR 10331). Approval was effective on April 25, 1995.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991(d) and 6991(e), and other