

1. *Code of Vermont Rules 12–032–004.*  
**CHAPTER 8—Vermont Underground Storage Tank Rules (Effective October 26, 2020)**

Subchapter 1: General Provisions, Section 8–101. Authority; Section 8–102. Purpose and Applicability, except “install, remove, repair, or test”; Section 8–103. Release Prohibition, Reporting, Emergency Response, except (b) “owner of the land on which the underground storage tank system is located, transporter of fuel, etc.” and (g); Section 8–104. Signatories to Permits and Reports; Section 8–105. Incorporation by Reference; Section 8–109. Transfer of Ownership, Operation; Permits, Notification of Rules, Section 8–109(b); Subchapter 2: Definitions; Subchapter 3: Registration (Notification), Permits, And Operator Training, Section 8–301. Applicability, 8–301(a)(1)(C) and (D); 8–301(a)(2)(A), (C), and (D); 8–301(b)(1), (b)(3) and (b)(4); Section 8–302. Registration, except 8–302(a)(1)(C) and 8–302(c); Section 8–303. Permits for Category One Underground Storage Tank Systems, 8–303(f); Section 8–305. Financial Responsibility Requirements; Section 8–306. Change-in-Service; Section 8–307. Operator Training Requirements; Section 8–308. Approval of Operator Training Test; Subchapter 4: Design, Manufacturing, and Installation Standards for Underground Storage Tank Systems, Section 8–402. Prohibitions, 8–402(c), (d) and (e); Section 8–403. General Requirements; Section 8–404. Tank Installation Standards; Section 8–405. Piping Standards, except 8–405(b), (d)(2), and (e); Section 8–406. Spill Containment & Overfill Prevention Measures and Equipment, except 8–406(c) and (d); Section 8–407. Scheduling Installations of Underground Storage Tank Systems, except 8–407(a)(1); Section 8–408. Reuse of Tanks; Section 8–409 Underground Storage Tank Systems Located at Marinas; Section 8–410. Field Constructed Tanks and Airport Hydrant Systems; Subchapter 5: Operating Standards for Underground Storage Tanks, Section 8–501. Applicability; Section 8–502. General and Recordkeeping Requirements; Section 8–503. Spill and Overfill Prevention; Monitoring of Deliveries, except 8–503(a) and (b); Section 8–504. Cathodic Protection Systems; Section 8–505. General Requirements for Release Detection; Section 8–506. Release Detection Requirements for Tanks, except 8–506(c)(1)(F); Section 8–507. Release Detection Requirements for Piping, Sumps, and Spill Containment; Section 8–508. Underground Storage Tank System Repairs, except 8–508(c)(9)(B), (C), and (D), and 8–508(g); Section 8–509. Periodic Inspections and Self-Certifications; Section 8–510. Unstaffed Facilities; Section 8–511. Testing of Sumps, Spill Containment, and Overfill Prevention Devices, except 8–511(c); Section 8–512. Field Constructed Tanks and Airport Hydrant Systems; Subchapter 6: Out-Of-Service, Continued Use, And Closure Standards for Underground Storage Tank Systems, Section 8–601. Applicability, except 8–601(c) and (d); Section 8–602. Out-of-Service Underground Storage Tank Systems; Section 8–603. Continued Use of Underground Storage Tank Systems; Section 8–604: Closure of Underground Storage Tank Systems, except the words “or three” in 8–

604(g), 8–604(h)(3), and 8–604(i) with respect to the Secretary’s issuance of an amended permit; Section 8–605. Release Assessment at the Time of Closure or a Change-In-Service; and 8–606. Closure Records.

2. *Code of Vermont Rules 12–032–008.*  
**Chapter 35—Investigation and Remediation of Contaminated Properties Rule (Effective July 6, 2019)** only insofar as they pertain to the regulation of underground storage tanks in Vermont and only insofar as they are incorporated by reference and are not broader in scope than the federal requirements.

Subchapter 1. General Provisions, except Section 35–103, Severability, and Section 35–107, Historical Fill Exemption; Subchapter 2. Definitions; Subchapter 3. Site Investigation; Subchapter 4. Data Evaluations; Subchapter 6. Corrective Action; Subchapter 7. Long Term Monitoring; Subchapter 8. Contaminated Soil, except Section 35–805. Development Soils; Subchapter 9. Institutional Controls; Subchapter 10. Site Closure.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 282

[EPA–R01–UST–2022–0269; FRL–9580–02–R1]

### Connecticut: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

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

**ACTION:** Direct final rule.

**SUMMARY:** Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Connecticut’s Underground Storage Tank (UST) program submitted by the Connecticut Department of Energy and Environmental Protection (“DEEP”). This action also codifies EPA’s approval of Connecticut State program and incorporates by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions 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.

**DATES:** This rule is effective September 12, 2022 unless EPA receives adverse comment by August 15, 2022. If EPA receives adverse comments, it will publish a timely withdrawal in the **Federal Register** informing the public

that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of September 12, 2022, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

**ADDRESSES:** Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal:*  
<https://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Email:* [beland.andrea@epa.gov](mailto:beland.andrea@epa.gov).  
*Instructions:* Direct your comments to Docket ID No. EPA–R01–UST–2022–0269. EPA’s policy is that all comments received will be included in the public docket without change and may be available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov>, or email. The Federal <https://www.regulations.gov> website is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. EPA encourages electronic submittals, but if you are unable to submit electronically, please reach out to the EPA contact person listed in the notice for assistance.

*Docket:* All documents in the docket are listed in the <https://www.regulations.gov> index. Although listed in the index, some information might not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material,

might be publicly available only in hard copy form. Publicly available docket materials are available either electronically through

[www.regulations.gov](http://www.regulations.gov) or in hard copy.

**IBR and supporting material:** The EPA encourages electronic reviewing of these documents, but if you are unable to review these documents electronically, please contact Andrea Beland to schedule an appointment to view the documents at the Region 1 Office, 5 Post Office Square, 1st floor, Boston, MA 02109-3912. The facility is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Interested persons wanting to examine these documents should make an appointment at least two weeks in advance. EPA Region 1 requires all visitors to adhere to the COVID-19 protocol. Please contact Andrea Beland for the COVID-19 protocol requirements for your appointment. The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID-19. For further information on EPA Docket Center services and the current status, please visit us online at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Andrea Beland, (617) 918-1313, [beland.andrea@epa.gov](mailto:beland.andrea@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Approval of Revisions to Connecticut's Underground Storage Tank Program**

*A. Why are revisions to state programs necessary?*

States that have received final approval from the EPA under RCRA section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain an underground storage tank program that is equivalent to, consistent with, and no less stringent than the Federal UST program. Either EPA or the approved state may initiate program revision. When EPA makes revisions to the regulations that govern the UST program, states must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Program revision may be necessary when the controlling Federal or state statutory or

regulatory authority is modified or when responsibility for the state program is shifted to a new agency or agencies.

*B. What decisions has the EPA made in this rule?*

On December 22, 2021, in accordance with 40 CFR 281.51(a), Connecticut submitted a complete program revision application seeking the EPA approval for its UST program revisions (State Application). Connecticut's revisions correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 state program approval (SPA) regulations (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: a transmittal letter requesting approval, a description of the program and operating procedures, a demonstration of the State's procedures to ensure adequate enforcement, a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency, a statement of certification from the Attorney General, and copies of all relevant state statutes and regulations. We have reviewed the State Application and determined that the revisions to Connecticut's UST program are equivalent to, consistent with, and no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that the Connecticut program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, the EPA grants Connecticut final approval to operate its UST program with the changes described in the program revision application, and as outlined below in section I.G. of this document.

*C. What is the effect of this approval decision?*

This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already effective in Connecticut, and they are not changed by this action. This action merely approves the existing State regulations as meeting the Federal requirements and renders them federally enforceable.

*D. Why is EPA using a direct final rule?*

EPA is publishing this direct final rule concurrent with a proposed rule

because we view this as a noncontroversial action and anticipate no adverse comment. EPA is providing an opportunity for public comment now.

*E. What happens if the EPA receives comments that oppose this action?*

Along with this direct final rule, the EPA is publishing a separate document in the "Proposed Rules" section of this issue of the **Federal Register** that serves as the proposal to approve the State's UST program revisions, providing opportunity for public comment. If EPA receives comments that oppose this approval, EPA will withdraw the direct final rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the approval of the State program changes after considering all comments received during the comment period. EPA will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

*F. For what has Connecticut previously been approved?*

On July 5, 1995, the EPA finalized a rule approving the UST program, effective August 4, 1995, to operate in lieu of the Federal program. On August 9, 1996, effective October 8, 1996, the EPA codified the approved Connecticut program, incorporating by reference the State statutes and regulatory provisions that are subject to EPA's inspection and enforcement authorities under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions.

*G. What changes are we approving with this action?*

On December 22, 2021, in accordance with 40 CFR 281.51(a), Connecticut submitted a complete application for final approval of its UST program revisions, adopted on November 30, 2021. The EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Connecticut's UST program revisions satisfy all the requirements necessary to qualify for final approval. Therefore, EPA grants Connecticut final approval for the following program changes:

Required Federal element	Implementing State authority
40 CFR 281.30, New UST Systems and Notification.	RCSA Section 22a-449(d)-101(a)(3)(B); 22a-449(d)-101(b); 22a-449(d)-102(a); 22a-449(d)-102(a)(3), (6) through (8), and (11) through (18); 22a-449(d)-102(a)(5); 22a-449(d)-102(b); 22a-449(d)-103(a) and (e); 22a-449(d)-109; CGS Section 22a-449(e); 22a-449o.
40 CFR 281.31, Upgrading Existing UST Systems.	RCSA Section 22a-449(d)-101(a)(3) and (b); 22a-449(d)-110(a), (b) and (c); 22a-449(d)-110; 22a-449(d)-111; CGS Section 22a-449 (e); 22a-449o.
40 CFR 281.32, General Operating Requirements.	RCSA Section 22a-449(d)-102(a)(15); 22a-449(d)-102(b)(11); 22a-449(d)-103(a); 22a-449(d)-103(a)(4); (b); (c)(1), (c)(2) and (c)(2)(B); 22a-449(d)-103(d); (d)(9); (e); (e)(2); (e)(4); 22a-449(d)-104(g); 22a-449(d)-108(c)(2); (c)(2)(B); 22a-449(d)-110(a); CGS §22a-449(e).
40 CFR 281.33, Release Detection .....	RCSA Section 22a-449(d)-104(a) 22a-449(d)-101(b); 22a-449(d)-104(a), (c), through (f); 22a-449(d)-108(c)(2), (c)(2)(C)(viii); CGS Section 22a-449o.
40 CFR 281.34, Release Reporting, Investigation, and Confirmation.	RCSA Section 22a-449(d)-103(a) 22a-449(d)-105(a) through (d); CGS Section 22a-450.
40 CFR 281.35, Release Response and Corrective Action.	RCSA Section 22a-449(d)-106(c)through (g); 22a-449(d)-106(h)(1) through (4); 22a-449(d)-106(i).
40 CFR 281.36, Out-of-service Systems and Closure.	RCSA Section 22a-449(d)-107(a) through (d).
40 CFR 281.37, Financial Responsibility for USTs Containing Petroleum.	RCSA Section 22a-449(d)-109; 22a-449(d)-109(d), (e) through (n), (p), (r), and (v).
40 CFR 281.39, Operator Training .....	RCSA Section 22a-449(d)-108.
40 CFR 281.40, Legal Authorities for Compliance Monitoring.	RCSA Section 22a-449(d)-103(e); 22a-449(d)-104(g); 22a-449(d)-105(c); and CGS Section 22a-6; CGS Section 22a-449q; CGS Section 22a-449(f) and (g).
40 CFR 281.41, Legal Authorities for Enforcement Response.	CGS Section 22a-6; CGS Section 22a-7; CGS Section 22a-428; CGS Section 22a-432; CGS Section 22a-433; CGS Section 22a-435; CGS Section 22a-438.
40 CFR 281.42, Public Participation in Enforcement Proceedings.	Connecticut Practice Book §9-18; RCSA Section 22a-3a-6(k); CGS Section 52-107; CGS Section 4-177a; CGS Section 22a-19.

The State also demonstrates that its program provides adequate enforcement of compliance as described in 40 CFR 281.11(b) and part 281, subpart D. The CT DEEP has broad statutory authority with respect to USTs to regulate installation, operation, maintenance, closure, and UST releases, and to the issuance of orders. These statutory authorities are found in: Connecticut General Statutes Title 4, Management of State Agencies, Section 22a-177a. Contested cases. Party Intervenor Status; Connecticut General Statutes Title 52. Civil Actions, Section 52-107. Additional parties may be summoned in; Connecticut General Statutes Title 22A. Environmental Protection Chapter 439. Department of Energy and Environmental Protection. State Policy Part II. General Provisions, Section 22a-6. Commissioner to establish environmental standards, regulations, and fees, to make contracts and studies and to issue permits. Complaints. Hearings. Bonds. Notice of contested cases. Fee waivers. Public notices on department's internet website, Section 22a-7. Cease and desist orders. Service. Hearings. Injunctions, and Section 22a-19. Administrative proceedings; (4) Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control, Section 22a-428. Orders to municipalities to abate pollution, Section 22a-432. Order to correct potential sources of pollution, Section 22a-433. Order to landowner, Section 22a-435. Injunction, and

Section 22a-438. Forfeiture for violations. Penalties.

*H. Where are the revised rules different from the Federal rules?*

Broader in Scope Provisions

The following statutory and regulatory provisions are considered broader in scope than the Federal program, and are therefore not enforceable as a matter of Federal law: The State of Connecticut regulates federally exempt on premise use heating oil UST systems. By May 8, 1986, the owner or operator of each existing facility and within thirty days of a new installation's completion, an owner or operator shall notify the Commissioner and the office of the local fire marshal of the life expectancy determinations made for all underground components at the facility. The Commissioner may grant a variance or partial variance from one or more provisions of Sec. 22a-449(d)-1 provided such variance will not endanger the public health, safety, or welfare or allow pollution of the air, land, or waters of the state. On and after October 10, 2009, the fee for the notification of each nonresidential underground storage facility submitted to the commissioner shall be one hundred dollars per tank. Such notification shall be submitted annually on a form prescribed by the commissioner on or before October tenth and shall be accompanied by such fee.

No person shall deliver a regulated substance to any UST, except for fuel oil storage tanks used for on-premises heating purposes, or farm or residential tanks used for storing motor fuel, that is visibly designated by the Agency as not meeting standards adopted by the Secretary related to corrosion protection, spill prevention, leak detection, financial responsibility, or overfill protection.

If the commissioner determines that there is a release from a nonresidential underground storage tank system or that such system is not designed, constructed, installed and operated in accordance with all applicable statutes and regulations, fails to have or operate proper release detection equipment in accordance with the applicable regulations, or fails to have or operate proper overfill and spill protection measures or equipment in accordance with the applicable regulations, then the commissioner may require the owner or operator of the nonresidential underground storage tank system to pump out the contents of its system, and the commissioner may place a notice on a system that is plainly visible, indicating that the system is not in compliance with the requirements applicable to nonresidential underground storage tank systems and that such system cannot be used and deliveries to such system cannot be accepted, or the commissioner may disable the use of such system by

placing a disabling device on the system that prohibits deliveries to such system.

#### More Stringent Provisions

Airport hydrant fuel distribution systems (AHS) and field constructed underground storage tanks (USTs) are prohibited. Existing AHS and field constructed USTs shall be permanently closed.

No person or municipality shall install an UST system on or after October 1, 2003, unless the UST system is double-walled.

On and after August 8, 2012, a new double-walled under dispenser containment (UDC) sump must be installed if a dispenser and greater than 50% of the flex-joint or flexible piping is replaced or if greater than 50% of the dispensers at a facility are being replaced.

An annual notification of each non-residential UST is required to be submitted to the Commissioner.

All cathodic protection systems shall be tested within six months of installation and at least annually thereafter.

Suction piping shall either have a line tightness test conducted at least every three years until thirty-six to thirty-three months prior to the end of their life expectancy, on which date and annually thereafter line tightness tests shall be conducted or use an approved monthly monitoring method.

For safe suction piping a line tightness test shall be conducted thirty-six to thirty-three months prior to the end of their life expectancy and annually.

An owner or operator shall report any failure of an UST system immediately to the Commissioner.

Owners and operators shall keep and maintain records for at least five years beyond the operational life of the UST system.

Continued use of an UST system to store a non-regulated substance is prohibited. Regulated UST systems no longer in use shall be temporarily or permanently closed. At the end of twelve months, temporarily closed tanks shall be permanently closed unless they meet the upgrading requirements or the standards for a new tank.

Class A, B, and C operators must attend a refresher training every two years following initial training.

## II. Codification

### A. What is codification?

Codification is the process of placing a state's statutes and regulations that comprise the state's approved UST

program into the CFR. Section 9004(b) of RCRA, as amended, allows the EPA to approve State UST programs to operate in lieu of the Federal program. The EPA codifies its authorization of state programs in 40 CFR part 282 and incorporates by reference state statutes and regulations that the EPA will enforce under sections 9005 and 9006 of RCRA and any other applicable state provisions. The incorporation by reference of state authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the approved state program and state requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the approved program in each state.

### B. What is the history of codification of Connecticut's UST program?

EPA incorporated by reference the Connecticut DEEP approved UST program effective October 8, 1996 (61 FR 41509; August 9, 1996). In this document, EPA is revising 40 CFR 282.56 to include the approved revisions.

### C. What codification decisions have we made in this rule?

*Incorporation by reference:* In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the federally approved Connecticut UST program described in section I.G. of this preamble and set forth below in the amendments to 40 CFR part 282. The EPA has made, and will continue to make, this document generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 1 office (see the **ADDRESSES** Section of this preamble for more information).

The purpose of this **Federal Register** document is to codify Connecticut's approved UST program. The codification reflects the State program that would be in effect at the time EPA's approved revisions to the Connecticut UST program addressed in this direct final rule become final. The document incorporates by reference Connecticut's UST statutes and regulations and clarifies which of these provisions are included in the approved and federally enforceable program. By codifying the approved Connecticut program and by amending the CFR, the public will more easily be able to discern the status of the federally-approved requirements of the Connecticut program.

EPA is incorporating by reference the Connecticut approved UST program in

40 CFR 282.56. Section 282.56(d)(1)(i)(A) incorporates by reference for enforcement purposes the State's statutes and regulations.

Section 282.56 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 UST program under Subtitle I of RCRA. These documents are not incorporated by reference.

### D. What is the effect of Connecticut's codification on enforcement?

The EPA 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 and to issue orders in approved States. With respect to these actions, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the state authorized analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Connecticut procedural and enforcement authorities. Section 282.56(d)(1)(ii) of 40 CFR lists those approved Connecticut authorities that would fall into this category.

### E. What State provisions are not part of the codification?

The public also needs to be aware that some provisions of the State's UST program are not part of the federally approved State program. Such provisions are not part of the RCRA Subtitle I program because they are "broader in scope" than Subtitle I of RCRA. Section 281.12(a)(3)(ii) of 40 CFR states that where an approved state program has provisions that are broader in scope than the Federal program, those provisions are not a part of the federally approved program. 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 282.56(d)(1)(iii) lists for reference and clarity the Connecticut 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 in this document. Provisions that are broader in scope cannot be enforced by EPA; the State, however, will continue to implement and enforce such provisions under State law.

### III. Statutory and Executive Order Reviews

This action only applies to Connecticut's UST Program requirements pursuant to RCRA section 9004 and imposes no requirements other than those imposed by State law. It complies with applicable Executive orders (EOs) and statutory provisions as follows:

*A. Executive Order 12866: Regulatory Planning and Review; Executive Order 13563: Improving Regulation and Regulatory Review*

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action approves and codifies State requirements for the purpose of RCRA section 9004 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB.

*B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs*

This action is not a regulatory action subject to Executive Order 13771 (82 FR 9339, February 3, 2017) because actions such as this final approval of Connecticut's revised underground storage tank program under RCRA are exempted under Executive Order 12866. 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.*).

*C. Unfunded Mandates Reform Act and Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Because this action approves and codifies 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 (2 U.S.C. 1531–1538). As discussed above, EPA is not acting on approval to operate the State's UST program as it applies to Tribal lands in the State. Therefore, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

*D. Executive Order 13132: Federalism*

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 approves and codifies State requirements as part of the State RCRA underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA.

*E. Executive Order 13045: Services of Children From Environmental Health and Safety Risks*

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.

*F. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

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" as defined under Executive Order 12866.

*G. National Technology Transfer and Advancement Act*

Under RCRA section 9004(b), EPA grants a State's application for approval 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 approval 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.

*H. Executive Order 12988: Civil Justice Reform*

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.

*I. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights*

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.

*J. Paperwork Reduction Act*

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.*). "Burden" is defined at 5 CFR 1320.3(b).

*K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations*

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule approves pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

*L. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801–808, 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). However, this action will be effective September 12, 2022 because it is a direct final rule.

**Authority:** This rule is issued under the authority of sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

**List of Subjects in 40 CFR Part 282**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Incorporation by reference, Insurance, Intergovernmental relations, Penalties, Petroleum, Reporting and recordkeeping requirements, Surety bonds, Underground storage tanks, Water supply.

Dated: June 30, 2022.

**David W. Cash,**

*Regional Administrator, EPA Region 1.*

For the reasons set forth in the preamble, EPA is amending 40 CFR part 282 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.

■ 2. Amend § 282.2 by revising the second sentence of paragraph (b) introductory text and paragraph (b)(1) to read as follows:

**§ 282.2 Incorporation by reference.**

\* \* \* \* \*

(b) \* \* \* For information on the availability of this material at NARA, email: [fr.inspection@nara.gov](mailto:fr.inspection@nara.gov), or go to: [www.archives.gov/federal-register/cfr/ibr-locations.html](http://www.archives.gov/federal-register/cfr/ibr-locations.html). \* \* \*

(1) Region 1 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont): 5 Post Office Square, 1st floor, Boston, MA 02109-3912; Phone Number: (617) 918-1313.

\* \* \* \* \*

■ 3. Revise § 282.56 to read as follows:

**§ 282.56 Connecticut State-Administered Program.**

(a) The State of Connecticut 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 Connecticut Department of Energy and Environment Protection ("DEEP"), was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281. EPA approved the Connecticut program on July 5, 1995, which was effective on August 4, 1995.

(b) Connecticut has primary responsibility for administering and enforcing its federally approved 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 any other applicable statutory and regulatory provisions.

(c) To retain program approval, Connecticut must revise its approved program to adopt new changes to the Federal Subtitle I program which makes it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c and 40 CFR part 281, subpart E. If Connecticut 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 notification of any change will be published in the **Federal Register**.

(d) Connecticut has final approval for the following elements of its program application originally submitted to EPA and approved effective August 4, 1995, and the program revision application approved by EPA, effective on September 12, 2022.

(1) *State statutes and regulations—(i) Incorporation by reference.* The material cited in this paragraph, and listed in Appendix A to this part, is incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* (See § 282.2 for incorporation by reference approval and inspection information.) You may obtain copies of the Connecticut regulations and statutes that are incorporated by reference in this paragraph from Mark Latham, Supervising Environmental Analyst, Licensing and Enforcement Unit, Emergency Response and Spill Prevention Division, Connecticut Department of Energy and Environmental Protection, 79 Elm Street, Hartford, CT 06106-5127; Phone number: 860-418-5930; [Mark.Latham@ct.gov](mailto:Mark.Latham@ct.gov); Hours: Monday to Friday, 8:00 a.m. to 4:30 p.m.; link to statutes and regulations: Connecticut General Assembly's website: [https://www.cga.ct.gov/current/pub/chap\\_446k.htm#sec\\_22a-449](https://www.cga.ct.gov/current/pub/chap_446k.htm#sec_22a-449); state's e-regulation portal: <https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid=%7b3048737D-0000-CD35-9265-186385876C76%7d>.

(A) EPA-Approved Connecticut Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, December 2021.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which are part of the approved program, but they are not being incorporated by

reference for enforcement purposes, and do not replace Federal authorities:

(A) The statutory provisions include:

(1) *Connecticut General Statutes Title 4. Management of State Agencies*, Section 22a-177a. Contested cases. Party Intervenor Status.

(2) *Connecticut General Statutes Title 52. Civil Actions*, Section 52-107. Additional parties may be summoned in.

(3) *Connecticut General Statutes Title 22A. Environmental Protection Chapter 439. Department of Energy and Environmental Protection. State Policy Part II. General Provisions*, Section 22a-6. Commissioner to establish environmental standards, regulations, and fees, to make contracts and studies and to issue permits. Complaints. Hearings. Bonds. Notice of contested cases. Fee waivers. Public notices on department's internet website, Section 22a-7. Cease and desist orders. Service. Hearings. Injunctions, and Section 22a-19. Administrative proceedings.

(4) *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control*, Section 22a-428. Orders to municipalities to abate pollution, Section 22a-432. Order to correct potential sources of pollution, Section 22a-433. Order to landowner, Section 22a-435. Injunction, and Section 22a-438. Forfeiture for violations. Penalties.

(B) The regulatory provisions include:

(1) *2021 Connecticut Practice Book*, Chapter 9 Parties, Sec. 9-18. Addition or Substitution of Parties; Additional Parties Summoned in by Court.

(2) *Regulations of Connecticut State Agencies (RSCA) Title 22a. Environmental Protection* Section 22a-3a-6(k) Intervention.

(iii) *Provisions not incorporated by reference.* The following specifically identified statutory and regulatory provisions applicable to the Connecticut's UST program are broader in scope than the Federal program, and are not incorporated by reference in this section for enforcement purposes:

(A) *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control*, Section 22a-449. Duties and powers of commissioner resources of potential pollution or damages. Licenses, regulations. Nonresidential underground storage tank systems, (g), delivery prohibition.

(B) *RCSA, Title 22a. Environmental Protection*, Section 22a-449(d)-1, Control of the nonresidential underground storage and handling of oil and petroleum liquids

*RCSA, Title 22a. Environmental Protection, Section 22a-449(d)-1(d)(1) and (2), Reporting of life expectancy determination.*

*RCSA, Title 22a. Environmental Protection, Section 22a-449(d)-1(l), Variances.*

*RCSA, Title 22a. Environmental Protection, Section 22a-449(d)-111. Life expectancy.*

(2) *Statement of legal authority.* The Attorney General's Statements, signed by the Attorney General of Connecticut on December 21, 1994, and December 20, 2021, 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.*

(3) *Demonstration of procedures for adequate enforcement.* The "Demonstration of Procedures for Adequate Enforcement" submitted as part of the original application in December 1994, and as part of the program revision application for approval on December 22, 2021, 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 in December 1994, and as part of the program revision application on December 22, 2021, 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 1 and the Connecticut Department of Energy and Environmental Protection, signed by the EPA Regional Administrator on December 20, 2021, 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. Appendix A to part 282 is amended by revising the entry for Connecticut to read as follows:

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

\* \* \* \* \*

Connecticut

(a) The statutory provisions include:

1. *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control, Section 22a-449.*

Duties and powers of commissioner resources of potential pollution or damages. Licenses, regulations. Nonresidential underground storage tank systems. (a); (d); (e) except annual tank fee; and (f).

2. *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control, Section 22a-449o.* Requirement for double-walled underground storage tanks.

3. *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control, Section 22a-449q.* Storage of underground storage tank system records.

4. *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control, Section 22a-450.* Report of discharge, spill, loss, seepage or filtration. Regulations.

(b) The regulatory provisions include:

1. *RCSA, Title 22a. Environmental Protection, Section 22a-449(d) Underground Storage Tank System Management (effective December 1, 2021).*

Section 1 Control of the nonresidential underground storage and handling of oil and petroleum liquids, except (d)(1) and (2) notification of life expectancy determination, life expectancy (h)(1)-(3), and (l) variances.

Section 100 Reserved.

Section 101 Technical standards and corrective action for owners and operators of underground storage tank systems-program scope and interim prohibition.

Section 102 UST systems: design, construction installation and notification.

Section 103 General operating requirements.

Section 104 Release Detection.

Section 105 Release reporting, investigation, and confirmation.

Section 106 Release response and corrective action for UST systems containing petroleum or hazardous substances.

Section 107 Out-of-service UST systems and closure.

Section 108 Operator training required.

Section 109 Financial responsibility.

Section 110 UST system upgrading, abandonment and removal date.

Section 112 UST system location transfer.

Section 113 Transfer of UST system ownership, possession or control.

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 282**

**[EPA-R03-UST-2021-0862; FRL-9625-02-R3]**

**Delaware: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference**

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

**ACTION:** Direct final rule.

**SUMMARY:** Pursuant to the Solid Waste Disposal Act of 1965, as amended (commonly known as the Resource Conservation and Recovery Act (RCRA)), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to Delaware's Underground Storage Tank (UST) program submitted by Delaware (Delaware or State). This action also codifies EPA's approval of Delaware's State program and incorporates by reference (IBR) those provisions of Delaware's regulations and statutes that EPA has determined meet the requirements for approval. The provisions 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.

**DATES:** This rule is effective September 12, 2022, unless EPA receives significant negative comments opposing this action by August 15, 2022. If EPA receives significant negative comments opposing this action, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of September 12, 2022, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

**ADDRESSES:** Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Email:* [Cato.Diashina@epa.gov](mailto:Cato.Diashina@epa.gov).  
*Instructions:* Direct your comments to Docket ID No. EPA-R03-UST-2021-0862.

EPA's policy is that all comments received will be included in the public docket without change and may be available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov>, or email. The Federal website, <https://www.regulations.gov>, is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through [https://](https://www.regulations.gov)