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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 programs, Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991c, 6991d, and 6991e, as well as under other statutory and regulatory provisions.

(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

(ii) The following regulatory provisions are broader in scope than the federal program under subtitle I of RCRA, 42 U.S.C. 6991c, and 6991d, as well as under other statutory and regulatory provisions.

(a) Louisiana Revised Statutes, Title 30

(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. 6991c et seq.

(b) The regulatory provisions include:

§ 282.68 Louisiana State-Administered Program.

The Louisiana Department of Environmental Quality, as 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.

(i) 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. 6991c et seq.


(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; Remedy Action

(B) The regulatory provisions include:

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

(iii) 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

(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. 6991c 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. 6991c 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. 6991c 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

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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), 42 U.S.C. 6991(c), allows the U.S. Environmental Protection Agency to approve state 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